

Federal Register Notices for 33 CFR Subchapter N

This reference document is comprised of Federal Register (FR) Notices related to the creation of 33 CFR Subchapter N (Parts 140-147) and all subsequent amendments to the subchapter.

Final Rule FRs make up the bulk of this document, as the Final Rules typically provide a summary, background information and discussion of public comments received as part of the rulemaking process. Advanced Notice of Proposed Rulemaking (ANPRM) and Notice of Proposed Rulemaking (NPRM) FRs have also been included where additional historical context may be useful.

The FRs prove to be a helpful tool that allows the reader to gain an understanding of the thought process behind, and intent of, the regulations as published.

How to Use Federal Register Notices

(as cited in the Code of Federal Regulations)

The ***Authority and Source*** will be located below the sections listed for the specific part (contents of the part listed below the heading for the part). The authority will reference the applicable U.S. Code cite(s) and the source will typically reference the “Docket” and Federal Register (FR) Notice that published the part, which was subsequently printed in the Code of Federal Regulations (CFR).

The example in **Figure 1** was taken from 33 CFR Part 140 (2018 Edition) and shows the following about Part 140:

- 1) The authority comes from 43 USC 1333, 1348, 1350 and 1356, and
- 2) The source is Coast Guard Docket (CGD) No. 78-160 and published via 47 FR 9376.

This authority and source applies to ALL sections within Part 140, unless noted otherwise.

AUTHORITY: 43 U.S.C. 1333, 1348, 1350, 1356; Department of Homeland Security Delegation No. 0170.1.
SOURCE: CGD 78-160, 47 FR 9376, Mar. 4, 1982, unless otherwise noted.

Figure 1

If a ***Section*** within the part was amended, without the entire source being amended, the FR(s) that amended that section will be located at the end of the section.

Continuing through 33 CFR Part 140, we find that §140.3 was amended as indicated at the end of that section. **Figure 2** shows that this section has been amended once:

CGD 78-160, 47 FR 9376 was the original source of §140.3 (as also previously indicated for Part 140) that was amended by Docket No. USCG-2012-0196 and published via 81 FR 48242.

[CGD 78-160, 47 FR 9376, Mar. 4, 1982, as amended by USCG-2012-0196, 81 FR 48242, July 22, 2016]

Figure 2

Please note that the FR, as cited, will point to the page in the FR where the actual regulation was published. In the previous examples, both the beginning of Part 140 and §140.3 were published on 47 FR page 9376.

The ***rulemaking summary, background/supplementary information and a discussion of the public comments that were received*** can sometimes prove useful in determining the intent of a particular regulation. This information related to the final rule will precede the FR cite that is listed in the CFR. Keep in mind that the final rule may start on a different page than the page noted in the regulation. For Example: the source listed as 47 FR 9376 in **Figure 1** begins at 47 FR 9366. The final rule for the amendment listed as 81 FR 48242 in **Figure 2** begins at 81 FR 48220.

In addition, the FR cites can change with progression through a particular subchapter or part because the FR cite is referencing the page of the FR where that specific regulation was published.

Figure 3 shows an excerpt from 33 CFR 143.1. Note that the source for this section is also CGD-78-160, but the FR cite is different because §143.1 was published on 47 FR page 9382 and later amended by 63 FR 35530.

[CGD 78-160, 47 FR 9382, Mar. 4, 1982, as amended by USCG-1998-3799, 63 FR 35530, June 30, 1998]

Figure 3

The examples on the following pages show how the ***authority, source*** and ***amendments*** are published within the CFRs (Example 1) and how to use a Federal Register notice referenced in a CFR (Example 2).

Example 1: How FRs are referenced within the CFRs

[CGD 78-160, 47 FR 9376, Mar. 4, 1982, as amended by USCG-2012-0196, 81 FR 48242, July 22, 2016]

The authority and source of the part are typically displayed immediately following the section listing of the part. The source listed here applies to all sections within the part, unless otherwise noted.

SUBCHAPTER N—OUTER CONTINENTAL SHELF ACTIVITIES

PART 140—GENERAL

Subpart A—General

- Sec.
- 140.1 Purpose.
- 140.3 Applicability.
- 140.4 Relationship to other law.
- 140.5 Exemptions during construction.
- 140.7 Incorporation by reference.
- 140.10 Definitions.
- 140.15 Equivalents and approved equipment.
- 140.20 Delegations.
- 140.25 Appeals.
- 140.30 Judicial review.
- 140.35 Sanctions.
- 140.40 Processing penalty cases.

Subpart B—Inspections

- 140.101 Inspection by Coast Guard marine inspectors or Bureau of Safety and Environmental Enforcement inspectors.
- 140.103 Annual inspection of fixed OCS facilities.
- 140.105 Correction of deficiencies and hazards.

Subpart C—Investigations

- 140.201 General.
- 140.203 Investigation procedures.
- 140.205 Subpoenas.

AUTHORITY: 43 U.S.C. 1333, 1348, 1350, 1356; Department of Homeland Security Delegation No. 0170.1.

SOURCE: CGD 78-160, 47 FR 9376, Mar. 4, 1982, unless otherwise noted.

Subpart A—General

§ 140.1 Purpose.

This subchapter is intended to promote safety of life and property on Outer Continental Shelf (OCS) facilities, vessels, and other units engaged in OCS activities, protect the marine environment, and implement the Outer Continental Shelf Lands Act (43 U.S.C. 1331 *et seq.*), as amended by the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372, 92 Stat. 629).

§ 140.3 Applicability.

Unless otherwise stated, this subchapter applies to OCS facilities, vessels, and other units engaged in OCS activities as the term "OCS activities"

AUTHORITY: 43 U.S.C. 1333, 1348, 1350, 1356; Department of Homeland Security Delegation No. 0170.1.

SOURCE: CGD 78-160, 47 FR 9376, Mar. 4, 1982, unless otherwise noted.

is defined in § 140.10. This subchapter does not apply to pipelines and deep-water ports (as the term "deepwater port" is defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502)). The regulations in this subchapter (parts 140 through 147) have preemptive effect over state or local regulations in the same field.

[CGD 78-160, 47 FR 9376, Mar. 4, 1982, as amended by USCG-2012-0196, 81 FR 48242, July 22, 2016]

§ 140.4 Relationship to other law.

(a) Design and equipment requirements of this subchapter for OCS facilities, including mobile offshore drilling units in contact with the seabed of the OCS for exploration or exploitation of subsea resources, are in addition to the regulations and orders of the U.S. Geological Survey applicable to those facilities.

(b) Any apparent conflict between the application of any requirement of this subchapter and any regulation or order of the U.S. Geological Survey should immediately be brought to the attention of the Officer in Charge, Marine Inspection.

(c) This subchapter does not establish design requirements for fixed OCS facilities or regulate drilling or production equipment on any OCS facility or attending vessel, except for matters affecting navigation or workplace safety or health.

§ 140.5 Exemptions during construction.

The Officer in Charge, Marine Inspection, may exempt any unit under construction from any requirements of this subchapter that would be impracticable or unreasonable to apply during construction or erection of the unit.

§ 140.7 Incorporation by reference.

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved material is available for inspection at the U.S.

Amendments to a section are displayed at the end of the section, showing that the source has been amended for that particular section. In this example, §140.3 was published by 47 FR 9376 and amended by 81 FR 48242.

Section has not been amended and the source listed under the section index for the part applies. Note that all sections on this example page, except §140.3, have a source of 47 FR 9376.

Example 2: How to navigate a FR referenced from a CFR

9366 Federal Register / Vol. 47, No. 43 / Thursday, March 4, 1982

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 140, 141, 142, 143, 144, 145, 146, and 147

[CGD 78-160]

Outer Continental Shelf Activities

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule amends Coast Guard requirements for facilities, vessels, and other units, domestic and foreign, engaged in mineral exploration, production, or development activities on the Outer Continental Shelf. The

Drafting Information

The principal persons involved in drafting this rule are Lieutenant Commander Thomas J. Barrett, Outer Continental Shelf Safety Project Staff, Office of Merchant Marine Safety and Mr. Stephen H. Barber, Project Attorney, Office of the Chief Counsel.

Discussion of Major Comments

General Comments

1. Several comments emphasized the need to avoid conflicting or duplicative Coast Guard and U.S. Geological Survey requirements for units engaged in Outer Continental Shelf (OCS) activities. The Coast Guard is conscious of the need to avoid conflicting requirements and on

The FR "cite" consists of the FR volume and page number. Note that the rulemaking summary, background & comments will precede the FR citation listed in the CFR (e.g. 47 FR 9376 is cited in Example 1, but the Final Rule begins at 47 FR 9366).

Discussion of comments received from the public.

Rulemaking summary.

9376 Federal Register / Vol. 47, No. 43 / Thursday, March 4, 1982

In consideration of the foregoing, Parts 140, 141, 142, 143, 144, 146, and 147 of Subchapter N, Chapter I, Title 33, Code of Federal Regulations, are amended as follows.

1. By revising the title of Subchapter N to read as follows:

Subchapter N—Outer Continental Shelf Activities

2. By revising Part 140 to read as follows:

PART 140—GENERAL

Subpart A—General

- Sec.
- 140.1 Purpose.
- 140.3 Applicability.
- 140.4 Relationship to other law.
- 140.5 Exemptions during construction.
- 140.7 Incorporation by reference.
- 140.10 Definitions.
- 140.15 Equivalents and approved equipment.
- 140.20 Delegations.
- 140.25 Intra-agency appeals.
- 140.30 Judicial review.
- 140.35 Sanctions.
- 140.40 Processing penalty cases.

Subpart B—Inspections

- 140.101 General inspection requirements.
- 140.102 Foreign units.
- 140.103 Deficiencies discovered during inspections.
- 140.105 OCS facility inspections.

Subpart C—Investigations

- 140.201 General.

deepwater ports (as the term "deepwater port" is defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502)).

§ 140.4 Relationship to other law.

(a) Design and equipment requirements of this subchapter for OCS facilities, including mobile offshore drilling units in contact with the seabed of the OCS for exploration or exploitation of subsea resources, are in addition to the regulations and orders of the U.S. Geological Survey applicable to those facilities.

(b) Any apparent conflict between the application of any requirement of this subchapter and any regulation or order of the U.S. Geological Survey should immediately be brought to the attention of the Officer in Charge, Marine Inspection.

(c) This subchapter does not establish design requirements for fixed OCS facilities or regulate drilling or production equipment on any OCS facility or attending vessel, except for matters affecting navigation or workplace safety or health.

§ 140.5 Exemptions during construction.

The Officer in Charge, Marine Inspection, may exempt any unit under construction from any requirements of this subchapter that would be impracticable or unreasonable to apply during construction or erection of the unit.

The FR cite listed as the source in the CFR will point to the page of the FR where the regulation was published (e.g. 47 FR 9376).

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Click on the FR Notice in the first column to be taken directly to the FR or use the bookmarks panel to navigate through the document.

| FR Notice | Date | Subject | Type of Notice | Affected Parts |
|-----------------------------|-----------|--|--------------------|--|
| 21 FR 901 | 08Feb1956 | Subchapter N | Final Rule | 140, 142, 143, 144, 145, 146 |
| 25 FR 10132 | 25Oct1960 | Lifesaving Equipment and Markings | Final Rule | 144, 146 |
| 33 FR 18626 | 17Dec1968 | Lifesaving Amendments | Final Rule | 140, 144 |
| 40 FR 8176 | 26Feb1975 | Lifesaving Amendments | Final Rule | 144 |
| 44 FR 54499 | 20Sep1979 | Unregulated Hazardous Working Conditions on the OCS | ANPRM | - |
| 45 FR 29072 | 01May1980 | Subchapter N Amendments (related to OCSLA Amendments) (Note creation of Parts 141 and 147; changes of content for Part 142) | NPRM | 140, 141, 142, 143, 144, 145, 146, 147 |
| 45 FR 65208 | 02Oct1980 | Lifesaving Appliances Editorial Amendment | Final Rule | 144 |
| 47 FR 9376 | 04Mar1982 | Subchapter N Amended (related to OCSLA Amendments) (Note creation of Parts 141 and 147; changes of content for Part 142) | Final Rule | 140, 141, 142, 143, 144, 145, 146, 147 |
| 47 FR 10533 | 11Mar1982 | Lifesaving Equipment | Final Rule | 144 |
| 47 FR 11011 | 15Mar1982 | MODU Design Correction | Correction | 143 |
| 47 FR 35741 | 16Aug1982 | Casualty Reporting Requirements | Interim Final Rule | 146 |
| 48 FR 43174 | 22Sep1983 | Casualty Reporting | Final Rule | 146 |
| 49 FR 1083 | 09Jan1984 | Workplace Safety and Health Requirements for Facilities on the OCS | NPRM | 140, 142 |
| 49 FR 4377 | 06Feb1984 | Exposure Suit Requirements for MODUs | Final Rule | 144 |
| 49 FR 7253 | 28Feb1984 | Workplace Safety and Health NPRM Correction and Comment Period Extension | NPRM | 140, 142 |
| 50 FR 3904 | 29Jan1985 | Exposure Suit Correction | Correction | 144 |
| 50 FR 9290 | 07Mar1985 | Revision to Subchapter N (related to changes in technology and OCSLA Amendments not yet implemented) | ANPRM | 140, 141, 142, 143, 144, 145, 146 |

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|-------------|-----------|---|------------|--------------------|
| 50 FR 14216 | 11Apr1985 | Casualty Reporting Requirements (eliminates certain costs from the reporting requirements) | Final Rule | 146 |
| 51 FR 4339 | 04Feb1986 | Hybrid PFD Carriage Requirements | Final Rule | 146 |
| 51 FR 5712 | 18Feb1986 | Station Bills | Final Rule | 146 |
| 51 FR 25059 | 10Jul1986 | Workplace Safety and Health Requirements for Facilities on the OCS | Final Rule | 140, 142 |
| 51 FR 28381 | 07Aug1986 | Workplace Safety and Health Requirements Correction | Correction | 140, 142 |
| 52 FR 33811 | 08Sep1987 | Identification of the Horizontal Datum referenced in the CG Regulations (related to Safety Zones) | Final Rule | 147 |
| 52 FR 47533 | 14Dec1987 | Operating while Intoxicated | Final Rule | 146 |
| 53 FR 18980 | 26May1988 | Self-Inspection of Fixed OCS Facilities | Final Rule | 140, 143 |
| 53 FR 25121 | 01Jul1988 | Editorial Changes Reflecting Recent CG Reorganization | Final Rule | 140, 144 |
| 54 FR 21571 | 18May1989 | Emergency Evacuation Plans for Manned OCS Facilities | Final Rule | 140, 143, 146 |
| 60 FR 13563 | 13Mar1995 | Direct User Fees for Inspection or Examination of U.S. and Foreign Commercial Vessels | Final Rule | 143 |
| 61 FR 33665 | 28Jun1996 | Technical Amendments, Organizational Changes, Misc Editorial Changes and Conforming Amendments | Final Rule | 140, 141, 144 |
| 62 FR 16703 | 08Apr1997 | Civil Money Penalties Inflation Adjustments | Final Rule | 140 |
| 62 FR 33363 | 19Jun1997 | Technical Amendments, Organizational Changes, Misc Editorial Changes and Conforming Amendments | Final Rule | 141, 147 |
| 62 FR 35392 | 01Jul1997 | Inflatable Liferrafts Correction | Correction | 144 |
| 63 FR 35530 | 30Jun1998 | Technical Amendments, Organizational Changes, Misc Editorial Changes and Conforming Amendments | Final Rule | 141, 143, 144, 146 |
| 65 FR 16825 | 30Mar2000 | Safety Zone for OCS Platforms in the Gulf of Mexico | Final Rule | 147 |

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|-------------|-----------|--|------------|---------------|
| 65 FR 40057 | 29Jun2000 | Technical Amendments, Organizational Changes, Misc Editorial Changes and Conforming Amendments | Final Rule | 144 |
| 67 FR 5916 | 07Feb2002 | Inspection under, and Enforcement of, CG Regulations for Fixed Facilities on the OCS by MMS | Final Rule | 140 |
| 69 FR 34926 | 23Jun2004 | Navigation and Navigable Waters, Technical, Organizational and Conforming Amendments | Final Rule | 140 |
| 71 FR 39209 | 12Jul2006 | Navigation and Navigable Waters, Technical, Organizational and Conforming Amendments | Final Rule | 146 |
| 74 FR 11212 | 16Mar2009 | Consolidation of Merchant Mariner Qualification Credentials | Final Rule | 141 |
| 75 FR 36283 | 25Jun2010 | Navigation and Navigable Waters, Technical, Organizational and Conforming Amendments | Final Rule | 140, 141, 144 |
| 76 FR 2260 | 13Jan2011 | Notice of Arrival on the OCS | Final Rule | 146 |
| 76 FR 31837 | 02Jun2011 | Navigation and Navigable Waters, Technical, Organizational and Conforming Amendments | Final Rule | 140 |
| 78 FR 69296 | 19Nov2013 | TWIC not Evidence of Resident Alien Status | Final Rule | 141 |
| 79 FR 36405 | 27Jun2014 | Notice of Arrival Exception | Final Rule | 140, 146 |
| 79 FR 38434 | 07Jul2014 | Navigation and Navigable Waters, Technical, Organizational and Conforming Amendments | Final Rule | 140, 141, 144 |
| 80 FR 16990 | 31Mar2015 | Electrical Equipment in Hazardous Locations | Final Rule | 140, 143 |
| 80 FR 20163 | 15Apr2015 | Consolidation of OCMIs for Eighth CG District, Technical, Organizational and Conforming Amendments | Final Rule | 141 |
| 81 FR 48242 | 22Jul2016 | Harmonization of Standards for Fire Protection, Detection and Extinguishing Equipment (incorporated NFPA 10-2010 by reference) | Final Rule | 140, 145 |

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federal register

Thursday
February 9, 1956

Department of the Treasury

Coast Guard

**Artificial Islands and Fixed
Structures on the Outer Continental
Shelf; Final Rule**

Court in its decision offset against the amount of the adjustment any overpayment for the year 1952 resulting from the failure to take such deduction.

(c) If the Commissioner has refunded the amount of an adjustment under section 1311, the amount so refunded may not subsequently be recovered by the Commissioner in any suit for erroneous refund based upon any item other than the one that was the subject of the adjustment.

Example. In the example set forth in paragraph (e) of § 1.1314 (a)-1, if the Commissioner had refunded the amount of the adjustment, no part of the amount so refunded could subsequently be recovered by the Commissioner by a suit for erroneous refund based on the ground that there was no overpayment for 1949, as the taxpayer had failed to include in gross income the \$6,000 item of interest received in that year.

(d) If the Commissioner has assessed and collected the amount of an adjustment under section 1311, no part thereof may be recovered by the taxpayer in any suit for refund based upon any item other than the one that was the subject of the adjustment.

Example. In example (2) of paragraph (b) of this section, if the taxpayer had paid the amount of the adjustment, he could not subsequently recover any part of such payment in a suit for refund based upon the failure to take an allowable deduction for the year 1952.

(e) If the amount of the adjustment is considered an overpayment, it may be credited, under applicable law and regulations, together with any interest allowed thereon, against any liability in respect of an internal revenue tax on the part of the person who made such overpayment. Likewise, if the amount of the adjustment is considered as a deficiency, any overpayment by the taxpayer of any internal revenue tax may be credited against the amount of such adjustment in accordance with the applicable law and regulations thereunder. (See section 6402 and the corresponding provisions of prior revenue laws.) Accordingly, it may be possible in one transaction between the Commissioner and the taxpayer to settle the taxpayer's tax liability for the year with respect to which the determination is made and to make the adjustment under section 1311 for the year with respect to which the error was made or for a year which is affected, or treated as affected, by a net operating loss deduction or a capital loss carryover from the year of the error.

§ 1.1314 (d)-(e) *Statutory provisions; amount and method of adjustment; no adjustments for years prior to 1932; not applicable to tax imposed by subtitle C.*

Sec. 1314. *Amount and method of adjustment.*

(d) *Periods for which adjustments may be made.* No adjustment shall be made under this part in respect of any taxable year beginning prior to January 1, 1932.

(e) *Taxes imposed by subtitle C.* This part shall not apply to any tax imposed by subtitle C (sec. 3101 and following relating to employment taxes).

§ 1.1315 *Statutory provisions; effective date.*

Sec. 1315. *Effective data—(a) In general.* This part shall apply only to determinations (as defined in section 1313 (a)) made after the 90th day after the date of enactment of this title.

(b) *Transitional provision.* Notwithstanding any other provision of this title, section 3801 of the Internal Revenue Code of 1939 shall apply to determinations (as defined in subsection (a) of such section) made on or before such 90th day as if this title had not been enacted.

[F. R. Doc. 56-1004; Filed, Feb. 8, 1956; 8:47 a. m.]

TITLE 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

Subchapter I—Irrigation Projects; Operation and Maintenance

PART 130—OPERATION AND MAINTENANCE CHARGES

FORT BELKNAP INDIAN IRRIGATION PROJECT, MONTANA; CHARGES

On December 29, 1955, there was published in the daily issue of the FEDERAL REGISTER pursuant to section 4 (a) of the Administrative Procedure Act of June 11, 1946 (Public Law 404, 79th Congress, 60 Stat. 238), and authority contained in the Acts of Congress approved August 1, 1914; May 18, 1916; and March 7, 1928 (38 Stat. 583, 25 U. S. C. 385; 39 Stat. 1942; and 45 Stat. 210, 25 U. S. C. 387), and by virtue of authority delegated to the Secretary of the Interior to the Commissioner of Indian Affairs (Order No. 2508; 14 F. R. 258), and by virtue of authority delegated by the Commissioner of Indian Affairs to the Area Director (Bureau Order No. 551, Amendment No. 1; 16 F. R. 5454-7), notice of intention to modify § 130.30, Code of Federal Regulations, dealing with irrigable lands of the Fort Belknap Indian Irrigation Project. Interested persons were thereby given opportunity to participate in preparing the modification by submitting data or written arguments within 30 days from the publication of the notice. One objection having been received, and after full consideration of the merits having been overruled, the said section is hereby amended and the rates fixed, for the season of 1956 and thereafter until further notice, as follows:

§ 130.30 *Charges.* Pursuant to the provisions of the Acts of August 1, 1914 and March 7, 1928 (38 Stat. 583, 45 Stat. 210); (25 U. S. C. 385, 387), the basic annual charge for operation and maintenance against the irrigable lands to which water can be delivered and beneficially applied under the constructed works of the Fort Belknap Indian irrigation project in Montana, including the lands operated as a tribal farming and livestock enterprise, is hereby fixed at \$2.00 per acre for the year 1956 and thereafter until further notice.

(Secs. 1, 3, 36 Stat. 270, 272, as amended; 25 U. S. C. 385)

J. M. COOPER,
Area Director.

[F. R. Doc. 56-093; Filed, Feb. 8, 1956; 8:45 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of the Treasury

Subchapter N—Artificial Islands and Fixed Structures on the Outer Continental Shelf

[CGFR 56-4]

SAFETY EQUIPMENT AND OTHER MATTERS RELATING TO PROMOTION OF SAFETY OF LIFE AND PROPERTY

A notice regarding proposed regulations governing safety equipment and other matters relating to promotion of safety of life and property on artificial islands and fixed structures on the outer continental shelf was published in the FEDERAL REGISTER dated December 22, 1955 (20 F. R. 9862-9867). These requirements were considered by the Merchant Marine Council and a public hearing was held on January 23, 1956, at Washington, D. C.

All the comments, views, and data submitted in connection with the proposed regulations considered by the Merchant Marine Council at this public hearing have been very helpful to the Coast Guard and are very much appreciated. This information was the basis for certain changes made in the proposed regulations.

The regulations in this document provide requirements with respect to safety of life and property on artificial islands and fixed structures used directly or indirectly in connection with the exploration, testing, drilling, production, storage, etc., of natural resources of the subsoil and seabed of the outer continental shelf. These regulations will require special safety construction features, emergency equipment, lifesaving appliances, fire-fighting equipment, emergency operation procedures, and special inspections thereof by the Coast Guard. These requirements will be enforced after construction or erection of the artificial islands or fixed structures is completed.

The regulations in this document do not apply to (a) the operating equipment used or employed on artificial islands or fixed structures, and (b) the methods and operations used in the drilling, producing, or transporting by pipe lines of natural resources from the subsoil or seabed of the outer continental shelf. The requirements regarding lights and warning devices will be added to the regulations in Subchapter C—Aids to Navigation in 33 CFR Chapter I at a later date. The vessels in attendance are required to display lights and signals in accordance with the Regulations for Preventing Collisions at Sea, 1948, or the local rules established in accordance with Rule 30 thereof, as appropriate.

By virtue of the authority vested in me as Commandant, United States Coast Guard, by Treasury Department Orders 167-15, dated January 3, 1955, and 167-17, dated June 29, 1955 (20 F. R. 840, 4976), Chapter I of Title 33 CFR is amended by adding the following new regulations as a new Subchapter N, consisting of Parts 140 to 146, inclusive, which shall be effective on and after July 1, 1956:

PART 140—GENERAL PROVISIONS

SUBPART 140.01—AUTHORITY AND PURPOSE

- Sec.
140.01-1 Purpose of regulations.
140.01-5 Assignment of functions.

SUBPART 140.05—APPLICATION

- 140.05-1 Artificial islands and fixed structures.
140.05-5 Scope of requirements.
140.05-10 Effective date of regulations.
140.05-15 Amendments or additions to regulations.
140.05-20 Separability of regulations.

SUBPART 140.10—DEFINITIONS OF TERMS USED IN THIS SUBCHAPTER

- 140.10-1 Approved.
140.10-5 Artificial island or fixed structure.
140.10-10 Attending vessel.
140.10-15 Coast Guard District Commander.
140.10-20 Commandant.
140.10-25 Manned platform.
140.10-30 Mobile platform.
140.10-35 Officer in Charge, Marine Inspection.
140.10-40 Party.
140.10-45 Unmanned platform.

SUBPART 140.15—EQUIVALENTS AND APPROVED EQUIPMENT

- 140.15-1 Conditions under which equivalents may be used.
140.15-5 Equipment of an approved type.

SUBPART 140.20—ENFORCEMENT

- 140.20-1 Responsibility for enforcement.
140.20-5 Penalty.

SUBPART 140.25—APPEALS AND JUDICIAL REVIEW

- 140.25-1 Right of appeal.
140.25-5 Judicial review.

AUTHORITY: §§ 140.01-1 to 140.25-5 issued under sec. 1, 63 Stat. 545, 14 U. S. C. 633. Interpret or apply sec. 4, 67 Stat. 462; 43 U. S. C. 1333.

SUBPART 140.01—AUTHORITY AND PURPOSE

§ 140.01-1 *Purpose of regulations.* (a) The regulations in this subchapter are requirements with respect to safety equipment and other matters relating to the promotion of safety of life and property on the artificial islands and fixed structures located on the outer continental shelf.

(b) These provisions are established to implement section 4 (e) (1) of the Outer Continental Shelf Lands Act (sec. 4, 67 Stat. 462; 43 U. S. C. 1333), which reads as follows:

The head of the Department in which the Coast Guard is operating shall have authority to promulgate and enforce such reasonable regulations with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property on the islands and structures referred to in subsection (a) or on the waters adjacent thereto, as he may deem necessary.

§ 140.01-5 *Assignment of functions.* The Secretary of the Treasury by Treasury Department Order 167-15, dated January 3, 1955, and Treasury Department Order 167-17, dated June 29, 1955 (20 F. R. 820, 4976), delegated to the Commandant, U. S. Coast Guard, the authority to prescribe regulations and to administer the functions described in section 4 (e) of the Outer Continental Shelf Lands Act (43 U. S. C. 1333).

SUBPART 140.05—APPLICATION

§ 140.05-1 *Artificial islands and fixed structures.* This subchapter shall be applicable to all artificial islands and fixed structures located on the outer continental shelf which are directly or indirectly used in connection with the exploration, production, storage, etc. (including drilling and testing), of natural resources of the subsoil and seabed of the outer continental shelf. The phrase "artificial islands and fixed structures" includes both mobile and built-up platforms, whether manned or unmanned, and whether or not attended or serviced by vessels. The term "natural resources" includes oil, gas, petroleum, minerals, etc., which may be removed from the subsoil and seabed of the outer continental shelf.

§ 140.05-5 *Scope of requirements.* (a) This subchapter pertains to special safety construction features required, emergency equipment, lifesaving appliances, fire-fighting equipment, emergency operation procedures, and special inspections thereof by the Coast Guard. These requirements will be enforced after construction or erection of the artificial islands or fixed structures is completed.

(b) The lights and warning devices required for artificial islands and fixed structures shall be provided and maintained in accordance with requirements now in effect or which may hereafter be established in Parts 60 to 70, inclusive (Subchapter C—Aids to Navigation), of this chapter. The vessels in attendance shall display lights and signals in accordance with the Regulations for Preventing Collisions at Sea, 1948, or the local rules established in accordance with Rule 30 thereof, as appropriate.

(c) The regulations in this subchapter shall not apply to operating equipment used and employed, nor to the methods and operations used, in the drilling for and the production of oil, gas, petroleum, or other subsoil minerals, nor to the transportation thereof by pipeline.

§ 140.05-10 *Effective date of regulations.* The regulations in this subchapter shall become effective on and after July 1, 1956. These requirements shall supersede all interim instructions or temporary requirements issued which are in conflict therewith.

§ 140.05-15 *Amendments or additions to regulations.* The right is reserved to alter, amend, cancel, or add to the regulations in this subchapter. However, any additions, cancellations, or amendments shall not be retroactive in effect unless specifically provided for at the time and a reasonable period for compliance will be permitted. Except in

an emergency, ninety days will be allowed before amendments or new requirements will become effective.

§ 140.05-20 *Separability of regulations.* If any provision of the regulations in this subchapter, or the application of such provision to any person, firm, company, or corporation, or to any artificial island or fixed structure, shall be held invalid, the validity of the remainder of the regulations in this subchapter and the applicability of such provisions shall not be affected thereby.

SUBPART 140.10—DEFINITIONS OF TERMS USED IN THIS SUBCHAPTER

§ 140.10-1 *Approved.* This term means approved by the Commandant unless otherwise stated.

§ 140.10-5 *Artificial island or fixed structure.* This term means a building or platform secured to the seabed by fixed means or submerged onto the seabed so that for all practical purposes it becomes stationary. This includes both mobile and built-up platforms.

§ 140.10-10 *Attending vessel.* This term means a vessel moored close to and readily accessible to an artificial island or fixed structure, which is especially adapted to providing power, fuel, and/or other services pertaining to the operation being conducted on such artificial island or fixed structure.

§ 140.10-15 *Coast Guard District Commander.* This term means an officer of the Coast Guard designated as such by the Commandant to command all Coast Guard activities within a particular Coast Guard district, which includes the inspections, enforcement, and administration of regulations governing artificial islands and fixed structures located on the outer continental shelf.

§ 140.10-20 *Commandant.* This term means the Commandant of the Coast Guard.

§ 140.10-25 *Manned platform.* This term means an artificial island or fixed structure which, after completion of erection, is actually and continuously occupied by persons living and accommodated thereon.

§ 140.10-30 *Mobile platform.* This term means an artificial island or fixed structure, which includes as an integral part of itself features which permit it to be moved as an entity from position to position and to be fixed to or submerged onto the seabed.

§ 140.10-35 *Officer in Charge, Marine Inspection.* This term means any person from the civilian or military branch of the Coast Guard designated as such by the Commandant, and who, under the superintendence of the Coast Guard District Commander is in charge of a marine inspection zone, shall be immediately responsible for the performance of duties with respect to inspections, enforcement, and administration of regulations governing artificial islands and fixed structures.

§ 140.10-40 *Party.* This term means a person, firm, company, or corporation. This includes the owner of the artificial

island or fixed structure, his agent, and the person in charge of an artificial island or fixed structure.

§ 140.10-45 *Unmanned platform.* This term means an artificial island or fixed structure which is not a manned platform. This includes an artificial island or fixed structure which is continuously serviced by an attending vessel.

SUBPART 140.15—EQUIVALENTS AND APPROVED EQUIPMENT

§ 140.15-1 *Conditions under which equivalents may be used.* The use of alternate equipment, apparatus, or arrangements for those specified in this subchapter may be permitted by the Commandant to such extent and upon conditions as will insure a degree of safety comparable to or above the minimum standards set in this subchapter.

§ 140.15-5 *Equipment of an approved type.* (a) Where equipment in this subchapter is required to be of an approved type, such equipment requires the specific approval of the Commandant. Such approvals are published in the FEDERAL REGISTER and in addition are contained in Coast Guard publication CG-190, "Equipment Lists."

(b) Specifications for many of the items required to be of an approved type have been prescribed by the Commandant and are contained in Parts 160 to 164, inclusive, in Subchapter Q—Specifications in 46 CFR Chapter I. In general such specifications are of interest only to the manufacturer of specific items of equipment.

SUBPART 140.20—ENFORCEMENT.

§ 140.20-1 *Responsibility for enforcement.* The Coast Guard District Commander has general responsibility for and superintendence over the inspections, enforcement, and administration of the regulations in this subchapter within his assigned district. Under the general superintendence of the Coast Guard District Commander, it is the responsibility of the Officer in Charge, Marine Inspection, within his marine inspection zone, to perform or have performed the inspections, enforcement, and administration of the regulations in this subchapter. To accomplish these purposes, authority to perform these functions is hereby delegated to the Coast Guard District Commanders and Officers in Charge, Marine Inspection, within their respective districts and marine inspection zones. This authority may be redelegated as necessary to any person from the civilian or military branch of the Coast Guard assigned to work for such official.

§ 140.20-5 *Penalty.* The penalty for any violation of the regulations in this subchapter is in section 4 (e). (2) of the Outer Continental Shelf, Lands Act (43 U. S. C. 1333) and reads as follows:

Any person, firm, company, or corporation who shall fail or refuse to obey any of the lawful rules and regulations issued hereunder shall be guilty of a misdemeanor and shall be fined not more than \$100 for each offense. Each day during which such violation shall continue shall be considered a new offense.

SUBPART 140.25—APPEALS AND JUDICIAL REVIEW

§ 140.25-1 *Right of appeal.* (a) Any party interested in or aggrieved by any decision or action of the Officer in Charge, Marine Inspection, may appeal therefrom to the Coast Guard District Commander of the district in which the action or decision was made. A further appeal may be made to the Commandant, U. S. Coast Guard, from the decision of the District Commander. Any party interested in or aggrieved by any decision or action of the Coast Guard District Commander may appeal therefrom to the Commandant, U. S. Coast Guard.

(b) Appeals from decisions or actions of the Officer in Charge, Marine Inspection, to the Coast Guard District Commander shall be made in writing within 30 days after the decisions or actions appealed from shall have been rendered or taken. Such an appeal shall set forth the decision or action appealed from and the reasons why the decision or action should be set aside or revised. Appeals from the decisions or actions of the Coast Guard District Commander to the Commandant shall be made in writing within 30 days after the decisions appealed from shall have been rendered.

(c) Pending the determination of the appeal the initial decision or action of the Officer in Charge, Marine Inspection, or the initial decision or action of the Coast Guard District Commander shall remain in effect. The decision of the Commandant is final.

§ 140.25-5 *Judicial review.* Nothing in this subchapter shall be so construed as to prevent any party from seeking a judicial review of the regulations in this subchapter or any decision or action taken pursuant thereto. Section 4 (b) of the Outer Continental Shelf Lands Act (43 U. S. C. 1333) provides that United States district courts shall have original jurisdiction of cases and controversies arising under this act.

PART 142—INSPECTIONS

| | |
|--------|-----------------------------------|
| Sec. | |
| 142.01 | Application. |
| 142.05 | Inspection requirements. |
| 142.10 | Scope of inspections. |
| 142.15 | Deficiencies. |
| 142.20 | Authority to perform inspections. |

AUTHORITY: §§ 142.01 to 142.20 issued under sec. 1, 63 Stat. 545, 14 U. S. C. 633. Interpret or apply sec. 4, 67 Stat. 462; 43 U. S. C. 1333.

§ 142.01 *Application.* The provisions of this part shall apply to all artificial islands and fixed structures located on the outer continental shelf.

§ 142.05 *Inspection requirements.* The Officer in Charge, Marine Inspection, will perform, or have performed, the inspections of artificial islands or fixed structures within his area of jurisdiction to determine that the requirements in this subchapter are met. These inspections will be at such time or times as he may deem necessary.

§ 142.10 *Scope of inspections.* In the inspection of an artificial island or a fixed structure, the person assigned will

inspect the lifesaving appliances, fire-fighting equipment, emergency equipment, observe emergency drills (if necessary), and otherwise satisfy himself that all provisions of the regulations in this subchapter have been complied with and that the emergency equipment is in good condition and satisfactory in every respect.

§ 142.15 *Deficiencies.* Any deficiency will be reported to the owner. The owner shall have the deficiency corrected as soon as practical. Any equipment required by the regulations in this subchapter found to be deficient or unsatisfactory by the person performing an inspection will be condemned. Such condemned equipment shall be repaired or replaced as soon as practical. Condemned lifesaving or fire-fighting equipment, which cannot be satisfactorily repaired, shall be so mutilated that it cannot be used for the purpose for which it was originally intended.

§ 142.20 *Authority to perform inspections.* Persons assigned to this work may at any time lawfully inspect an artificial island or fixed structure.

PART 143—CONSTRUCTION AND ARRANGEMENT

SUBPART 143.01—GENERAL

| | |
|----------|------------------------|
| Sec. | |
| 143.01-1 | Application. |
| 143.01-5 | Scope of requirements. |

SUBPART 143.05—MEANS OF ESCAPE

| | |
|-----------|--------------------|
| 143.05-1 | Types. |
| 143.05-5 | Manned platform. |
| 143.05-10 | Unmanned platform. |

SUBPART 143.10—PERSONNEL LANDINGS

| | |
|----------|-------------------|
| 143.10-1 | Manned platforms. |
| 143.10-5 | Illumination. |

SUBPART 143.15—GUARDS AND RAILS

| | |
|----------|-----------------------------------|
| 143.15-1 | Floor or deck areas and openings. |
| 143.15-5 | Catwalks and stairways. |

AUTHORITY: §§ 143.01-1 to 143.15-5 issued under sec. 1, 63 Stat. 545, 14 U. S. C. 633. Interpret or apply sec. 4, 67 Stat. 462; 43 U. S. C. 1333.

SUBPART 143.01—GENERAL

§ 143.01-1 *Application.* The provisions of this part apply to all artificial islands and fixed structures.

§ 143.01-5 *Scope of requirements.* No requirements are established with respect to the construction and arrangement of artificial islands and fixed structures except as necessary to comply with safety requirements contained in this subchapter.

SUBPART 143.05—MEANS OF ESCAPE

§ 143.05-1 *Types.* Means of escape shall be fixed stairways or fixed ladders. They shall be constructed of metal and shall extend from the platform to the surface of the water at the low range tidal mark.

§ 143.05-5 *Manned platform.* At least two means of escape shall be provided for each manned platform.

§ 143.05-10 *Unmanned platform.* At least one means of escape shall be provided for each unmanned platform.

SUBPART 143.10—PERSONNEL LANDINGS

§ 143.10-1 *Manned platforms.* Sufficient personnel landings shall be provided on each manned platform to assure safe access and egress. When due to special construction personnel landings are not feasible, then suitable transfer facilities to provide safe access and egress shall be installed.

§ 143.10-5 *Illumination.* The personnel landings shall be provided with satisfactory illumination. The minimum shall be one-foot candle of artificial illumination as measured at the landing floor and guards and rails.

SUBPART 143.15—GUARDS AND RAILS

§ 143.15-1 *Floor or deck areas and openings.* (a) Except for helicopter landing decks which are provided for in paragraph (b) of this section, and areas not normally occupied, the unprotected perimeter of all floor or deck areas and openings shall be rimmed with guards and rails or wire mesh fence. The guard rail or fence shall be at least 42 inches high. The two intermediate rails shall be so placed that the rails are approximately evenly spaced between the guard rail and the floor or deck area: *Provided,* That if a toe board is installed then one of the intermediate rails may be omitted and the other rail placed approximately half way between the top of the toe board and the top guard rail.

(b) The unprotected perimeter of the helicopter landing deck shall be protected with a device of sufficient strength and size as to prevent any person from falling from such deck.

§ 143.15-5 *Catwalks and stairways.* Each catwalk and each stairway shall be provided with a suitable guard rail or rails, as necessary.

PART 144—LIFESAVING APPLIANCES

SUBPART 144.01—MANNED PLATFORMS

- Sec.
144.01-1 Life floats.
144.01-5 Location and launching of life floats.
144.01-10 Equipment for life floats.
144.01-15 Alternates for life floats.
144.01-20 Life preservers.
144.01-25 Ring life buoys.
144.01-30 First-aid kit.
144.01-35 Litter.
144.01-40 Emergency communications equipment.

SUBPART 144.10—UNMANNED PLATFORMS

- 144.10-1 Life preservers.
144.10-5 Ring life buoys.
144.10-10 Other lifesaving appliances.

AUTHORITY: §§ 144.01-1 to 144.10-10 issued under sec. 1, 63 Stat. 545, 14 U. S. C. 633. Interpret or apply sec. 4, 67 Stat. 462; 43 U. S. C. 1333.

SUBPART 144.01—MANNED PLATFORMS

§ 144.01-1 *Life floats.* Each manned platform shall be provided with at least two approved life floats. The life floats shall have sufficient capacity to accommodate all persons present at any one time.

§ 144.01-5 *Location and launching of life floats.* The life floats shall be distributed in accessible locations and mounted on the outboard sides of the

working platform in such a manner as to be readily launched.

§ 144.01-10 *Equipment for life floats.* (a) Each life float shall be provided with a painter. This painter shall be a manila rope, or equivalent, not less than 2¾ inches in circumference, and of a length not less than three times the distance from the low water line to the deck or place where the life float is stowed.

(b) An approved electric water light shall be provided for each life float. The water light shall be attached to the life float by a lanyard not less than one fathom nor more than two fathoms in length. The water light shall be mounted in a bracket so that when the life float is launched the water light will pull free of the bracket.

(c) Two paddles shall be provided for each life float. The paddles shall not be less than five feet nor more than six feet long. The paddles shall be stowed in such a way that they will be readily accessible from either side of the life float when in the water.

§ 144.01-15 *Alternates for life floats.* (a) Approved lifeboats or approved life rafts may be used in lieu of approved life floats, for either all or a part of the capacity required. When either lifeboats or life rafts are used approved means of launching will be required.

(b) The equipment required for a lifeboat is a bailer, boat hook, bucket, hatchet, lantern, life line, two life preservers, matches, full complement of oars and steering oar, painter, plug, and rowlocks, of the same type, kind, and character as required for lifeboats carried on vessels engaged in navigating bays, sounds, and lakes other than the Great Lakes, and rivers.

(c) The equipment required for a life raft is a boat hook, life line (if not a Type A life raft), full complement of oars and steering oar, painter, and rowlocks of the same type, kind, and character as required for life rafts carried on cargo and miscellaneous vessels navigating on bays, sounds, and lakes other than the Great Lakes.

§ 144.01-20 *Life preservers.* An approved adult life preserver shall be provided for each person on a manned platform. The life preservers shall be located in easily accessible places.

§ 144.01-25 *Ring life buoys.* (a) At least four approved ring life buoys shall be placed on each manned platform. One ring life buoy shall be placed in a suitable rack on each side of a manned platform in an accessible place. The ring life buoy shall always be capable of being cast loose, and shall not be permanently secured in any way.

(b) An approved electric water light shall be provided with each ring life buoy. The water light shall be attached to the ring life buoy by a lanyard not less than 3 feet nor more than 6 feet in length. The water light shall be mounted in a bracket near the ring life buoy so that when the ring life buoy is cast loose the water light will pull free of the bracket.

§ 144.01-30 *First-aid kit.* On each manned platform a first-aid kit approved

by the Commandant or the U. S. Bureau of Mines shall be provided and kept in the custody of the supervisor.

§ 144.01-35 *Litter.* On each manned platform a Stokes litter shall be provided and kept in an accessible place.

§ 144.01-40 *Emergency communications equipment.* On manned platforms means of communication by radio and/or wire telephone shall be provided for contacting the shore or vessels in the vicinity for aid in the event of an emergency.

SUBPART 144.10—UNMANNED PLATFORMS

§ 144.10-1 *Life preservers.* On an unmanned platform an adult life preserver shall be provided for each person thereon while crews are working continuously on a 24-hour basis. The life preservers shall be located in easily accessible places.

§ 144.10-5 *Ring life buoys.* On an unmanned platform at least four approved ring life buoys shall be provided and kept thereon while crews are working continuously on a 24-hour basis. The requirements for stowage, arrangement, and approved electric water lights with brackets and lanyards in § 144.01-25 shall be met when ring life buoys are placed on unmanned platforms.

§ 144.10-10 *Other lifesaving appliances.* While life preservers and ring life buoys are the only lifesaving appliances required on unmanned platforms and then only when crews are continuously working on a 24-hour basis, if at other times lifesaving appliances are provided, the pertinent requirements in this part shall be met with respect to the type and character thereof.

PART 145—FIRE-FIGHTING EQUIPMENT

- Sec.
145.01 Portable and semi-portable fire extinguishers.
145.05 Classification of fire extinguishers.
145.10 Locations and number of fire extinguishers required.

AUTHORITY: §§ 145.01 to 145.10 issued under sec. 1, 63 Stat. 545, 14 U. S. C. 633. Interpret or apply sec. 4, 67 Stat. 462; 43 U. S. C. 1333.

§ 145.01 *Portable and semi-portable fire extinguishers.* On all manned platforms and on all unmanned platforms where crews are continuously working on a 24-hour basis, approved type portable fire extinguishers and/or approved type semi-portable fire extinguishers shall be installed and maintained. On all unmanned platforms where crews are not continuously working on a 24-hour basis, approved type portable fire extinguishers and/or approved type semi-portable fire extinguishers are required to be installed and maintained only when crews are working thereon.

§ 145.05 *Classification of fire extinguishers.* (a) Portable and semi-portable extinguishers shall be classified by a combination letter and number symbol. The letter indicating the type of fire which the unit could be expected to extinguish, and the number indicating the relative size of the unit.

RULES AND REGULATIONS

TABLE 145.05 (c)—PORTABLE AND SEMI-PORTABLE EXTINGUISHERS

| Classification type, size | Soda acid and water, gallons | Foam, gallons | Carbon dioxide, pounds | Dry chemical, pounds |
|---------------------------|------------------------------|---------------|------------------------|----------------------|
| A-II | 2½ | 2½ | 15 | 12 |
| B-II | 2½ | 2½ | 15 | 12 |
| C-II | | | 15 | 12 |
| B-V | | 40 | 100 | (1) |

¹ Minimum values not established at this time.

(b) The types of fire will be designated as follows:

(1) "A" for fires in ordinary combustible materials where the quenching and cooling effects of quantities of water, or solutions containing large percentages of water, are of first importance.

(2) "B" for fires in flammable liquids, greases, etc., where a blanketing effect is essential.

(3) "C" for fires in electrical equipment where the use of a non-conducting extinguishing agent is of first importance.

(c) The number designations for size will start with "I" for the smallest to "V" for the largest. Sizes I and II are considered portable extinguishers. Sizes III, IV and V are considered semi-portable extinguishers which shall be fitted with suitable hose and nozzle or other practicable means so that all portions of the space concerned may be covered. Examples of size graduations for some of the typical portable and semi-portable extinguishers are set forth in Table 145.05 (c).

(d) All portable and semi-portable extinguishers shall have permanently attached thereto a durable name plate giving the name of the item, the rated capacity in gallons or pounds, the name and address of the person or firm for whom approved, and the identifying mark of the actual manufacturer.

§ 145.10 *Locations and number of fire extinguishers required.* (a) Approved portable and semi-portable extinguishers shall be installed in accordance with Table 145.10 (a).

TABLE 145.10 (a)—PORTABLE AND SEMI-PORTABLE EXTINGUISHERS

| Space | Classification | Quantity and location |
|---|---|--|
| SAFETY AREAS | | |
| Communicating corridors..... | A-II | 1 in each main corridor not more than 150 feet apart. (May be located in stairways.) |
| Radio room..... | C-II | 1 in vicinity of exit. |
| ACCOMMODATIONS | | |
| Sleeping accommodations..... | A-II | 1 in each sleeping accommodation space. (Where occupied by more than 4 persons.) |
| SERVICES SPACES | | |
| Galley..... | B-II or C-II | 1 for each 2,500 square feet or fraction thereof for hazards involved. |
| Storerooms..... | A-II | 1 for each 2,500 square feet or fraction thereof located in vicinity of exits, either inside or outside of spaces. |
| MACHINERY SPACES | | |
| Gas-fired boilers..... | B-II (CO ₂ or dry chemical). | 2 required. |
| Gas-fired boilers..... | B-V | 1 required. ¹ |
| Oil-fired boilers..... | B-II | 2 required. |
| Oil-fired boilers..... | B-V | 1 required. ¹ |
| Internal combustion or gas turbine engines..... | B-II | 1 for each engine. ² |
| Electric motors or generators of open type..... | C-II | 1 for each 2 motors or generators. ³ |

¹ Not required where a fixed carbon dioxide system is installed.

² When installation is on weather deck or open to atmosphere at all times 1 B-II for each three engines is allowable.

³ Small electrical appliances, such as fans, etc., shall not be counted or used as basis for determining number of extinguishers required.

(b) Semi-portable extinguishers shall be located in the open so as to be readily seen.

PART 146—OPERATIONS

SUBPART 146.01—SPECIAL OPERATING REQUIREMENTS

- Sec. 146.01-1 Application.
- 146.01-5 Identification marks required.
- 146.01-10 Recording identification marks.
- 146.01-15 Maintenance of emergency equipment.
- 146.01-20 Casualty or accident report.
- 146.01-25 Authority of person in charge.

SUBPART 146.05—MANNED PLATFORMS

- 146.05-1 Application.
- 146.05-5 General alarm system.
- 146.05-10 Emergency signals.
- 146.05-15 Duties of personnel.
- 146.05-20 Manning of life floats, etc.
- 146.05-25 Emergency drills.
- 146.05-30 Station bill.
- 146.05-35 Markings for emergency equipment.

SUBPART 146.01—SPECIAL OPERATING REQUIREMENTS

—§ 146.01-1 *Application.* The provisions of this subpart apply to all artificial islands or fixed structures.

§ 146.01-5 *Identification marks required.* The owner or operator shall assign a name or number or other suitable designation to each artificial island and each fixed structure located on the outer continental shelf. This name or number or other suitable designation shall be permanently and conspicuously displayed on the artificial island or fixed structure so that it can be readily seen in clear visibility by vessels or aircraft.

§ 146.01-10 *Recording identification marks.* The owner or operator shall record the name or number or other suit-

able designation assigned each artificial island and each fixed structure with the Coast Guard District Commander having jurisdiction over the area in which it is located. This information is for identification purposes.

§ 146.01-15 *Maintenance of emergency equipment.* The emergency equipment provided, regardless of whether or not required by this subchapter, shall be maintained in good condition at all times. Good operating practices require replacement of expended equipment, as well as periodic renewal of those items which have a limited period of effectiveness, such as replacing charges in fire extinguishers, replacing batteries in electric water lights, etc.

§ 146.01-20 *Casualty or accident report.* (a) The owner, or his agent, or the person in charge, shall report as soon as possible to the Officer in Charge, Marine Inspection, having jurisdiction, whenever his artificial island or fixed structure is involved in a casualty or accident and any one or more of the following occur:

- (1) If it is hit by a vessel and damage to property is in excess of \$1,500.
- (2) Damage to artificial island or fixed structure in excess of \$25,000.
- (3) Material damage affecting the usefulness of life-saving or fire-fighting equipment.
- (4) Loss of life.
- (5) Injury causing any person to remain incapacitated for a period in excess of 72 hours, arising out of or being directly connected with the use or employment of any emergency equipment described in this subchapter.

(b) The written report, in narrative form, shall contain the name or number or other suitable designation assigned to the artificial island or fixed structure; the names and addresses of the owner, his agent (if any), operator (if any), and the person in charge; the nature and probable cause of the casualty or accident; the date and time the casualty or accident occurred, if known, otherwise approximately when it occurred; details of damage incurred, especially with respect to lifesaving and fire-fighting equipment; the nature and extent of injury to any person; names and addresses of persons involved; and other comments, especially with respect to use or need for emergency equipment.

(c) In the investigations of casualties and accidents occurring on artificial islands or fixed structures, the procedures in 46 CFR Part 136 for marine casualties will be followed to the extent applicable.

§ 146.01-25 *Authority of person in charge.* In case an emergency arises, nothing in the regulations in this subchapter shall be so construed as preventing the person in charge from pursuing the most effective action in his judgment for rectifying the conditions causing the emergency.

SUBPART 146.05—MANNED PLATFORMS

§ 146.05-1 *Application.* The provisions of this subpart apply only to manned platforms.

§ 146.05-5 *General alarm system.* Each manned platform shall be provided with a general alarm system. When operated, this system shall be audible in all parts of the manned platform on which provided.

§ 146.05-10 *Emergency signals.* The owner, or his agent, or the person in charge, shall establish emergency signals to be used for calling the personnel to their emergency stations. The abandon platform signal shall be an intermittent signal on the general alarm system, for not less than 15 seconds, and a like signal on the fog horn. This signal should be supplemented by word of mouth warning.

§ 146.05-15 *Duties of personnel.* (a) The owner, or his agent, or the person in charge, shall assign to each person on a manned platform special duties and duty stations so that in event an emergency arises confusion will be minimized and no delay will occur with respect to the use or application of equipment required by this subchapter. The duties shall, as far as possible, be comparable with the regular work of the individual.

(b) The duties shall be assigned as necessary for the proper handling of any emergency, and shall include the following:

(1) The closing of airports, watertight doors, scuppers, sanitary and other discharges which lead through the platform's hull below the margin line, etc.

(2) The stopping of fans and ventilation systems.

(3) The donning of life preservers.
(4) The preparation and launching of life floats, lifeboats, or life rafts.

§ 146.05-20 *Manning of life floats, etc.* The owner, or his agent, or the person in charge, shall assign a person to each life float, lifeboat, or life raft, who shall be responsible for launching it in event of an emergency.

§ 146.05-25 *Emergency drills.* (a) Emergency drills shall be conducted at least once each month by the person actually in charge of the manned platform. The drill shall be conducted as if an actual emergency existed. All personnel should report to their respective stations and be prepared to perform the duties assigned to them.

(b) The person actually in charge and conducting the emergency drill shall give such instructions to the personnel as are necessary to insure that all persons are familiar with their duties and stations.

(c) The date and time of such drills shall be reported in writing by the person actually in charge at the time of the drill to the owner who shall maintain this report record for a year and furnish it upon request to the Coast Guard. After one year, such records may be destroyed. When it is impossible to conduct emergency drills as required by this section during a particular calendar month, during the following month a written report by the owner shall be submitted to the Officer in Charge, Marine Inspection, stating why the drills could not be conducted.

§ 146.05-30 *Station bill.* (a) The owner, his agent, and the person in

charge, shall be responsible for and have prepared a station bill (muster list). This station bill must be signed by the person in charge. Copies shall be duly posted in conspicuous locations on the manned platform.

(b) The station bill shall set forth the special duties and duty stations of each member of the personnel for any emergency which involves the use or application of equipment required by this subchapter. In addition, it shall contain all other duties assigned and considered as necessary for the proper handling of any emergency.

(c) The station bill shall contain the various signals to be used for calling the personnel to their emergency stations, and to abandon platform.

§ 146.05-35 *Markings for emergency equipment.* (a) Markings shall be provided as considered necessary for the guidance of persons on manned platforms.

(b) The general alarm bell switches shall be identified by red letters at least one inch high with a contrasting background: "GENERAL ALARM."

(c) All general alarm bells shall be identified by a sign at each bell in red letters at least one inch high with a sharp contrasting background: "GENERAL ALARM—WHEN BELL RINGS GO TO YOUR STATION."

(d) All life floats, lifeboats, and life rafts, together with paddles or oars, shall be conspicuously marked with a name or number or identification of the artificial island or fixed structure on which placed. The number of persons allowed on each life float, lifeboat, or life raft shall be conspicuously marked thereon in letters and numbers 1½ inches high. These numbers shall be placed on both sides of the life float, lifeboat, or life raft.

(e) All life preservers and ring life buoys shall be marked with the name and number or identification of the manned platform on which placed.

Dated: February 1, 1956.

[SEAL] A. C. RICHMOND,
Vice Admiral, U. S. Coast Guard,
Commandant.

[F. R. Doc. 56-1006; Filed, Feb. 8, 1956;
8:47 a. m.]

TITLE 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 46—RURAL SERVICE

PART 61—MONEY ORDERS

MISCELLANEOUS AMENDMENTS

A. In § 46.4 *Payment of postage* amend paragraph (a) to read as follows:

(a) *Acceptance of mail.* A rural carrier will accept any mailable matter provided the postage is fully prepaid or money equal to the required postage is furnished, unless the purpose of handing mail to the carrier for deposit into one office is to "boycott" another office or deprive it of legitimate revenue. When a rural carrier finds unstamped mail in a patron's box and the requisite amount of money for postage, he will collect the mail and money and pay the necessary

postage. For convenience and safety, patrons who leave mail and money for postage in rural mail boxes to be collected by the carrier should either wrap the money, place it in a coin holding receptacle, or attach it to the mail by means of a clip or other suitable fastener.

(R. S. 161, 396; sec. 1, 39 Stat. 4, secs. 304, 309, 42 Stat. 24, 25; 5 U. S. C. 22, 369, 39 U. S. C. 191, 192)

B. In § 61.3 *How to cash a money order* make the following changes:

1. Delete paragraph (a).
2. Amend paragraph (b) to read as follows:

(b) *Where to cash.* (1) You may cash a card money order at full face value at any post office or bank. Consult your local postmaster to obtain payment of an old style paper money order.

(2) If you are a patron of a rural route, your rural carrier will cash your money order. You must endorse it in his presence. No fee or compensation is required for this service.

(3) Money orders issued at military post offices are payable only at military post offices, post offices or at banks located in the United States, its possessions or Territories, and countries with which the United States transacts domestic-international money-order business. If the purchaser or payee of a money order issued at a military post office transfers ownership by endorsement to another, the endorsee must cash the money order at either a military post office or at a post office located in the United States, its possessions or Territories.

3. Amend paragraph (e). (3) to read as follows:

(3) *On death of payee.* A money order less than a year old belonging to a deceased owner may be paid to the executor or administrator of the estate appointed by the court. A certified copy of the appointment as executor or administrator must be filed with the local postmaster. Payments will be made in accordance with the laws of the State of which the deceased was a resident. If more than one year old consult your local postmaster.

C. In § 61.4 *Lost or damaged money orders* make the following changes:

1. Amend paragraph (a) to read as follows:

(a) *When you lose a money order.* A money order that is lost will be replaced without charge by the Post Office Department. Make application through your local postmaster.

2. Amend paragraph (c) to read as follows:

(c) *Consent of payee or endorsee.* A duplicate money order will be issued in accordance with the wishes of the applicant, without the consent of the payee or endorsee.

(R. S. 161, 396, 4027; secs. 304, 309, 42 Stat. 24, 25, sec. 12, 65 Stat. 676; 5 U. S. C. 22, 369, 39 U. S. C. 246f, 711)

[SEAL] ABE MCGREGOR GOFF,
The Solicitor.

[F. R. Doc. 56-1011; Filed, Feb. 8, 1956;
8:48 a. m.]

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federal register

**Tuesday
October 25, 1960**

Department of the Treasury

Coast Guard

**Lifesaving Equipment and Markings
for Emergency Equipment; Final
Rule**

Group 68—Chemicals and Chemical Products (all classes).

Group 69—Training Aids and Devices (all classes).

Class 7440—Automatic Data Processing Systems: Industrial, Scientific and Office Types.

Group 49—Maintenance and Repair Shop Equipment (all classes).

Class 5220—Inspection Gages and Precision Layout Tools.

Group 53—Hardware and Abrasives (all classes).

Group 54—Prefabricated Structures and Scaffolding (all classes).

Group 55—Lumber, Millwork, Plywood and Veneer (all classes).

Group 56—Construction and Building Materials (all classes).

Group 58—Communication Equipment (all classes).

Group 59—Electrical and Electronic Equipment Components (all classes).

Group 61—Electric Wire and Power Distribution Equipment (all classes).

Class 7610—Books and Pamphlets.

Class 7650—Drawings and Specifications.

Class 8010—Paints, Dopes, Varnishes and Related Products.

Class 8020—Paint and Artists Brushes.

Class 8030—Preservation and Sealing Compounds.

Class 8115—Boxes, Cartons and Crates.

Class 8140—Ammunition, Boxes, Packages and Special Containers.

Class 9320—Rubber Fabricated Materials.

Class 9330—Plastics Fabricated Materials.

Class 9350—Refractories and Fire Surfacing Materials.

Class 6210—Indoor and Outdoor Electric Lighting Fixtures.

Class 6220—Electric Vehicular Lights and Fixtures.

Group 95—Metal Bars, Sheets and Shapes (all classes).

End equipment parts (repair parts) for the supplies listed in this section are considered to be included in the list, even though not separately listed, when they are procured under a contract that also calls for listed supplies.

§ 595.104-5 Contract clause.

In addition to the clause prescribed by § 6.104-5 of this title, the additional special provisions set forth in this section shall be included in all contracts for supplies; experimental, developmental, or research; and in contracts for services when applicable, except that these provisions shall not be included in contracts exclusively for articles, materials, or supplies for use outside the United States, for items not listed in this section, involving procurements exempt under provisions of § 595.504(c), and for Civil Works acquired with funds appropriated for Civil Functions, Department of the Army.

(a) *Supply contracts.* The following special provision shall be included in supply contracts:

The following articles, materials, and supplies which are to be acquired under this contract are listed in paragraph 6-103.5 of the Army Procurement Procedure. Accordingly, bids or proposals offering (1) Canadian end products as defined in paragraph 6-101(e) of the Armed Services Procurement Regulation, or (2) supplies which are mined, produced or manufactured in Canada and are to be incorporated in end products manufactured in the United States, for the following listed supplies acquired under this contract will be treated as domestic bids or proposals as defined in paragraph 6-101(g)

of the Armed Services Procurement Regulation. (Insert broad class of listed items from APP 6-103.5a as applicable.)

(b) *Experimental, developmental or research contracts.* The following special provision shall be included in experimental, developmental or research contracts:

All articles, materials and supplies which are to be acquired under this contract are subject to the provisions of paragraph 6-103.5 of the Army Procurement Procedure. Accordingly, bids or proposals offering (1) Canadian end products as defined in paragraph 6-101(e) of the Armed Services Procurement Regulation, or (2) supplies which are mined, produced or manufactured in Canada and are to be incorporated in end products manufactured in the United States for equipment being acquired under this contract will be treated as domestic bids or proposals as defined in paragraph 6-101(g) of the Armed Services Procurement Regulation.

(c) *Service contracts.* One of the provisions set forth in paragraph (a) or (b) of this section will be included in service contracts when applicable.

Effective date. These amendments shall become effective upon their publication in the FEDERAL REGISTER.

[C 25, APP, Sept. 27, 1960] (Sec. 3012, 70A Stat. 157; 10 U.S.C. 3012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314)

R. V. LEE,

Major General, U.S. Army,

The Adjutant General.

[F.R. Doc. 60-9978; Filed, Oct. 24, 1960; 8:45 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of the Treasury

SUBCHAPTER N—ARTIFICIAL ISLANDS AND FIXED STRUCTURES ON THE OUTER CONTINENTAL SHELF

[CGFR 60-35]

LIFESAVING EQUIPMENT AND MARKINGS FOR EMERGENCY EQUIPMENT

Pursuant to the notice of proposed rule making published in the FEDERAL REGISTER on February 18, 1960 (25 F.R. 1440-1448), and Merchant Marine Council Public Hearing Agenda dated April 4, 1960 (CG-249), the Merchant Marine Council held a Public Hearing on April 4, 1960, for the purpose of receiving comments, views and data. The proposals considered were identified as Items I through XII, inclusive, and Items II and III contained proposed requirements regarding inflatable life rafts, life preservers and other lifesaving equipment. This document is supplementary to CGFR 60-36 which includes actions based on items II and III to amend the vessel inspection regulations in 46 CFR Chapter I.

This document contains the final actions taken with respect to the proposed changes in Items II and III regarding lifesaving equipment and markings for

emergency equipment on artificial islands and fixed structures. On the basis of comments received the effective date for removal of life preservers which do not have plastic-covered pad inserts was postponed from "July 1, 1961," to "July 1, 1963." The other actions based on Items II and III are set forth in a separate document, CGFR 60-36.

By virtue of the authority vested in me as Commandant, United States Coast Guard, by Treasury Department Orders 167-15, dated January 3, 1955 (20 F.R. 840), and 167-17 dated June 29, 1955 (20 F.R. 4976), to promulgate regulations in accordance with the statutes cited with the regulations below, the following regulations and amendments are prescribed and shall become effective on and after January 1, 1961, except as provided otherwise in the regulations:

PART 144—LIFESAVING APPLIANCES

Subpart 144.01—Manned Platforms

1. Section 144.01-15 is amended by revising paragraph (a) and by adding a new paragraph (d) (with a note) reading as follows:

§ 144.01-15 Alternates for life floats.

(a) Approved lifeboats, approved life rafts or approved inflatable life rafts may be used in lieu of approved life floats for either all or part of the capacity required. When either lifeboats or life rafts are used approved means of launching will be required. Inflatable life rafts, when used, shall be distributed and mounted as required for life floats under § 144.01-5.

(d) Inflatable life rafts shall be equipped for "Limited Service" in accordance with Subpart 160.051 of Subchapter Q (Specifications) of 46 CFR Chapter I.

Note: Subpart 160.051 of Subchapter Q (Specifications) of 46 CFR Chapter I requires the servicing of inflatable life rafts every 12 months at approved servicing facilities. Included in this servicing at an approved facility is a complete inspection of the required equipment by a marine inspector.

2. Section 144.01-20 is amended to read as follows:

§ 144.01-20 Life preservers.

(a) An approved life preserver shall be provided for each person on a manned platform. The life preservers shall be located in easily accessible places.

(b) On or before July 1, 1963, all kapok and fibrous glass life preservers which do not have plastic-covered pad inserts shall be removed from service.

(Sec. 633, 63 Stat. 545; 14 U.S.C. 633. Interpret or applies sec. 4, 67 Stat. 462; 43 U.S.C. 1333)

Subpart 144.10—Unmanned Platforms

3. Section 144.10-1 is amended to read as follows:

§ 144.10-1 Life preservers.

(a) On an unmanned platform an adult life preserver shall be provided for each person thereon while crews are working continuously on a 24-hour basis.

The life preservers shall be located in easily accessible places.

(b) On or before July 1, 1963, all kapok and fibrous glass life preservers which do not have plastic-covered pad inserts shall be removed from service.

(Sec. 633, 63 Stat. 545; 14 U.S.C. 633. Interprets or applies sec. 4, 67 Stat. 462; 43 U.S.C. 1333)

PART 146—OPERATIONS

Subpart 146.05—Manned Platforms

Section 146.05-35(d) is amended to read as follows:

§ 146.05-35 Markings for emergency equipment.

(d) All life floats, lifeboats, and life rafts, together with paddles or oars, shall be conspicuously marked with a name or number or identification of the artificial island or fixed structure on which placed. The number of persons allowed on each life float, lifeboat, or life raft shall be conspicuously marked thereon in letters and numbers 1½ inches high. These numbers shall be placed on both sides of the life float, lifeboat, or life raft. Inflatable life rafts shall be marked in accordance with Subpart 160.051 of Subchapter Q (Specifications) of this chapter and no additional markings are required.

(Sec. 633, 63 Stat. 545; 14 U.S.C. 633. Interprets or applies sec. 4, 67 Stat. 462; 43 U.S.C. 1333)

Dated: September 23, 1960.

[SEAL] A. C. RICHMOND,
Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 60-10003; Filed, Oct. 24, 1960; 8:48 a.m.]

**Chapter II—Corps of Engineers,
Department of the Army**

**PART 205—DUMPING GROUNDS
REGULATIONS**

Lake St. Clair, Michigan

Pursuant to the provisions of section 4 of the River and Harbor Act of March 3, 1905 (33 Stat. 1147; 33 U.S.C. 419), § 205.50 is hereby amended revising the last sentence in paragraph (a) to change the description of the buoys marking the dumping ground in Lake St. Clair, Michigan. Paragraph (a) reads as follows:

§ 205.50 Lake St. Clair, Mich.

(a) *The dumping grounds.* The waters of Lake St. Clair within a rectangular area east of Grosse Pointe, Michigan, between the Lake St. Clair Ship Channel and the International Boundary, bounded as follows: Beginning at a point, 900 feet southeasterly from the southeast channel line of the Ship Channel, bearing 53°30' true, 13,500 feet, from Peach Island Range Front Light; thence 48° true, along a line parallel to and 900 feet southeasterly from the southeast channel line of the Ship Channel, 13,000 feet; thence 138° true, 6,500 feet; thence

228° true, 13,000 feet; and thence 318° true, 6,500 feet, to the point of beginning. The boundaries of the area are marked by a series of white and international orange buoys alternately banded, either horizontally or vertically, established and maintained by the United States Coast Guard.

Effective date. This amendment shall become effective upon publication in the FEDERAL REGISTER.

[Regs., Oct. 12, 1960, 285/91 (Lake St. Clair, Mich.)—ENGCW-O] (Sec. 4, 33 Stat. 1147; 33 U.S.C. 419)

R. V. LEE,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 60-9979; Filed, Oct. 24, 1960; 8:45 a.m.]

**Title 43—PUBLIC LANDS:
INTERIOR**

**Chapter I—Bureau of Land Management,
Department of the Interior**

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 2207]

**CALIFORNIA, COLORADO,
WYOMING**

**Partly Revoking Certain Reclamation
Withdrawals and Executive Order
of April 6, 1859**

By virtue of the authority vested in the Secretary of the Interior by section 3 of the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 416), it is ordered as follows:

1. The Departmental orders of January 15, 1942, September 14, 1937, and July 13, 1943, which withdrew lands in California, Colorado, and Wyoming respectively, for first form reclamation purposes, are hereby revoked so far as they affect the following-described lands:

[1894999]

a. Departmental order of January 15, 1942 (Nashville Reservoir, Central Valley Project):

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 8 N., R. 10 E.,
Sec. 12, lot 6.

Containing 45.47 acres.

[Colorado 031079]

b. Departmental order of September 14, 1937 (Colorado-Big Thompson Project):

SIXTH PRINCIPAL MERIDIAN, COLORADO

T. 2 S., R. 79 W.,
Sec. 7, lot 4;
Sec. 18, lot 4;
Sec. 19, lots 4 to 26, incl., and 28 to 30, incl.;
Sec. 20, lots 3, 5, 6, and 14 to 23, incl.;
Sec. 28, lots 1, 2, and 4 to 8, incl., 11, 12 and SW¼SE¼;
T. 2 S., R. 80 W.,
Sec. 13, NE¼NE¼, S½NE¼, SE¼NW¼,
N½S½, SW¼SW¼, and S½SE¼;
Sec. 14, NW¼NW¼, NE¼SW¼, S½SW¼,
and SE¼;
Sec. 15, NW¼NW¼, S½NW¼, SW¼,
NW¼SE¼, and S½SE¼;
Sec. 24, NW¼NW¼.

The areas described aggregate 2,404.56 acres.

[Wyoming 056607]

c. Departmental order of July 13, 1943 (Sulphur Creek Reservoir, Bear River Storage Project):

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 14 N., R. 119 W.,
Sec. 28, N½S½;
Sec. 34, N½NE¼;
Sec. 35, lots 9 and 10.

The areas described aggregate 299.18 acres.

2. The lands described in paragraphs 1 (a) and (b) hereof, are either patented, or included in other withdrawals for power purposes. Lots 9 and 10 in subparagraph (c) are included in the Fort Bridger Coal Reserve established by Executive Order of April 6, 1859, which order is hereby revoked as to the lands.

3. Subject to valid existing rights, and the requirements of applicable law, the lands described in paragraph 1(c) are hereby opened to filing of applications, selections, and locations in accordance with the following:

a. Applications and selections under the nonmineral public-land laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications and selections will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph:

(2) Until 10:00 a.m., on April 18, 1961, the State of Wyoming shall have a preferred right of application to select the lands in accordance with and subject to the provisions of subsection (c) of section 2 of the Act of August 27, 1958 (72 Stat. 928; 43 U.S.C. 851, 852), and the regulations in 43 CFR.

(3) All valid applications and selections under the nonmineral public land laws other than any from the State of Wyoming, presented prior to 10:00 a.m., on November 23, 1960, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

b. The lands have been open to applications and offers under the mineral leasing laws. They will be open to location under the United States mining laws beginning at 10:00 a.m., on April 18, 1961.

4. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims, must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims.

Inquiries concerning the lands opened by this order should be addressed to the

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federal register

**Tuesday
December 17, 1968**

Department of Transportation

Coast Guard

**General and Lifesaving
Amendments; Final Rule**

he will elect, in writing, to either complete his 4-year enlistment or be immediately discharged.

§ 902.10 Elimination from training.

(d) Reassignment.

(1) USAF trainee, as prescribed by AFM 39-11 (Airman Assignment Manual) and AFR 39-30 (Administrative Demotion of Airmen).

(Secs. 107(a), 301(a), Clean Air Act; sec. 2, Public Law 90-148, 81 Stat. 490, 504; 42 U.S.C. 1857c-2(a), 1857g(a))

Dated: December 12, 1968.

WILBUR J. COHEN,
Secretary.

[F.R. Doc. 68-15000; Filed, Dec. 16, 1968; 8:47 a.m.]

TABLE 11.—DISPOSITION OF ELIMINATED OR DISQUALIFIED USAF TRAINEES

| Line | If USAF applicant was eliminated— | Rule | | | |
|------|---|------|-----|-----|-----|
| | | 1 | 2 | 3 | 4 |
| A | For medical reasons or unsuitability..... | Yes | No | No | No |
| B | And is male..... | Yes | Yes | Yes | Yes |
| O | And was specifically enlisted for OTS..... | Yes | Yes | Yes | No |
| D | He will not be required to complete his enlistment contract on AD..... | X | | | |
| E | He will be permitted to elect, in writing, to complete his contract on AD or to be immediately discharged IAW AFM 39-10 (Separation for Unsuitability, Unfitness, Misconduct, Resignation, or Request for discharge for the Good of the Service and Procedures for the Rehabilitation Program)..... | | X | X | |
| F | His election will be recorded in the "Remarks" section of AF Form 7..... | | X | X | |
| G | Go to Table 12..... | | | | |

TABLE 12.—ELECTION PROCEDURE

| Rule | A | B |
|------|---|---|
| | If eliminated trainee elects to— | He will— |
| 1 | Complete enlistment contract on AD..... | Not again be permitted to request relief from AD or discharge under the authority of this part. |
| 2 | Request discharge..... | Be discharged. (See Note.) |

NOTE: The Selective Service copy of the DD Form 214 will contain an appropriate remark indicating that he failed to complete Officer Training School.

§ 902.12 Disposition of graduates.

TABLE 13—GRADUATES QUALIFIED FOR APPOINTMENT

NOTE 2. He will serve at least 4 years of active duty from the date he graduates from officer training if nonrated, or at least 4 years from the date of award of aeronautical rating if applying for flying training, unless sooner relieved by competent authority. Exception: Officers entering undergraduate pilot or navigator training on or after 1 January 1970 will serve 5 years from the date of award of aeronautical rating. (Part 888c, Subchapter I of this Chapter).

(Sec. 8012, 70A Stat. 488; sec. 9411, 70A Stat. 571; 10 U.S.C. 8012 and 9411) [Change 1, November 6, 1967 and Change 2, March 15, 1968 to AFR 53-27, February 6, 1967]

By order of the Secretary of the Air Force.

ALEXANDER J. PALENSCAR, Jr.,
Colonel, U.S. Air Force, Chief,
Special Activities Group, Office of The Judge Advocate General.

[F.R. Doc. 68-14968; Filed, Dec. 16, 1968; 8:45 a.m.]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER G—PREVENTION, CONTROL, AND ABATEMENT OF AIR POLLUTION

PART 81—AIR QUALITY CONTROL REGIONS, CRITERIA, AND CONTROL TECHNIQUES

Metropolitan Philadelphia Interstate Air Quality Control Region

On October 4, 1968, notice of proposed rule making was published in the FEDERAL

REGISTER (33 F.R. 14886) to amend Part 81 by designating the Metropolitan Philadelphia Interstate Air Quality Control Region (Pennsylvania-New Jersey-Delaware).

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments, and a consultation with appropriate State and local authorities pursuant to section 107(a) of the Clean Air Act (42 U.S.C. 1857c-2(a)) was held on October 28, 1968. Due consideration has been given to all relevant material presented.

In consideration of the foregoing and in accordance with the statement in the notice of proposed rule making, the Metropolitan Philadelphia Interstate Air Quality Control Region (Pennsylvania-New Jersey-Delaware) is hereby designated and Part 81, as set forth below, is hereby amended effective on publication.

§ 81.15 Metropolitan Philadelphia Interstate Air Quality Control Region (Pennsylvania-New Jersey-Delaware).

The Metropolitan Philadelphia Interstate Air Quality Control Region (Pennsylvania-New Jersey-Delaware) consists of the territorial area encompassed by the boundaries of the following jurisdictions (including the territorial area of all municipalities (as defined in section 302 (f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Pennsylvania: Bucks County, Chester County, Delaware County, Montgomery County, Philadelphia County.

In the State of New Jersey: Burlington County, Camden County, Gloucester County, Mercer County, Salem County.

In the State of Delaware: New Castle County.

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER N—ARTIFICIAL ISLANDS AND FIXED STRUCTURES ON THE OUTER CONTINENTAL SHELF

[CGFR 68-154]

PART 140—GENERAL PROVISIONS. PART 144—LIFESAVING APPLIANCES

Miscellaneous Amendments

The Coast Guard has the administrative responsibility with respect to safety equipment and other matters relating to the protection of life and property on the artificial islands and fixed structures located on the outer continental shelf. The regulations in 33 CFR Parts 140 through 146 set forth the applicable requirements. The purpose of this document is to bring these regulations up to date. The amendment to 33 CFR 140.01-5 describes the assignment of the functions under 43 U.S.C. 1333 to the Coast Guard under the Department of Transportation Act. The amendment to 33 CFR 140.05-5 corrects the reference to the Regulations for Preventing Collisions at Sea. The amendment to 33 CFR 144.01-35 sets forth an interpretation regarding use of required equipment by recognizing and permitting the use of safety litters capable of being safely hoisted with an injured person in addition to the Stokes litter.

As the amendments in this document are descriptions of organization, editorial corrections, and interpretations, it is hereby found that compliance with the Administrative Procedure Act (respecting notice of proposed rule making, public rule making procedure thereon, and effective date requirements) is unnecessary and exempted under the provisions of section 553 of Title 5, United States Code.

By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by section 632, of Title 14 United States Code and the laws cited with the following regulations and the delegations of authority in 49 CFR 1.4(a) (2) and (f), the following amendments are prescribed and shall become effective on the date of publication of this document in the FEDERAL REGISTER.

1. The authority for Part 140 is amended to read as follows:

AUTHORITY: The provisions of this Part 140 issued under sec. 633, 63 Stat. 545, sec. 4, 67 Stat. 462, sec. 6(b) (1), 80 Stat. 938; 14 U.S.C. 633, 43 U.S.C. 1333, 49 U.S.C. 1655(b); 49 CFR 1.4(a) (2) and (f).

Subpart 140.01—Authority and Purpose

2. Section 140.01-5 is amended to read as follows:

§ 140.01-5 Assignment of functions.

(a) The Department of Transportation Act (Public Law 89-670, 80 Stat. 931-950, 49 U.S.C. 1651-1659), transferred to and vested in the Secretary of Transportation " * * * all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury, and of other officers and offices in the Department of the Treasury" (subsection 6(b)(1), 49 U.S.C. 1655(b)), which included all functions, powers, and duties pertaining to artificial islands and fixed structures located on the outer continental shelf as set forth in 43 U.S.C. 1333. This transfer is subject to certain conditions, modifications, and exceptions as set forth in the Department of Transportation Act. By rules in 49 CFR 1.4 (a) and (f) the Secretary of Transportation delegated to the Commandant, U.S. Coast Guard, authority to exercise certain functions, powers, and duties as set forth in such Act (49 U.S.C. 1655) subject to conditions, exceptions and modifications as described in 49 CFR Part 1. By a rule in 49 CFR 1.9 the Secretary of Transportation continued in effect actions taken prior to April 1, 1967.

(b) The Commandant, U.S. Coast Guard, in a notice dated March 31, 1967, and effective April 1, 1967 (32 F.R. 5611), approved the continuation of orders, rules, regulations, policies, procedures, privileges, waivers, and other actions which had been made, allowed, granted, or issued prior to April 1, 1967, and provided that they shall continue in effect according to their terms until modified, terminated, repealed, superseded, or set aside by appropriate authority.

Subpart 140.05—Application

§ 140.05-5 [Amended]

3. Section 140.05-5 *Scope of requirements* is amended by changing in the last sentence of paragraph (b) the reference from "Regulations for Preventing Collisions at Sea, 1948," to "Regulations for Preventing Collisions at Sea, 1960 (33 U.S.C. 1061-1094)."

4. The authority note for Part 144 is amended to read as follows:

AUTHORITY: The provisions of this Part 144 issued under sec. 633, 63 Stat. 545, sec. 4, 67 Stat. 462, sec. 6(b)(1), 80 Stat. 938; 14 U.S.C. 633, 43 U.S.C. 1333, 49 U.S.C. 1655(b); 49 CFR 1.4 (a) (2) and (f).

Subpart 144.01—Manned Platforms

5. Section 144.01-35 is amended to read as follows:

§ 144.01-35 Litter.

On each manned platform a Stokes litter, or other suitable safety litter capable of being safely hoisted with an in-

jured person, shall be provided and kept in an accessible place.

Dated: December 12, 1968.

W. J. SMITH,
Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 68-15011; Filed, Dec. 16, 1968; 8:48 a.m.]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. MC-58]

PART 1044—DESIGNATION OF PROCESS AGENTS BY MOTOR CARRIERS AND BROKERS

Applicability

At a session of the Interstate Commerce Commission, the Insurance Board, held at its office in Washington, D.C., on the 3d day of December 1968.

It appearing, that revision of § 1044.1 of Part 1044 of Title 49 of the Code of Federal Regulations governing designation of process agents by motor carriers and brokers, under the authority contained in sections 204(a) and 221(c) of the Interstate Commerce Act (49 Stat. 546, 563 as amended; 49 U.S.C. 304, 321) is warranted, and good cause appearing therefore;

It further appearing, that pursuant to section 553 of the Administrative Procedure Act (5 U.S.C. 553) for good cause it is found that notice of proposed rule making is unnecessary:

It is ordered, That § 1044.1 of Chapter X of Title 49 of the Code of Federal Regulations be, and it is hereby, revised to read as follows:

§ 1044.1 Applicability.

Every motor carrier and broker in complying with the requirements of section 221(c) of the Interstate Commerce Act (49 U.S.C. 321(c)), relating to the filing of designations of persons upon whom court process may be served, shall observe the regulations prescribed in this part. The terms motor carrier and broker as used herein shall be construed to include any fiduciary of such motor carrier or broker as defined in § 1132.6 of this chapter—Transfers of Operating Rights. The inclusion of such fiduciary shall attach at the moment of succession of such fiduciary.

(Secs. 204 and 221, 49 Stat. 546, 563 as amended; 49 U.S.C. 304, 321)

It is further ordered, That this revision herein prescribed is to become effective upon publication in the FEDERAL REGISTER.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Insurance Board.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 68-14999; Filed, Dec. 16, 1968; 8:47 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 33—SPORT FISHING

Bear River Migratory Bird Refuge, Utah

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

UTAH

BEAR RIVER MIGRATORY BIRD REFUGE

Sport fishing on the Bear River Migratory Bird Refuge, Utah, is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 10 acres, are delineated on maps available at refuge headquarters, Brigham City, Utah, and from the Regional Director, Post Office Box 1306, Albuquerque, N. Mex. 87103. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from January 1 through December 31, 1969, inclusive.

(2) The use of boats is prohibited below the river control gates at refuge headquarters.

(3) Fishermen are required to register at the refuge office upon entering the refuge.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1969.

LLOYD F. GUNTHER,
Refuge Manager, Bear River
Migratory Bird Refuge, Brigham
City, Utah.

DECEMBER 6, 1968.

[F.R. Doc. 68-14981; Filed, Dec. 16, 1968; 8:46 a.m.]

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federal register

Wednesday
February 26, 1975

Department of
Transportation

Coast Guard

Lifesaving Amendments; Final Rule

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD,
DEPARTMENT OF TRANSPORTATION

[CGD 72-231]

PART 117—DRAWBRIDGE OPERATION
REGULATIONS

Drawbridges in Oregon Where Constant
Attendance Is Not Required; Clarification

At the request of the Burlington Northern Railroad and the Spokane, Portland and Seattle Railroad Company, the regulations governing the operation of their drawbridges contained in § 117.740(a) (10) are being rewritten to clarify points of potential confusion. Specifically, the word "commercial" is inserted after "authorized" to identify the type of fishing period meant, and the words, "in the Columbia River Fishery below Bonneville Dam to the jetties at the mouth of the Columbia River as established by the Columbia River Compact (Washington State Department of Fisheries and the Fish Commission of Oregon)," are inserted in lieu of, "as established by the Oregon and Washington State Department of Fisheries."

As this change is editorial in nature and does not change any of the conditions in § 117.740(a) (10), notice of proposed rule making and public procedure are omitted. This change shall become effective in less than 30 days from date of publication in the FEDERAL REGISTER.

For the sake of clarification § 117.759b (f) (10), published in the FEDERAL REGISTER of September 13, 1974 (39 FR 32986) is modified to read as follows:

§ 117.759b Drawbridges in the State of Oregon where constant attendance is not required.

(f)

(10) Burlington Northern, Inc. (Spokane, Portland, and Seattle Railway Company) railroad bridges across the John Day River near Astoria, Blind Slough and the Clatskanie River near Clatskanie. The draws shall open on signal if at least one-hour's notice is given. However, the draws shall open promptly on signal from four hours before to four hours after each day's authorized commercial fishing period in the Columbia River Fishery below Bonneville Dam to the jetties at the mouth of the Columbia River as established by the Columbia River Compact (Washington State Department of Fisheries and the Fish Commission of Oregon).

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g) (2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655 (g) (2); 49 CFR 1.46(c) (5), 33 CFR 1.05-1(c) (4)).

Effective date. This revision shall become effective on February 26, 1975.

Dated: February 20, 1975.

W. E. CALDWELL,
Captain, U.S. Coast Guard, Acting
Chief, Office of Marine
Environment and Systems.

[FR Doc.75-5091 Filed 2-25-75;8:45 am]

[CGD 74-87]

PART 117—DRAWBRIDGE OPERATION
REGULATIONS

Longboat Pass, Florida

This amendment changes the regulations for the Longboat Pass bridge between Longboat Key and Anna Maria Key near Bradenton Beach, Florida to require that the draw open on signal from 6 a.m. to 6 p.m. and open on signal if at least 3 hours notice is given from 6 p.m. to 6 a.m. This amendment was circulated as a public notice dated April 29, 1974 by the Commander, Seventh Coast Guard District and was published in the FEDERAL REGISTER as a notice of proposed rule making (CG 74-87) on April 26, 1974 (39 FR 14724). Eight responses were received, one supported the proposal and one had no objection thereto. One response supported the proposal but recommended more restrictive periods, however the periods proposed appear adequate and this recommendation is not considered valid at this time. One response supported the proposal, but recommended that the time during which the draw would open on signal be changed to sunrise to sunset. While this recommendation has merit, it is the Coast Guard's position that the proposed regulations provide for the reasonable needs of navigation. Two responses took no position on the proposal. These two were not considered on the grounds that they were too vague. Two responses objected to the proposal, mainly on the grounds that the construction of a new channel with jetties exiting from Longboat Pass to the Gulf of Mexico may take place in the future, thus increasing the use of this channel. The Corps of Engineers is considering dredging such a channel but has no firm commitments at this time. The Coast Guard will continue to monitor the operation of the Longboat Pass drawbridge. If further changes in the regulations appear necessary, such action will be taken at that time.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding a new paragraph (1) (3-c) immediately after paragraph (1) (3-b) of § 117.245 to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

(1) *Waterways discharging into Gulf of Mexico east of Mississippi River.*

(3-c) Longboat Pass bridge between Longboat Key and Anna Maria Key near Bradenton Beach, Fla. From 6 a.m. to 6 p.m. the draw shall open on signal. From 6 p.m. to 6 a.m., the draw shall open on signal if at least 3 hours notice is given.

(Sec. 5, 28 Stat. 362, as amended, sec. 6 (g) (2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g) (2); 49 CFR 1.46(c) (5), 33 CFR 1.05-1(c) (4))

Effective date. This revision shall become effective on March 31, 1975.

Dated: February 20, 1975.

W. E. CALDWELL,
Captain, U.S. Coast Guard, Acting
Chief, Office of Marine,
Environment and Systems.

[FR Doc.75-5092 Filed 2-25-75;8:45 am]

[CGD 75-045]

PART 127—SECURITY ZONES

Termination

The security zone at Buttermilk Channel, New York established February 2, 1975 by the Captain of the Port of New York, as published on February 6, 1975 (40 FR 5508) was terminated on February 5, 1975.

§ 127.316 [Deleted]

In consideration of the foregoing Part 127 of Title 33 of the Code of Federal Regulations is amended by revoking § 127.316.

(50 U.S.C. 191; 49 U.S.C. 1655(b); E.O. 10173, E.O. 10277, E.O. 10352, E.O. 11249; 3 CFR, 1949-1953 Comp. 358, 778, 873, 3 CFR, 1964-1965 Comp. 349, 33 CFR Part 6, 49 CFR 1.46(b))

Effective date. This amendment was effective on February 5, 1975.

Dated: February 19, 1975.

W. E. CALDWELL,
Acting Chief, Office of Marine,
Environment and Systems.

[FR Doc.75-5093 Filed 2-25-75;8:45 am]

SUBCHAPTER N—ARTIFICIAL ISLANDS AND
FIXED STRUCTURES ON THE OUTER CON-
TINENTAL SHELF

[CGD 73-177R]

PART 144—LIFESAVING APPLIANCES

Unmanned Platforms

The purpose of these amendments to the regulations concerning life saving appliances on unmanned platforms is to require certain life saving equipment to be readily accessible any time persons are on the platform. Present regulations in 33 CFR Subpart 144.10 require life-saving equipment only when crews are working continuously for 24-hours.

The Coast Guard proposed these amendments in the January 8, 1974 issue of the FEDERAL REGISTER (39 FR 1360). It was also proposed to delete the word "supervisor" and add the words "person in charge" in 33 CFR 144.01-30, in reference to the person in custody of the first aid kit on each manned platform, and to revise the citation of authority for 33 CFR Part 144.

The proposal resulted from an explosion and fire on the CHAMBERS and KENNEDY offshore platform and fire on the M/V CARRYBACK in the Gulf of

Mexico on May 28, 1970. Adequate lifesaving equipment was not provided on the platform, and the standby vessel, manned and moored to the platform, could provide no assistance because it was engulfed in flames. As a result, there were 9 deaths: five workmen on the platform, and four men on board the vessel.

Most written comments received on the proposal expressed concern for theft and pilferage of the lifesaving equipment if they were required to be permanently stowed on the platform. This concern resulted from a misinterpretation of the proposal. The intent was only to require lifesaving equipment for each person on the unmanned platform. As a result of the comments, the requirements have been rewritten for clarification.

One commenter suggested that the lifesaving equipment be required to be reflectorized. Although this comment has merit, the Coast Guard decided not to adopt the suggestion at this time because a research and development project is being conducted to review all visual distress aids. Upon completion of the project, the Coast Guard will propose regulations that are considered necessary.

Another commenter suggested that life preservers should be allowed to be stowed on a manned vessel that remains alongside the platform when persons are on the platform. This suggestion was not adopted by the Coast Guard. The intent of the change is to prevent another casualty similar to the *CHAMBERS* and *KENNEDY/M/V CARRYBACK*, in which the lifesaving equipment was not readily accessible on the platform but was on the attending vessel that was afire.

The second commenter also suggested adding a new paragraph to § 144.10-1 to read as follows: "Unmanned platforms designed to house a single borehole completion and small multi-well platforms are excepted from the requirements of paragraphs (a) and (b) and, in lieu thereof, all personnel are required to wear at all times while on the platform an approved life preserver (Type I PFD) or a work vest (Type V PFD)." Since this amendment was not in the proposal, and is a substantive addition, it is not being adopted at this time. After further study and analysis to determine its contribution to safety of life, the Coast Guard, if it accepts the change, will propose the amendment in the FEDERAL REGISTER.

In consideration of the foregoing, the proposed regulations are hereby adopted subject to the clarification discussed above. As adopted, Part 144 of Title 33, of the Code of Federal Regulations, is amended as follows:

1. By revising the citation of authority of Part 144 to read as follows:

AUTHORITY: Sec. 4(e), 67 Stat. 462 (43 U.S.C. 1333(e)); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b).

§ 144.01-30 [Amended]

2. By amending § 144.01-30 by striking the word "supervisor" and inserting the

words "person in charge" in place thereof.

3. By revising Subpart 144.10 to read as follows:

Subpart 144.10—Unmanned Platforms
Sec.
144.10-1 Lifesaving equipment.
144.10-10 Other lifesaving equipment.

Subpart 144.10—Unmanned Platforms
§ 144.10-1 Lifesaving equipment.

(a) Except as allowed in paragraph (b) of this section, no person may be on an unmanned platform unless the following lifesaving equipment is readily accessible on the platform:

(1) A life preserver or a Type I—Personal flotation device, listed in Table 1, for each person.

TABLE 1 LIFE PRESERVERS AND EQUIVALENT PERFORMANCE FLOTATION DEVICES

| Devices marked | Equivalent to performance type marked |
|---------------------------|---------------------------------------|
| 160.002 Life preserver... | Type I—Personal flotation device. |
| 160.003 Life preserver... | Type I—Personal flotation device. |
| 160.004 Life preserver... | Type I—Personal flotation device. |
| 160.005 Life preserver... | Type I—Personal flotation device. |
| 160.055 Life preserver... | Type I—Personal flotation device. |

(2) A ring life buoy with an attached floating electric water light constructed and marked in accordance with 46 CFR Subpart 161.010, or a Type IV—Personal flotation device, listed in Table 2, with the same attachment, for every two persons, but no more than 4 devices are required.

TABLE 2 RING LIFE BUOYS AND EQUIVALENT PERFORMANCE FLOTATION DEVICES

| Devices marked | Equivalent to performance type marked |
|---------------------------|---------------------------------------|
| 160.009 Ring life buoy... | Type IV—Personal flotation device. |
| 160.050 Ring life buoy... | Type IV—Personal flotation device. |

(b) The ring life buoys required in paragraph (a) (2) of this section may be kept on a manned vessel that remains alongside the platform if there is no available space to keep them on the platform.

§ 144.10-10 Other lifesaving equipment.

Any lifesaving equipment on an unmanned platform that is not required in § 144.10-1 must meet the standards contained in Subpart 144.01 of this Part.

(Sec. 4(e), 67 Stat. 462 (43 U.S.C. 1333(e)); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b))

Effective date. These amendments become effective on March 28, 1975.

Dated: February 20, 1975.

O. W. SILER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc. 75-5094 Filed 2-25-75; 8:45 am]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 126—SUPPLEMENTARY EDUCATIONAL CENTERS AND SERVICES SPECIAL PROGRAMS AND PROJECTS

Financial Assistance to Local Educational Agencies

Notice of proposed rule making was published in the FEDERAL REGISTER on August 13, 1974 (39 FR 28997) which set forth regulations and guidelines for financial assistance to local educational agencies for special programs and projects under section 306 of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 844b). Pursuant to section 503 of the Education Amendments of 1972 (Pub. L. 92-318), a public hearing was held on September 30, 1974, in Washington, D.C. However, no comments were received on the proposed regulations and guidelines. One written comment was received and considered as outlined below.

1. **Summary of comments.** Comment. Sections 126.4(b) and 126.8(a)(2) of the regulations and Part 3 of the guidelines should specify the utilization of newspaper general notices as the means to assure participation of persons broadly representative of the cultural and educational resources of the area to be served, and in dissemination to foster the attention and understanding of special audiences and of the general public.

Response. Because of the nature of the innovative and experimental programs funded under section 306 of the Act, local educational agencies are permitted and encouraged to exercise discretion in designing programs. To specify the means of assuring the proper participation in, and the dissemination of the projects would be unduly restricting the exemplary and innovative nature of the projects. No change was made to the regulations or guidelines.

2. **Effective date.** Pursuant to section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d)), these regulations and guidelines have been transmitted to the Congress concurrently with the publication of this document in the FEDERAL REGISTER. That section provides that regulations subject thereto should become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

(20 U.S.C. 844b)

(Catalog of Federal Domestic Assistance Program No. 13.616, Preschool, Elementary and Secondary Education—Special Programs and Projects (Title III, Section 306))

Dated: January 23, 1975.

T. H. BELL,
U.S. Commissioner of Education.

Approved: February 14, 1975.

CASPAR W. WEINBERGER,
Secretary of Health, Education,
and Welfare.

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federal register

Thursday
September 20, 1979

Department of Transportation

Coast Guard

**Unregulated Hazardous Working
Conditions on the Outer Continental
Shelf; *Advanced Notice of Proposed
Rulemaking***

therefore, not apply on Federal lands: "to the extent possible using the best technology currently available" in § 38-14.1-24(8)(e); "natural" in § 38-14.1-24(8)(f); and provided further, that the State Regulatory Authority agrees to exercise the discretion contained in § 38-14.1-24(5) in a manner consistent with and as stringent as § 515(b)(5) of the Act and regulations adopted pursuant thereto.

(xx) 38-14.1-25.

(xxi) 38-14.1-26.

(xxii) 38-14.1-27.

(xxiii) 38-14.1-28.

(xxiv) 38-14.1-29, provided, however, that the imposition of a civil penalty by the state pursuant to this section shall not be construed as barring the Secretary from assessing a civil penalty pursuant to 30 CFR 211.78 or 30 CFR 743.

(xxv) 38-14.1-30.

(xxvi) 38-14.1-31.

(xxvii) 38-14.1-32, provided, however, that the imposition of a civil or criminal penalty by the State pursuant to this section shall not be construed as barring the Secretary from assessing a civil penalty pursuant to 30 CFR 211.78 or 30 CFR 743, or from seeking criminal prosecutions under applicable Federal law.

(xxviii) 38-14.1-33.

(xxix) 38-14.1-34.

(xxx) 38-14.1-35, provided, however, that this section shall be limited to actions taken by the state under state law in accordance with this Cooperative Agreement, and nothing in this section or this Cooperative Agreement shall be construed so as to create jurisdiction in a state court over actions taken by the Secretary, including the denial or approval of mining plans.

(xxxi) 38-14.1-36.

(xxxii) 38-14.1-37.

(xxxiii) 38-14.1-38.

(xxxiv) 38-14.1-39.

(xxxv) 38-14.1-40.

(xxxvi) 38-14.1-41.

(xxxvii) 38-14.1-42.

(xxxviii) 38-14.1-43.

2. Rules and Regulations for Reclamation of Surface Mined Lands of the State of North Dakota, Reclamation Division of the North Dakota Public Service Commission, including amendments and revisions promulgated July 1, 1979, cited as Article 69-05.1 of the North Dakota Administrative Code provided, however, that § 69-05.1-16-02(1) and the phrase "to the extent possible" in § 69-05.1-11-10(2) shall not be included in this Appendix A and shall not be applicable on Federal lands.

[FR Doc. 79-29200 Filed 9-19-79; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Chapter I]

[CGD 79-073]

Unregulated Hazardous Working Conditions on the Outer Continental Shelf

AGENCY: Coast Guard, DOT.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard invites public participation at the earliest stages in the development of regulations for unregulated hazardous working conditions related to activities on the Outer Continental Shelf (OCS) of the United States. The OCS Lands Act Amendments of 1978 direct the Coast Guard to promulgate regulations for unregulated hazardous working conditions related to activities on the OCS when it determines regulations are necessary. The extent to which unregulated hazardous working conditions are present on the OCS has not been established. This notice solicits assistance in identifying unregulated hazardous working conditions related to activities on the OCS and recommendations concerning measures that should be taken by the Coast Guard to eliminate or reduce the hazards identified.

DATES: Comments must be received on or before November 16, 1979.

ADDRESSES: Comments should be submitted in writing to Commandant (G-CMC/TP24) (CGD 79-073), U.S. Coast Guard, Washington, DC 20590. Comments will be available for inspection or copying from 7:30 am to 4:00 pm on normal working days at the Marine Safety Council (G-CMC/TP24), Room 2418, U.S. Coast Guard Headquarters, 2100 Second St., S.W., Washington, DC 20590, (202) 426-1477.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Thomas J. Barrett, Outer Continental Shelf Safety Project, Room 1604, U.S. Coast Guard Headquarters, 2100 Second St., S.W., Washington, DC 20590, (202) 472-5160.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate by submitting written views, data, or arguments. Each comment should include the name and address of the person submitting the comment, reference the docket number (CG 79-073), and include sufficient detail to indicate the basis on which each comment is made. Persons desiring acknowledgment that their comment has been received should enclose a stamped self-addressed postcard or envelope. The proposal may be changed in view of the comments received.

All comments received will be considered before further rulemaking action is taken on this proposal. No public hearing is planned but one may be held at a time and place to be set in a later notice in the Federal Register if requested in writing by an interested person raising a genuine issue and

desiring to comment orally at a public hearing.

Drafting Information

The principal persons involved in drafting this proposal are Lieutenant Commander Thomas J. Barrett, Outer Continental Shelf Safety Project, Office of Merchant Marine Safety, and Mr. Stephen H. Barber, Project Counsel, Office of the Chief Counsel.

Discussion

Section 21(c) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), as amended by the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372), directs the Secretary of the Department in which the Coast Guard is operating to "promulgate regulations or standards applying to unregulated hazardous working conditions related to activities on the Outer Continental Shelf when he determines such regulations or standards are necessary." In turn, the Secretary delegated this function to the Coast Guard (44 FR 2395). Responding to this directive, the Coast Guard is surveying existing casualty and accident data and conducting field investigations to identify unregulated hazardous working conditions related to activities on the OCS. This notice is intended to solicit the public's comments and suggestions identifying hazardous working conditions associated with OCS activities and recommending effective measures to eliminate or reduce the hazards identified. To the extent that regulation is necessary, the Coast Guard intends to develop the appropriate requirements.

Factors To Be Considered

"Hazardous working conditions related to activities on the OCS" is not defined by the Act. The Coast Guard suggests the following interpretation and asks for comments on its validity.

A "working condition" is considered to be the environment in which an individual works or to which an individual is routinely exposed. Working conditions "related to activities on the OCS" are considered to be offshore working conditions associated with exploration for, or development or production of, the mineral resources of the Outer Continental Shelf of the United States and include working conditions on offshore drilling and production facilities, mobile offshore drilling units, vessels, installations, or other devices engaged in OCS activity.

Whether a working condition is "hazardous" depends upon the elements an individual encounters (such as moisture, cold, fumes, noise, etc.), their

intensity, and frequency, as well as the physical hazards an individual is exposed to (such as moving machinery, falling objects, risk of explosion, etc.), the frequency of exposure, and the severity of injury the hazard can cause.

Whether a hazardous working condition is "unregulated" depends upon whether or not any federal agency has a regulation applicable to the specific element or physical hazard which creates the risk of harm to the individual. However, if a regulation does not address the particular work hazard, the working condition will be considered unregulated. For example, many USGS regulations governing drilling equipment are oriented toward well control rather than occupational safety. Thus hazardous working conditions may still exist involving drilling equipment regulated by USGS and requiring regulation within the scope of Section 21(c). The Coast Guard, following any necessary consultation with other agencies, will determine whether any hazardous working condition identified as a result of this project is unregulated.

Though interested in all relevant information, the Coast Guard particularly solicits response to the following general questions:

- a. What unregulated hazardous working conditions exist or may develop as a result of OCS operations?
- b. How might Coast Guard regulations help to eliminate or control these hazardous working conditions?
- c. What approaches other than regulation might be taken to remedy the problems?
- d. What benefits and burdens will your recommendations impose on OCS workers, the OCS industry, the consumers, the government, the environment, or other areas likely to be significantly impacted?

In addition, the Coast Guard solicits detailed comment on whether the following items should be considered hazardous working conditions and what measures should be taken to eliminate or reduce the hazards. Please include as much detail and supporting data as possible in the comments, particularly statistical experience that would support development or non-development of regulations.

a. Operations on the drill floor, substructure, derrick, and pipe storage and handling areas, in mud handling rooms, and in other work areas directly associated with drilling and workover operations.

b. Use of equipment associated with drilling operations, including high pressure hose, wire rope, the rotary, rotary bushing, drill pipe tongs, spinning

chain, elevators, slips, travelling blocks, winches, and catheads.

c. Use of wireline and other workover equipment.

d. Personnel transfer operations between aircraft or vessels and platforms, including the use of swing-ropes, nets, baskets and other transfer equipment.

e. Entry into tanks, closed compartments, and/or other spaces with toxic, flammable, or oxygen-deficient atmospheres.

f. Use of radioactive materials and portable X-ray equipment in areas where employees other than licensed operators may be working.

g. Venting of flammable or explosive vapors, particularly relief venting in areas where vessels may operate.

h. Use of alcohol or drugs.

Identification of an unregulated hazardous working condition will not necessarily result in new regulations, as alternatives other than regulations may be pursued. Should the Coast Guard decide to propose regulations, it must first assess the economic and other consequences the proposals may have on the private sector, consumers, and Federal, State, and local governments. Because the need to regulate cannot be evaluated until the hazards to worker safety are identified, the Coast Guard at this time cannot properly determine the extent or nature of the assessment required. Therefore, the Coast Guard requests that comments contain an assessment of the economic or other effects their recommendations may have. After considering the comments submitted, the Coast Guard will prepare a Draft Evaluation or Draft Regulatory Analysis of the impacts and deposit it for public review and comment at the Office of the Marine Safety Council (see addresses).

(43 U.S.C. 1347(c); Section 21(c), 92 Stat. 655; 49 CFR 1.46(z))

Dated: September 14, 1979.

J. B. Hayes,
Admiral, U.S. Coast Guard Commandant.

[FR Doc. 79-29267 Filed 9-19-79; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Parts 52 and 81]

[FRL-1324-4]

Approval and Promulgation of Nonattainment Plan for Illinois; Correction

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed Rulemaking; Correction.

SUMMARY: On Monday, July 2, 1979, at 44 FR 38587 U.S. Environmental Protection Agency (USEPA) published a Notice of Proposed Rulemaking. The Notice contained charts on pages 38589-38593, 38596, and 38597. These charts contained errors in the titles of the charts and in the designations of nonattainment areas for total suspended particulates, sulfur dioxide, and ozone. This correction notice contains the corrected tables.

FURTHER INFORMATION MAY BE OBTAINED FROM: Ms. Maxine Borcharding, USEPA Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604. FTS 8-886-6052.

DATE: Comments on the proposed Illinois designations contained in this correction notice are due by October 22, 1979.

WRITTEN COMMENTS SHOULD BE SENT TO: Ms. Maxine Borcharding, SIP Coordinator, USEPA Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

SUPPLEMENTARY INFORMATION: In a Notice of Proposed Rulemaking (44 FR 38587, July 2, 1979) USEPA published charts containing a compilation of certain nonattainment area designations in the State of Illinois for the pollutants: total suspended particulates (TSP), sulfur dioxide (SO₂), and ozone (O₃). These charts contained certain designations previously published in the Federal Register (43 FR 8962, 8988-8992, March 3, 1978 and 43 FR 45993, 46004-46007, October 5, 1978), as required by Section 107(d) of the Clean Air Act (CAA). Also included were charts showing changes in these designations which Illinois proposed in its April 3, 1979 State Implementation Plan revision request for Part D nonattainment areas.

Charts on pages 38589 and 38590 of the July 2, 1979 Notice of Proposed Rulemaking (44 FR 38587) contain certain Federally approved Illinois TSP designations which were published in the October 5, 1978 Federal Register (43 FR 46004). In addition to typographical errors, these charts did not include Air Quality Control Region 66 (ACQR 66). This correction notice contains the entire chart with the corrections made therein.

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federal register

Thursday
May 1, 1980

Department of
Transportation

Coast Guard

Outer Continental Shelf Activities;
Proposed Rule

Office of Surface Mining Reclamation and Enforcement

30 CFR Ch. VII

Determination of Completeness for Permanent Program Submission From the State of New Mexico

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Proposed rule: Notice of determination of completeness of submission.

SUMMARY: On February 28, 1980, the State of New Mexico submitted to OSM its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). This notice announces the Regional Director's determination as to whether the New Mexico program submission contains each required element specified in the permanent regulatory program regulations. The Regional Director has concluded his review and has determined the New Mexico program submission is complete.

ADDRESSES: Written comments on the New Mexico program and a summary of the public meeting are available for public review, 8:00 a.m.-4:00 p.m., Monday through Friday, excluding holidays at: Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Region V, Brooks Towers, 1020 15th Street, Denver, Colorado 80202.

Copies of the full text of the proposed New Mexico program are available for review during regular business hours at the OSM Regional Office above and at the following offices of the State regulatory authority: Division of Mining and Minerals, Energy and Minerals Department, Post Office Box 2860, Santa Fe, New Mexico 87501.

FOR FURTHER INFORMATION CONTACT: Sylvia Sullivan, Public Information Office, Office of Surface Mining, Region V, Department of the Interior, Brooks Towers, 1020 15th Street, Denver, Colorado 80202, (303) 837-4731.

SUPPLEMENTARY INFORMATION: On February 28, 1980, OSM received a proposed permanent regulatory program from the State of New Mexico. Pursuant to the provisions of 30 CFR Part 732, "Procedures and Criteria for Approval or Disapproval of State Program Submissions" (44 FR 15326-15328 March 13, 1979), the Regional Director, Region V, published notification of receipt of the program submission in the Federal Register of March 7, 1980, and in the following newspaper of general circulation within New Mexico: *Albuquerque Journal*.

Part 732 of the permanent program regulations established a schedule for the review of all State program proposals based upon a final submission date of August 3, 1979. On July 25, 1979, the U.S. District Court for the District of Columbia, in response to a suit filed by the State of Illinois, enjoined the Department of the Interior from requiring the submission of State programs under Section 503(a) of the Act until March 3, 1980. As a result of this court ordered change in the required submission deadline the Office announced an amendment to Section 731.12 of the final regulations in the October 22, 1979, Federal Register (44 FR 60969). The amended regulation revises the original schedule by making Sections 732.11, 732.12 and 732.13 inapplicable for post August 3, 1979, submissions. In lieu of this schedule, Section 731.12(d) authorizes the Regional Director to make adjustments in the timing of the review process for State programs.

The following timetable sets forth the general schedule for review of the New Mexico proposed State regulatory program:

—A public review meeting was held on April 15, 1980, as established in the above DATE section of this notice;

—A final date for the submission of program changes by the State will be established June 11, 1980.

—A public hearing will be held on June 21, 1980.

—A final date for the submission of public comments will be July 24, 1980;

—The initial decision of the Secretary will be announced approximately 40 days after the public hearing, approximately 180 days from the original date of the State submission.

This notice is published pursuant to 30 CFR 732.11(b) and constitutes the Regional Director's decision on the completeness of the New Mexico program. Having considered public comments, testimony presented at the public review meeting and all other relevant information, the Regional Director has determined that the New Mexico submission does fulfill the content requirements for program submission under 30 CFR 731.14 and is therefore complete.

No later than June 16, 1980, the Regional Director will publish a notice in the Federal Register and in the following newspapers of general circulation in New Mexico initiating substantive review of the program submission: *Albuquerque Journal*.

The review will include an informal public hearing and written comment period. Procedures will be detailed in that notice. Further information

concerning how that substantive review will be conducted may be found in 30 CFR 732.12.

The Office of Surface Mining is not preparing an environmental impact statement with respect to the New Mexico regulatory program, in accordance with Section 702(d) of SMCRA (30 U.S.C. 1292(d)), which states that approval of State programs shall not constitute a major action within the meaning of Section 102(2)(C) of the National Environmental Policy Act.

Dated: April 28, 1980.

Donald A. Crane,
Regional Director.

[FR Doc. 80-13456 Filed 4-30-80; 8:45 am]
BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 140, 141, 142, 143, 144, 145, 146, and 147

[CGD 78-160]

Outer Continental Shelf Activities

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: In response to enactment of the Outer Continental Shelf Lands Act Amendments of 1978 and because of changes in other Coast Guard regulations, the Coast Guard proposes amendments to regulations governing activities on the Outer Continental Shelf. The proposed amendments affect design, equipment, operations, manning, inspections, and investigations on facilities, vessels, and other units, domestic and foreign, engaged in mineral exploration, production, or development activities on the Outer Continental Shelf. The intended effect of this proposal is to improve the safety of operations and implement certain statutory requirements.

DATE: Comments must be received on or before July 30, 1980.

ADDRESSES: Comments may be mailed to Commandant (G-CMC/TP24) (CGD 78-160), U.S. Coast Guard, Washington, D.C. 20593. Comments may be delivered to and will be available for inspection or copying at the Marine Safety Council (G-CMC/TP24), Room 2418, U.S. Coast Guard Headquarters, 2100 2nd Street S.W., Washington, D.C. 20593, (202) 426-1477 between the hours of 7:00 a.m. and 5:00 p.m. Monday through Thursday, except holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Thomas J. Barrett, Outer Continental Shelf Safety

Project, Office of Merchant Marine Safety, Room 2505, U.S. Coast Guard Headquarters, 2100 2nd Street S.W., Washington, D.C. 20593, (202-472-5160).

SUPPLEMENTARY INFORMATION: The public is invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Comments should include the name and address of the person submitting them, identify this notice (CGD 78-160) and the specific section of the proposal to which each comment applies, and give the reasons for the comments. If an acknowledgement is desired, a stamped, addressed postcard should be enclosed.

All comments received before the expiration of the comment period will be considered before final action is taken on this proposal.

No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will be beneficial.

Drafting Information

The principal persons involved in drafting this proposal are Lieutenant Commander Thomas J. Barrett, Outer Continental Shelf Safety Project Staff, Office of Merchant Marine Safety and Mr. Stephen H. Barber, Project Attorney, Office of the Chief Counsel.

Background

Subchapter N, Title 33, Code of Federal Regulations (33 CFR Parts 140-147), establishes general requirements for artificial islands and fixed structures on the Outer Continental Shelf of the United States (OCS). These requirements were developed and issued under the Outer Continental Shelf Lands Act of 1953 (67 Stat. 462; 43 U.S.C. 1331 et seq.), which gave the Coast Guard authority to regulate to promote the safety of life and property on artificial islands and fixed structures on the OCS. On September 18, 1978, the President signed into law the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372). Title II of these Amendments revises the 1953 OCS Lands Act and, in turn, makes changes to subchapter N necessary.

Law Implemented or Incorporated

The scope of this proposed rulemaking is limited to the minimum changes needed (1) to implement major new provisions added by the 1978 Amendments, such as that requiring manning by U.S. citizens, (2) to conform the scope of the existing regulations to the broader scope of the amended Act, and (3) to conform the subchapter to new Coast Guard regulations for mobile offshore drilling units and for life

preservers. Though much of the substance of the existing regulations in subchapter N on firefighting equipment, lifesaving appliances, and operating requirements is not changed in this proposal, other changes are believed to be needed to update and improve these regulations. Any changes proposed will be addressed in future rulemaking proposals and be made available to the public for comment.

(a) The following provisions of the amended Outer Continental Shelf Lands Act (the Act) are implemented by these proposals:

(1) Section 22(b) of the act making it the duty of any holder of a lease or permit under the Act (i) to maintain all places of employment free from recognized hazards to employees, (ii) to maintain operations in compliance with occupational safety and health standards and other regulations intended to protect persons, property and the environment on the OCS, and (iii) to allow inspectors prompt access to the site of operations.

(2) Section 22(c) of the Act providing for both scheduled and unannounced inspections of OCS facilities.

(3) Section 22(d) of the Act requiring investigation and public report on each major fire, major oil spill, death, and serious injury resulting from operations conducted pursuant to the Act.

(4) Section 22(e) of the Act providing for Coast Guard review of any allegation that an occupational safety and health regulation issued under the Act has been violated.

(5) Section 22(f) of the Act authorizing administration of oaths and subpoenaing of witnesses and documents in the course of investigations.

(6) Section 23 of the Act establishing procedures pertaining to citizen suits, court jurisdiction, and judicial review.

(7) Section 24 of the Act providing a new system of remedies and penalties.

(8) Section 30(a)(2) of the Act requiring the Coast Guard to issue regulations establishing minimum standards of design, construction, alteration, and repair for vessels, rigs, platforms, or other vehicles or structures used for activities pursuant to the Act.

(9) Section 30(a)(3) of the Act directing the Coast Guard to issue regulations requiring certain vessels, rigs, platforms, or other vehicles or structures used for activities pursuant to the Act to be manned by United States citizens.

(b) The following areas which the Act authorizes the Coast Guard to regulate are not addressed in this proposal:

(1) Section 21(b) of the Act requiring on drilling and production operations, the use of the best available and safest

technologies (BAST) which are economically feasible, wherever failure of equipment would have a significant effect on safety, health, or the environment. Existing Coast Guard regulations, in particular, the standards for mobile offshore drilling units in subchapter I-A of 46 CFR Chapter I, as well as U.S. Geological Survey requirements for drilling and production operations, already incorporate this principle to a large extent. Accordingly, the Coast Guard is deferring specific new rulemaking action concerning BAST until additional data is available, including the preliminary results of a joint Geological Survey/Coast Guard study under section 21(a) of the Act on the technology, equipment, and techniques available for exploration, development, and production of the minerals of the OCS. A public notice concerning this study was published in the Federal Register on February 28, 1980 (45 FR 13127).

(2) Section 21(c) of the Act authorizing the Coast Guard to promulgate regulations applying to hazardous working conditions not presently regulated and to modify any regulation, interim or final, dealing with hazardous working conditions already regulated. This provision of the Act is addressed in a separate rulemaking project (CGD 79-073) on which the Coast Guard published an advance notice of proposed rulemaking in the September 20, 1979 issue of the Federal Register (44 FR 54499).

(3) Section 30(a)(1) of the Act directing the Coast Guard to publish regulations requiring that any vessel, rig, platform, or other vehicle or structure used for activities pursuant to the Act, "when required to be documented by the laws of the United States, be documented under the laws of the United States." The conference committee report which accompanied the Act states that "this provision reaffirms existing interpretations and applications of mandatory documentation under U.S. laws" (H.R. Report No. 95-1474, pp. 123-124). Because the provision does not change existing law, no new regulations are necessary and none are proposed.

(c) In addition to implementing the Act, this proposal—

(1) Applies certain of the new Coast Guard requirements for domestic mobile offshore drilling units of certain minimum tonnage and means of propulsion (43 FR 56799-56838; December 4, 1978), or their equivalent, to all domestic and foreign mobile offshore drilling units operating on the OCS, regardless of tonnage and means of propulsion; and

(2) Incorporates into subchapter N certain of the new Coast Guard rules for lights and retroreflective material for life preservers and other lifesaving equipment (44 FR 38778-38789; July 2, 1979). This proposal extends the new lifesaving requirements to manned OCS facilities.

Discussion of the Proposed Amendments

The existing title of subchapter N, "Artificial Islands and Fixed Structures on the Outer Continental Shelf", is derived from the original language of section 4(a) of the Act, extending the jurisdiction of the United States to the subsoil and seabed of the Outer Continental Shelf and "to all artificial islands and fixed structures which may be erected thereon." Section 4(a) was amended in 1978 to refer to "all artificial islands, and all installations and other devices permanently or temporarily attached to the seabed." In addition, certain new provisions were added to the Act in 1978, such as the requirement for manning by U.S. citizens (section 30(a)(3)), which refer to any "vessel, rig, platform, or other vehicle or structure used for activities pursuant to the Act". Accordingly, the proposed title of subchapter N is changed to "Outer Continental Shelf Activities" to more accurately describe the scope of the Act and the proposed regulations.

Existing parts 140, 143, 144, 146, and 147 are revised and renumbered. New parts 141 on personnel requirements and 142 on workplace safety requirements are proposed. Existing part 145 on firefighting equipment is not changed.

Part 140—General

Proposed § 140.1, which states the purpose of the subchapter, revises existing § 140.01-1 to reflect the broader scope of the proposed subchapter N.

Existing § 140.01-5 on assignment of functions is deleted as unnecessary. The Act vests all functions of the Secretary of Transportation directly in the Secretary. The Secretary has, in turn, delegated to the Commandant of the Coast Guard all Secretarial powers and duties under the Act, except for those relating to pipeline safety. (44 FR 2395-2396; January 11, 1979).

Proposed § 140.3 revises existing § 140.05-1 on applicability, as the proposed subchapter must now be made to apply to vessels, rigs, platforms, artificial islands, installations, and other vehicles, structures, and devices used for activities pursuant to the Act. Proposed § 140.3 excludes pipelines, because the powers and duties of the Secretary of Transportation with respect to pipeline safety have been delegated

to the Materials Transportation Bureau (MTB) of the Research and Special Programs Directorate of the Department of Transportation.

Proposed § 140.5 concerning exemptions for OCS facilities under construction revises existing § 140.05-(a) and allows the Officer in Charge, Marine Inspection, to waive requirements that would be impractical or unreasonable to apply during construction of a facility. Existing § 140.05-5(b) concerning lights and warning devices is moved to proposed § 143.15 with no substantive change. Existing § 140.05-5(c) is deleted because its exclusion of pipeline matters is noted in proposed § 140.3 and its reference to the responsibility for drilling operations is addressed in proposed § 143.3.

Existing § 140.05-10 on effective date of the regulations is deleted. The effective date of this proposed revision will be noted in the preamble to the final rulemaking. Except for proposed § 141.15 and the amendments to part 144, the Coast Guard expects to make the regulations effective 30 days after the date of publication of the final rules. The restrictions on employment in proposed § 141.15 need not be complied with until one year after the effective date of final rules as required by 43 U.S.C. 1356. The amendments to Part 144 on lifesaving appliances will be effective six months after the effective date of final rules.

Existing § 140.05-15 on amendments or additions to regulations is deleted. Coast Guard rulemaking procedure is governed by other law, primarily the Department of Transportation order entitled "Improving Government Regulations—Regulatory Policies and Procedures" (44 FR 11040; February 26, 1979).

Proposed § 140.10 containing definitions applicable throughout the subchapter is renumbered from existing § 140-10. The definitions of "approved", "attending vessel", "District Commander", "Commandant", "manned facility", and "Officer in Charge, Marine Inspection", are substantially unchanged; however, reference in the existing definitions to "platforms" is changed to refer to "OCS facilities". Existing definitions of "artificial island or fixed structure", "mobile platform", and "party" are deleted. New definitions are proposed for "act", "development", "exploration", "production", "floating installation", "investigating officer", "marine inspector", "minerals", "mobile offshore drilling unit", "Outer Continental Shelf", "OCS activities", "OCS facility", "operator", "owner", "person", "person in charge", "rebuilt", and "unit". The proposed definitions of

"exploration", "development", "production", "Outer Continental Shelf", "minerals," and "person" follow definitions in the Act; however, in the definition of "development", reference to "related onshore activities" has been deleted as no onshore activities are regulated under subchapter N.

Proposed § 140.15 is existing subpart 140.15 on equivalents and approved equipment with no substantive change.

Proposed § 140.20 on delegations replaces existing subpart 140.20 and clarifies the enforcement responsibilities of Coast Guard District Commanders and Officers in Charge, Marine Inspection. Existing § 140.20-5 is deleted as the penalty provision referenced in that section has been eliminated from the Act.

Proposed §§ 140.25 and 140.30 revise existing subpart § 140.25 on intra-agency appeals procedures and judicial review.

Proposed §§ 140.35 and 140.40 implement the civil and criminal penalty provisions of section 24 of the Act. As authority to assess, collect, and compromise civil penalties is vested by the Act in the Secretary of the Interior, proposed § 140.40 provides for referral of civil penalty cases to the delegatee of the Secretary of Interior.

Subpart B or proposed part 140 on inspection of units is a revision of existing part 142. Proposed § 140.101 specifies that all units engaged in OCS activities may be inspected by the Coast Guard with or without advance notice and that drills and tests may be required as part of any inspection. Proposed § 140.102 on foreign units sets forth the inspection requirements for these units.

Proposed § 140.103 on deficiencies discovered during inspections replaces existing § 142.15 and implements the requirement of section 24(b) of the Act that notice of the deficiency be provided before civil penalties may be assessed.

Proposed § 140.105 on OCS facility inspections implements requirements of section 22(c)(1) of the Act concerning scheduled annual inspections of facilities. Existing § 142.20, authority to perform inspections, is deleted as unnecessary in view of proposed § 140.101.

Proposed subpart C of part 140 concerns investigations, including those required by section 22(d) of the Act. Proposed § 140.201 lists the type of incidents which may be investigated by Coast Guard investigating officers. Proposed § 140.203 states that the conduct of such investigations will normally follow the procedures for marine investigations in 46 CFR Part 4. This section also provides that U.S. Geological Survey representatives may participate fully in any investigation

conducted by the Coast Guard that is related to OCS activities. The intent of this provision is to recognize that both the Coast Guard and Geological Survey have investigatory authority on the OCS and that both are concerned with many casualties associated with OCS activities. To minimize the burdens that separate and duplicate investigations by the two agencies would cause, the proposed revision provides for Coast Guard officials to coordinate their investigations with Geological Survey to the extent warranted by the circumstances of particular casualties. Proposed § 140.203(c) implements the requirement of section 22(d) of the Act requiring that public reports of OCS investigations be made, though the Coast Guard already makes public the results of all of its marine casualty investigations.

Proposed § 140.205 on subpoenas implements section 22(f) of the Act with respect to oaths and subpoenas.

Part 141—Personnel

Proposed subpart A of part 141 on restrictions on employment of personnel implements section 30(a)(3) of the Act which requires, with certain exceptions, that units engaged in OCS activities be manned or crewed by U.S. citizens or aliens lawfully admitted for permanent residence. The Coast Guard may propose additional subparts applicable to other personnel matters in subsequent rulemaking actions.

Proposed § 141.5 on applicability excludes from coverage under part 141 vessels of the United States that are already subject to the requirements of 46 U.S.C. 672a with respect to citizenship of pilots, licensed officers, and unlicensed crew. Under section 30(c)(2) of the Act, foreign owned or controlled units are also excluded; however, the President may impose citizenship requirements on foreign units engaged in OCS activities on a reciprocal basis in accordance with the Act.

Proposed § 141.10 defines certain terms used in part 141, including "citizen of the United States", "resident alien", and "citizen of a foreign nation". "Citizen of a foreign nation" as used in section 30(c)(2) of the Act is defined in order to assist in the determination of whether a foreign unit is exempt from the Act's requirement that units be manned by U.S. citizens or resident aliens. This definition is consistent with the meaning of "citizen" in the Shipping Act (46 U.S.C. 802) and is intended to strictly limit exemptions of foreign units to those allowed by the Act.

Proposed § 141.15 sets forth the basic requirement that units subject to part 141 be manned or crewed by citizens of

the United States or resident aliens. "Manning or crewing" includes marine, industrial, support and other personnel necessary for the routine functioning of the unit. In proposed § 141.15, these personnel are referred to as members of the "regular complement of the unit."

Proposed § 141.20 implements the statutory exceptions to the citizenship requirements and sets forth the procedures for obtaining certification of an exemption. In general, application to the Coast Guard with supporting documentation is required in each instance.

Propose § 141.25 and 141.30 list the documents that an owner or operator of a unit may accept as evidence of citizenship or resident alien status. The type of evidence is similar to that accepted for merchant marine personnel under 46 CFR 10.02-5(c) and owners or operators of documented vessels under 46 CFR 67.02-11.

Proposed § 141.35, concerning records which must be kept by the owner or operator, requires the owner or operator of each unit subject to this subpart to maintain a written record of the documents each employee used as evidence of citizenship or resident alien status. In addition, the owner or operator must keep a record on board the unit of each position on that unit that is part of the regular complement, the individual filling each position, and the citizenship of each employee. If this information is already recorded by the owner or operator, it does not have to be duplicated to comply with the section. No particular form is prescribed for the records and any simple format containing the required information is acceptable.

Part 142—Workplace Safety and Health

Proposed part 142 on workplace safety and health is directed specifically at occupational safety on and health OCS facilities and other units engaged in OCS activities. This rulemaking project addresses only two requirements associated with provisions of the Act; other problems relating to occupational safety and health on the OCS will be addressed in separate rulemaking projects. Proposed § 142.1 sets forth the duties of lessees, permittees, and persons responsible for actual operations to maintain safe working conditions on the OCS. Proposed § 142.5, on reports of unsafe working conditions, is designed to bring the Coast Guard's attention to conditions which may threaten individual safety or health on OCS facilities and other units engaged in OCS activities.

Part 143—Design and Equipment

Proposed part 143 retitles, expands, and renumbers existing part 143 but retains, for the most part, the existing design and equipment requirements. This part implements section 30(a)(2) of the Act, which calls for regulations requiring any vessel, rig, platform, or other vehicles or structure used for activities pursuant to the Act to comply with such minimum standards of design, construction, alteration, and repair as the Geological Survey or the Coast Guard may establish.

Design and construction requirements for vessels, including mobile offshore drilling units and other floating OCS facilities, are the responsibility of the Coast Guard and are addressed in proposed part 143. However, design and construction requirements for platforms, structures, and other fixed and bottom-founded OCS facilities are addressed by the U.S. Geological Survey and no additional requirements for such facilities are proposed. With respect to equipment, Coast Guard requirements in part 143 are directed at emergency and other equipment affecting navigation or the safety of personnel. The Coast Guard does not regulate drilling or production equipment except from these standpoints.

Proposed § 143.3 on the relationship of the requirements of this part to other law states that Coast Guard design and equipment requirements are in addition to those established by U.S. Geological Survey regulations and orders.

Proposed § 143.15 on lights and warning devices restates existing § 140.05-5(b) but updates the reference to the International Regulations for Preventing Collisions at Sea, 1972.

Existing subparts 143.05 on means of escape, 143.10 on personnel landings, and 143.15 on guards and rails have been renumbered but remain substantially unchanged. However, the Coast Guard is aware that these parts may need revising and is reviewing the requirements. Any changes which may be necessary will be addressed in a subsequent rulemaking notice.

Proposed subpart C treats mobile offshore drilling units (MODU's) separately from other OCS facilities and vessels. It establishes new design and equipment requirements for all domestic and foreign MODU's operating on the OCS that are not already subject to 46 CFR Chapter I, Subchapter I-A.

Proposed § 143.201 exempts units built before or under construction on the effective date of final regulations from any new design or construction requirements by reason of subpart C until the unit is rebuilt. When a unit is

"rebuilt" the hull or principal structural component is substantially altered. When this occurs, the entire unit may be required to comply with the new design and construction requirements.

Proposed § 143.205 requires all U.S. mobile offshore drilling units operating on the OCS to comply with the design and equipment requirements in 46 CFR Part 108.

Proposed § 143.207 on foreign mobile offshore drilling units details new requirements for foreign MODU's operating on the OCS. Presently, foreign MODU's need comply only with the construction and arrangement requirements of existing part 143, a significantly lower standard than most U.S. mobile offshore drilling units must meet under 46 CFR Part 108. The proposed revision requires foreign mobile offshore drilling units operating on the OCS to comply with the requirements of 46 CFR Part 108, with foreign national standards that provide a generally equivalent level of safety, or with the International Maritime Consultative Organization (IMCO) Code for mobile offshore drilling units.

Section 143.210 provides a mechanism by which the owners or operators of units may obtain a determination whether a unit provides an acceptable level of safety for operations on the OCS.

Proposed subpart D establishes minimum design standards for vessels other than mobile offshore drilling units through application of load line requirements. Load line requirements as established by 46 CFR Chapter I, Subchapter E, would apply to vessels engaged in OCS activities to the same extent that they would apply to those vessels upon entering or departing any port or place subject to the jurisdiction of the United States.

Part 144—Lifesaving Appliances

Existing part 144 on lifesaving appliances is revised to require lights and retroreflective material on life preservers used on manned platforms. Section 144.01-20 proposes requirements similar to those recently established for U.S. mobile offshore drilling units (44 FR 38784-85). Other lifesaving equipment requirements are not being revised at this time; however, the Coast Guard is currently reviewing these requirements. Any other changes which appear necessary will be addressed in a subsequent rulemaking notice.

Part 145—Firefighting Equipment

Part 145 concerning firefighting equipment is not addressed in this proposal. These requirements are currently under review. Any

amendments which appear necessary will be addressed in a subsequent rulemaking notice.

Part 146—Operations

Existing subpart § 146.01 on special operating requirements is redesignated Subpart A and revised to exclude mobile offshore drilling units from its applicability.

Proposed § 146.10 on notice of construction clarified the information that must be provided to the Coast Guard when new facilities are installed.

Existing section 146.01-5 requiring the assignment of identification marks to facilities is deleted as unnecessary in light of similar U.S. Geological Survey requirements; however, the requirement in existing § 146.01-10 that the appropriate Coast Guard District Commander be notified of the markings assigned is retained in proposed § 146.10.

Existing § 146.01-15 (proposed § 146.15) on maintenance of emergency equipment, existing § 146.01-17 (proposed § 146.20) on work vests, and existing § 146.01-25 (proposed § 146.25) on authority of the person in charge are renumbered but remain substantially unchanged.

Existing § 146.01-20 on casualty reports is revised, expanded, and renumbered as § 146.30 in this proposal. This section requires immediate notice to the Coast Guard of casualties involving death or multiple injuries and sets forth new reporting requirement for injuries which result in incapacitation of an individual for more than 72 hours. It also limits reporting of damage to facilities to floating facilities rather than to all OCS facilities. Although the Coast Guard investigates certain fires jointly with the U.S. Geological Survey, no reporting requirements for fires are proposed. Fires are reported to the U.S. Geological Survey under 30 CFR 250.45.

Proposed § 146.35 continues the requirement of existing § 146.01-20 that a written report be submitted on each reportable casualty occurring on an OCS facility.

Existing subpart 146.05 on manned platforms is redesignated as subpart B and revised to exclude mobile offshore drilling units. Other existing requirements are substantially unchanged. The Coast Guard, however, is reviewing the substantive provisions of subpart B and any changes which appear necessary will be addressed in a subsequent rulemaking notice.

Proposed subpart C on mobile offshore drilling units extends the operating requirements of 46 CFR Part 107 to all mobile offshore drilling units operating on the OCS and clarifies

notice of arrival requirements for such units.

Proposed subpart D on vessels extends the death and injury casualty reporting requirements of proposed § 146.30 to vessels engaged in OCS activities that are not now required to report deaths and serious injuries to the Coast Guard.

Part 147—Safety Zones

Existing Part 147 is revised to reflect the amended language of the Act. No substantive change is made.

Regulatory Evaluation

The Coast Guard considers this regulatory action to be classified as "non-significant" under the regulatory policies and procedures established by the Department of Transportation (44 FR 11040; February 26, 1979). A draft regulatory evaluation has been prepared, copies of which are available for inspection or copying at the Marine Safety Council. (See Addresses.)

As explained more fully in a draft evaluation, many of the proposed amendments to subchapter N do not impose an economic burden. Several of the proposed requirements which do impose economic burdens, such as the requirements for manning by U.S. citizens, are required by the Act. The estimated total cost to comply with the other proposed changes to subchapter N is estimated at \$8.2 million. Annual costs are estimated at \$2.1 million. The principal benefit of these proposed amendments is expected to be the improved safety of operations on the Outer Continental Shelf. The Coast Guard requests that those who submit comments include an assessment of economic as well as other effects that their recommendations may have.

Environmental Assessment

The Coast Guard has considered the environmental impact of the proposed regulations and concluded that preparation of an environmental impact statement does not appear necessary. An environmental assessment with a proposed finding of no significant impact has been prepared and is on file in the rulemaking docket.

In consideration of the foregoing, the Coast Guard proposes to amend subchapter N, Chapter I, Title 33 of the Code of Federal Regulations as follows:

1. By revising the title of Subchapter N to read as follows:

SUBCHAPTER N—OUTER CONTINENTAL SHELF ACTIVITIES

2. By revising Part 140 to read as follows:

PART 140—GENERAL**Subpart A—General**

- Sec.
 140.1 Purpose.
 140.3 Applicability.
 140.5 Exemptions during construction.
 140.7 Matter incorporated by reference.
 140.10 Definitions.
 140.15 Equivalents and approved equipment.
 140.20 Delegations.
 140.25 Intra-agency appeals.
 140.30 Judicial review.
 140.35 Sanctions.
 140.40 Processing penalty cases.

Subpart B—Inspections

- 140.101 General inspection requirements.
 140.102 Foreign units.
 140.103 Deficiencies discovered during inspections.
 140.105 OCS facility inspections.

Subpart C—Investigations

- 140.201 General.
 140.203 Investigation procedures.
 140.205 Subpoenas.

Authority: Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; sec. 22 of sec. 208, Pub. L. 95-372, 92 Stat. 655 (43 U.S.C. 1348); sec. 30 of sec. 208, Pub. L. 95-372, 92 Stat. 669 (43 U.S.C. 1356); 49 CFR 1.46(z).

Subpart A—General**§ 140.1 Purpose.**

This subchapter is intended to promote safety of life and property on facilities, vessels, and other units engaged in Outer Continental Shelf activities, protect the marine environment, and implement the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), as amended by the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372, 92 Stat. 629).

§ 140.3 Applicability.

Unless otherwise stated, this subchapter applies to facilities, vessels, and other units engaged in mineral exploration, production, or development activities on the Outer Continental Shelf, except pipelines and deepwater ports (as the term "deepwater port" is defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502)).

§ 140.5 Exemptions during construction.

The Officer in Charge, Marine Inspection, may exempt any unit under construction from any requirements of this subchapter that would be impracticable or unreasonable to apply during construction or erection of the unit.

§ 140.7 Matter incorporated by reference.

(a) The Coast Guard incorporates by reference the design, equipment and

operating equipment standards for mobile offshore drilling units contained in the International Maritime Consultative Organization (IMCO) Code for Construction and Equipment of Mobile Offshore Drilling Units (IMCO Assembly Resolution A 414 (XI), 1979). These standards are incorporated as they exist on November 15, 1979. Changes to these standards will be published periodically in the Federal Register.

(b) The material incorporated by reference is available for inspection at the Library of the Office of the Federal Register, Room 8301, 1100 L Street, N.W., Washington, D.C. 20408 and at the Marine Safety Council (G-CMC/TP24), Room 2418, U.S. Coast Guard Headquarters, 2100 Second St. S.W., Washington, D.C. 20593. A copy of the Code may be purchased from IMCO Sales, New York Nautical Instrument and Service Corp., 140 West Broadway, New York, N.Y. 10013 at a cost of \$9.00 per copy.

(c) Incorporation by reference of the material listed in this section was approved by the Director of the Federal Register on _____, 19____.

§ 140.10 Definitions.

As used in this subchapter: "Act" means the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331 et seq.), as amended by the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372).

"Approved" means approved by the Commandant.

"Attending vessel" means a vessel which is moored close to and readily accessible from an OCS facility and is especially adapted to providing power, fuel, or other services to the operation being conducted on the facility.

"Commandant" means Commandant of the Coast Guard or that person's authorized representative.

"Development" means those activities which take place following discovery of minerals in paying quantities, including, but not limited to, geophysical activity, drilling, and platform construction, and which are for the purpose of ultimately producing the minerals discovered.

"District Commander" means an officer who commands a Coast Guard District described in Part 3 of this chapter or that person's authorized representative.

"Exploration" means the process of searching for minerals, including, but not limited to, (a) geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such minerals, and (b) any drilling, whether on or off known geological structures, including the

drilling of a well in which a discovery of oil or natural gas in paying quantities is made and the drilling of any additional delineation well after the discovery which is needed to delineate an reservoir and to enable the lessee to determine whether to proceed with development and production.

"Floating installation" means a buoyant OCS facility securely and substantially moored so that it cannot be moved without a special effort. This terms include tension leg platforms and permanently moored semi-submersibles, but does not include mobile offshore drilling units and other vessels.

"Investigating officer" means a person assigned by the Commandant, a District Commander, or an Officer in Charge, Marine Inspection, to conduct an investigation of an accident, casualty, or other incident associated with OCS activities.

"Manned facility" means an OCS facility on which people are actually and continuously living or accommodated.

"Manned platform" means an OCS facility, other than a floating facility or mobile offshore drilling unit, on which people are actually and continuously living or accommodated.

"Marine inspector" means a person designated as such by an Officer in Charge, Marine Inspection, to perform inspections of units to determine whether the requirements of this subchapter are met.

"Minerals" includes oil, gas, sulphur, geopressed geothermal and associated resources, and all other minerals which are authorized by an Act of Congress to be produced from "public lands" as defined in section 103 of the Federal Lands Policy and Management Act of 1976 (43 U.S.C. 1702(e)).

"Mobile offshore drilling unit" or "MODU" means a vessel, other than a public vessel of the United States, capable of engaging in drilling operations for exploration or exploitation of subsea resources;

"Officer in Charge, Marine Inspection" means a person who commands a Marine Inspection Zone described in 33 CFR Part 3 and who is immediately responsible for the performance of duties with respect to inspections, enforcement, and administration of regulations governing units.

"Operator" means—

(a) In the case of a vessel, a charterer by demise or any other person who is responsible for the operation, manning, victualing, and supplying of the vessel; or

(b) In the case of a unit other than a vessel, any person who is responsible for the operation of the unit.

"Outer Continental Shelf" or "OCS" means all submerged lands lying seaward and outside of the area of "lands beneath navigable waters" as defined in section 2(a) of the Submerged Lands Act (43 U.S.C. 1301(a)) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

"OCS" activity" means any offshore activity associated with exploration for, or development or production of, the minerals of the Outer Continental Shelf.

"OCS facility" means any artificial island, installation, or other device permanently or temporarily attached to the subsoil or seabed of the Outer Continental Shelf, erected for the purpose of exploring for, developing, or producing resources therefrom, or any such installation or other device (other than a ship or vessel) for the purpose of transporting such resources. The term includes mobile offshore drilling units when in contact with the seabed of the OCS for exploration or exploitation of subsea resources. The term does not include any pipeline or deepwater port (as the term "deepwater port" is defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502)).

"Owner" means a person holding title to or, in the absence of title, other indicia of ownership of a unit.

"Person" means an individual, association, partnership, consortium, joint venture, private, public, or municipal firm or corporation, or a government entity.

"Person in charge" means the master or other individual designated as such by the owner or operator under § 146.5 of this subchapter or 46 CFR 109.107.

"Production" means those activities which take place after the successful completion of any means for the removal of minerals, including, but not limited to, such removal, field operations, transfer of minerals to shore, operation monitoring, maintenance, and workover drilling.

"Rebuilt" means having had substantial alteration of the hull or principal structural component;

"Unit" means any OCS facility, vessel, rig, platform, or other vehicle or structure, domestic or foreign.

"Unmanned facility" means an OCS facility, other than a floating facility or mobile offshore drilling unit, which is not a manned facility even though it may be continuously serviced by an attending vessel.

"Unmanned platform" means a fixed, bottom-founded OCS facility which is not a manned facility even though it

may be continuously serviced by an attending vessel.

"Vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the water.

§ 140.15 Equivalents and approved equipment.

(a) The use of alternate equipment or procedures for those specified in this subchapter may be permitted by an Officer in Charge, Marine Inspection, to the extent and upon conditions as will insure a degree of safety comparable to or greater than that provided by the minimum standards in this subchapter.

(b) Where equipment in this subchapter is required to be of an approved type, the equipment requires the specific approval of the Commandant. Approvals are published in the Federal Register and Coast Guard publication CG-190, "Equipment Lists" available from Commandant (G-MMT-2), U.S. Coast Guard, Washington, DC 20593.

(c) Specifications for certain items required to be of an approved type are contained in 46 CFR Parts 160 through 164.

§ 140.20 Delegations.

(a) Each District Commander is responsible for the administration and enforcement of the regulations in this subchapter within that person's assigned district.

(b) Under the general superintendence of the District Commander, the Officer in Charge, Marine Inspection, is delegated authority to administer and enforce the regulations in this subchapter.

(c) Authority delegated under this section may be delegated as necessary by the delegee.

§ 140.25 Appeals.

(a) Any person directly affected by an action or decision of an Officer in Charge, Marine Inspection, under the act or the regulations in this subchapter may request reconsideration of that action or decision. If still dissatisfied, that person may appeal the action or decision within 30 days to the District Commander of the District in which the action was taken or the decision made. The District Commander issues a decision after reviewing the appeal submitted under this paragraph.

(b) Any person not satisfied with the decision of a District Commander may appeal that ruling within 30 days to the Chief, Office of Merchant Marine Safety, U.S. Coast Guard, Washington, DC, who issues a decision after reviewing the appeal submitted under this paragraph.

Decisions of the Chief, Office of Merchant Marine Safety constitute final agency action.

(c) An appeal to the District Commander or Chief, Office of Merchant Marine Safety must be made in writing, except in an emergency when an oral appeal may be accepted; must describe the decision or action being appealed; and must state the reasons why the action or decision should be set aside or modified. The appeal may contain supporting documents and evidence that the appellant wishes to have considered.

(d) Pending determination of any appeal, the action or decision appealed remains in effect, unless suspended by the District Commander to whom the appeal was made or by the Chief, Office of Merchant Marine Safety.

§ 140.30 Judicial review.

(a) Nothing in this subchapter shall be construed to prevent any interested party from seeking judicial review as authorized by law.

(b) Judicial review of the regulations in this subchapter, or any final decision or order of the Commandant pursuant to the Act or the regulations in this subchapter, is governed by the judicial review provisions of section 23 of the Act (43 U.S.C. 1349).

§ 140.35 Sanctions.

(a) Any person who fails to comply with any provision of the Act, any regulation in this subchapter, or any order issued pursuant to the Act or the regulations in this subchapter by the Commandant, District Commander, or Officer in Charge, Marine Inspection, after notice of the failure and after expiration of any reasonable period allowed for corrective action, shall be liable for a civil penalty of not more than \$10,000 for each day of the continuance of the failure.

(b) Any person who knowingly and willfully—

(1) Violates any provision of the Act;

(2) Violates any regulation in this subchapter designed to protect health, safety, or the environment;

(3) Violates any order of the Commandant, District Commander, or Officer in Charge, Marine Inspection, issued under the Act or the regulations in this subchapter that is designed to protect health, safety, or the environment or conserve natural resources;

(4) Makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under the Act or the regulations in this subchapter;

(5) Falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act or the regulations in this subchapter; or

(6) Reveals any data or information required to be kept confidential by the Act shall, upon conviction, be punished by a fine of not more than \$100,000, or by imprisonment for not more than ten years, or both. Each day that a violation under paragraph (b)(1), (b)(2), or (b)(3) of this section continues, or each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity described in paragraph (b)(5) of this section, constitutes a separate violation.

(c) Whenever a corporation or other entity is subject to prosecution under paragraph (b) of this section, any officer or agent of the corporation or entity who knowingly and willfully authorized, ordered, or carried out the prescribed activity shall be subject to the same fines or imprisonment, or both, as provided for under paragraph (b) of this section.

(d) The penalties prescribed in this section are concurrent and cumulative and the exercise of one does not preclude the exercise of the others. Further, the penalties prescribed in this section are in addition to any other penalties afforded by any other law or regulation.

§ 140.40 Processing penalty cases.

(a) Apparent violations of the regulations in the subchapter are processed in accordance with Subpart 1.07 of 33 CFR Part I on civil and criminal penalty proceedings, except:

(1) The District Commander refers civil penalty cases to the Secretary of the Interior, or that person's delegee, who, under the Act, assesses, collects, and compromises civil penalties.

(2) If a possible violation investigated by the Coast Guard carries both a civil and a criminal penalty, the District Commander determines whether to refer the case to the U.S. Attorney for criminal prosecution or to the Secretary of the Interior, or that person's delegee, for civil penalty proceedings.

(3) When the U.S. Attorney declines to institute criminal proceedings, the District Commander decides whether to refer the case to the Secretary of the Interior, or that person's delegee, for civil penalty proceedings or to close the case.

Subpart B—Inspections

§ 140.101 General inspection requirements.

(a) Each unit engaged in OCS activities is subject to inspection by the Coast Guard.

(b) Under the direction of the Officer in Charge, Marine Inspection, marine inspectors inspect units engaged in OCS activities to determine whether the requirements of this subchapter are met. These inspections may be conducted with or without advance notice at any time deemed necessary by the Officer in Charge, Marine Inspection.

(c) As part of an inspection, a marine inspector may review records and require and observe the conduct of emergency drills and other tests and procedures as may be necessary to demonstrate to that person's satisfaction that the unit and its equipment are in full compliance with applicable regulations.

§ 140.102 Foreign units.

(a) Coast Guard inspections of foreign units recognize valid international certificates accepted by the United States, including Safety of Life at Sea (SOLAS), Loadline, and Mobile Offshore Drilling Unit (MODU) Code certificates for matters covered by the certificates, unless there are clear grounds for believing that the condition of the unit or its equipment does not correspond substantially with the particulars of the certificate.

(b) The owner or operator of a foreign mobile offshore drilling unit which must comply with the requirements of this subchapter is issued a letter of compliance by the Officer in Charge, Marine Inspection, when that person determines the requirements of this subchapter are met.

(c) A letter of compliance issued under this section is valid for one year or until a unit departs the OCS for foreign operations, whichever comes first.

§ 140.103 Deficiencies discovered during inspections.

(a) Any deficiency or hazard discovered during an inspection is reported to the unit's owner or operator, who shall have the deficiency corrected as soon as practicable and within any period of time specified for correction by the Coast Guard marine inspector.

(b) Whenever a deficiency or hazard remains uncorrected after notice and after the expiration of any period specified for correction by the marine inspector, the Officer in Charge, Marine Inspection, initiates appropriate enforcement measures.

(c) Lifesaving or firefighting equipment which is found defective by a marine inspector and which cannot be satisfactorily repaired shall be so mutilated that it cannot be used for the purpose for which it was originally intended.

§ 140.105 OCS facility inspections.

(a) This section applies to OCS facilities other than mobile offshore drilling units inspected under 46 CFR Part 107.

(b) Each OCS facility is subject to a comprehensive annual on-site inspection by the Coast Guard.

(c) An annual inspection includes inspection of all Coast Guard approved or required equipment and procedures designed to prevent or mitigate fires, spillages, and other major accidents on OCS facilities.

(d) The Coast Guard may conduct the first annual inspection of any OCS facility prior to commencement of drilling or production operations.

Subpart C—Investigations

§ 140.201 General.

Under the direction of the Officer in Charge, Marine Inspection, investigating officers investigate the following incidents occurring as a result of OCS activities:

(a) Death.

(b) Injury resulting in substantial impairment of any bodily unit or function.

(c) Major fire.

(d) Oil spillage exceeding two hundred barrels of oil in one occurrence during a thirty-day period.

(e) Other injuries, casualties, accidents, complaints of unsafe working conditions, fires, pollution, and incidents occurring as a result of OCS activities as may be necessary to promote the safety of life or property or protect the marine environment.

§ 140.203 Investigation procedures.

(a) In so far as practicable, investigations conducted pursuant to this subchapter shall follow the procedures of 46 CFR Part 4.

(b) Representatives of the U.S. Geological Survey may participate in these investigations. This participation may include, but is not limited to—

(1) Participating in a joint on scene investigation;

(2) Making recommendations concerning the scope of the investigation;

(3) Calling and examining witnesses; and

(4) Submitting or requesting additional evidence.

(c) Reports of investigations conducted under this subchapter shall be made available to the public upon completion of agency action.

§ 140.205 Subpoenas.

(a) In any investigation conducted pursuant to this subchapter, the investigating officer shall have the power to administer necessary oaths, subpoena witnesses, and require the production of books, papers, documents, and any other evidence.

(b) Attendance of witnesses or the production of books, papers, documents, or any other evidence shall be compelled by a process similar to that used in the District Courts of the United States.

3. By adding a new Part 141 to read as follows:

PART 141—PERSONNEL

Subpart A—Restrictions on Employment

Sec.

141.1 Purpose.

141.5 Applicability.

141.10 Definitions.

141.15 Restrictions on employment.

141.20 Exceptions to restrictions on employment.

141.25 Evidence of U.S. citizenship.

141.30 Evidence of status as a resident alien.

141.35 Records to be kept by the owner or operator.

Authority: Sec. 30 of sec. 208, Pub. L. 95-372, 92 Stat. 669 (43 U.S.C. 1356); 49 CFR 1.46(z).

Subpart A—Restrictions on Employment

§ 141.1 Purpose.

This subpart prescribes rules governing restrictions on the employment of personnel on Outer Continental Shelf (OCS) facilities and other units engaged in OCS activities.

§ 141.5 Applicability.

(a) This subpart applies to employment of personnel on units engaged in OCS activities, except as provided in paragraph (b) of this section.

(b) This subpart does not apply to employment of personnel on any—

(1) Vessel subject to the citizenship requirements of 46 U.S.C. 672a for pilots, licensed officers, and unlicensed crew when the vessel is transiting to or from an OCS facility or a United States port;

(2) Vessel subject to the citizenship requirements of 46 U.S.C. 1132 for officers and crew on federally subsidized or documented vessels; or

(3) Unit over 50 percent of which is owned by one or more citizens of a foreign nation or with respect to which one or more citizens of a foreign nation

have the right effectively to control, except to the extent and to the degree that the President determines that the government of such foreign nation or any of its political subdivisions has implemented, by statute, regulation, policy, or practice, a national manning requirement for equipment engaged in the exploration, development, or production of oil or gas in its offshore areas.

(c) The District Commander may, upon request or upon that person's own initiative, determine whether over 50 percent of a particular unit is owned by citizens of a foreign nation or whether citizens of a foreign nation have the right effectively to control the unit.

(d) In determining whether ownership or a right effectively to control exists, the District Commander considers title, lease and charter arrangements, financial interests, management responsibility, and operational control of a unit.

(e) The owner or operator of any unit affected is notified of the District Commander's determination.

§ 141.10 Definitions.

As used in this subpart:

(a) "Citizen of the United States" means—

(1) In the case of an individual, one who is a native born, derivative, or fully naturalized citizen of the United States;

(2) In the case of a partnership, unincorporated company, or association, one in which 50% or more of the controlling interest is vested in citizens of the United States; or

(3) In the case of a corporation, one which is incorporated under the laws of the United States or of any State thereof.

(b) "Resident alien" means an alien lawfully admitted to the United States for permanent residence in accordance with § 101(a)(20) of the Immigration and Nationality Act of 1952, as amended, 8 U.S.C. § 1101(a)(20).

(c) "Citizen of a foreign nation" means—

(1) In the case of an individual, one who is not a citizen of the United States;

(2) In the case of a partnership, unincorporated company, or association, one in which more than 50% of the controlling interest is vested in citizens of a nation other than the United States; or

(3) In the case of a corporation, one which is incorporated under the laws of a nation other than the United States so long as (i) the title to a majority of the stock thereof is free from any trust or fiduciary obligation in favor of any person who is a citizen of the United States; (ii) the majority of the voting power in the corporation is not vested in

citizens of the United States; (iii) through any contract or understanding, the majority of the voting power may not be exercised directly or indirectly on behalf of any person who is a citizen of the United States; or (iv) by no other means, control of the corporation is conferred upon or permitted to be exercised by any person who is a citizen of the United States.

§ 141.15 Restrictions on employment.

(a) On or after [one year after the effective date of final regulations], the owner or operator of any unit engaged in OCS activities that is subject to this part must employ, as members of the regular complement of the unit, only citizens of the United States or resident aliens except as provided by § 141.20.

(b) As used in paragraph (a) of this section, "regular complement of a unit" means those personnel necessary for the routine functioning of the unit, including marine officers and crew; industrial personnel on the unit (such as toolpushers, drillers, roustabouts, floor hands, crane operators, derrickmen, mechanics, motormen, and general maintenance personnel); and support personnel on the unit (such as cooks, stewards and radio operators). The term does not include consultative personnel, such as geologists or professional engineers, who may be aboard a unit to provide specialized advice or assistance but who are not engaged in the routine operation of the unit; extra personnel on a unit for training; and other personnel temporarily on a unit for specialized operations, such as construction, alteration, well logging, or unusual repairs or emergencies.

(c) The Officer in Charge, Marine inspection, may, upon request or upon that person's own initiative, determine whether a particular individual or position is part of the regular complement of a unit. A copy of the determination is provided to the owner or operator of the unit affected.

§ 141.20 Exceptions to restrictions on employment.

Under section 30(c) of the Act, persons other than citizens of the United States or resident aliens may be employed as part of the regular complement of a unit engaged in OCS activities under the following circumstances:

(a) When specific contractual provisions or national registry manning requirements in effect on September 18, 1978 provide that a person is to be employed on a particular unit. The owner or operator of any unit claiming an exemption under this paragraph must submit a written request for the

exemption with a copy of the applicable contract and a list of the persons claimed exempt for each unit to the Commandant (G-MVP), U.S. Coast Guard, 2100 2nd Street, S.W., Washington, D.C. 20593. Upon approval, the Coast Guard issues a certification of exemption to the owner or operator, who must maintain a copy on each unit affected as required by § 141.35;

(b) When there are not a sufficient number of citizens of the United States, or resident aliens qualified and available for the work. The owner or operator of any unit claiming an exemption under this paragraph must submit a written request for the exemption to the Commandant (G-MVP), U.S. Coast Guard, 2100 2nd Street, S.W., Washington, D.C. 20593. The request must describe each unit involved and each person or position sought to be exempted. Upon receipt of a request, the Coast Guard seeks an advisory opinion from the Division of Labor Certification of the Employment Service of the Department of Labor, concerning whether there are citizens of the United States, or resident aliens qualified and available for the work. If the Coast Guard approves the exemption, it issues a certification of the exemption in letter form valid for one year to the owner or operator, who must maintain a copy on each unit affected as required by § 141.35.

(c) When the President determines with respect to a particular unit that the employment of only citizens of the United States or resident aliens would not be consistent with the national interest. The owner or operator of any unit claiming an exemption under this paragraph must submit a written request for the exemption with any supporting data or documentation to the Commandant (G-MVP), U.S. Coast Guard, 2100 2nd Street, S.W., Washington, D.C. 20593. After consulting with other federal agencies as appropriate, the Commandant forwards the request and the comments of the Coast Guard and other interested agencies to the President for determination. Upon approval by the President, the Coast Guard issues a certification of the exemption to the owner or operator, who must maintain a copy on each unit affected as required by § 141.35.

§ 141.25 Evidence of citizenship.

(a) The owner or operator may accept as sufficient evidence that a person is a citizen of the United States any one of the following documents and no others:

(1) A merchant mariner's document issued by the Coast Guard under 46 CFR Part 12.

(2) An original or certified copy of a birth certificate or birth registration issued by a state or the District of Columbia.

(3) A United States passport.

(4) A Certificate of Citizenship issued by the Immigration and Naturalization Service.

(5) A Certificate of Naturalization issued by a Naturalization Court.

(6) A letter from the Coast Guard issued under paragraph (d) of this section.

(b) If a person does not have one of the documents listed in paragraphs (a)(1) through (a)(6) of this section, that person may appear in person before an Officer in Charge, Marine Inspection, and submit one or more of the following documents which may be considered as the evidence that the applicant is a citizen of the United States:

(1) A Certificate of Derivative Citizenship or a Certificate of Naturalization of either parent and a birth certificate of the applicant or other evidence satisfactorily establishing that the applicant was under 21 years of age at the time of the parent's naturalization.

(2) A Baptismal certificate or parish record recorded within one year after birth.

(3) A statement of a practicing physician certifying that the physician attended the birth and has a record showing the date on which the birth occurred.

(4) A commission, or evidence of commission, in the Armed Forces of the United States which shows the holder to be a citizen of the United States;

(5) A continuous discharge book or certificate of identification issued by the Coast Guard or the former Bureau of Marine Inspection, provided the document shows that the applicant produced satisfactory evidence of citizenship at the time the document was issued.

(6) A delayed certificate of birth issued under a state seal, provided there are no collateral facts indicating fraud in its procurement.

(7) A report of the Census Bureau showing the earliest available record of the applicant's age or birth.

(8) Affidavits of parents, relatives, or two or more responsible citizens of the United States; school records; immigration records; insurance policies; or other records which support the citizenship claim.

(c) In any case where doubt exists concerning evidence of citizenship submitted under paragraph (b) of this section, the Officer in Charge, Marine Inspection, may refer the matter to the United States Immigration and

Naturalization Service for an advisory opinion.

(d) If the documents submitted under paragraph (b) of this section are determined by the Officer in Charge, Marine Inspection, to be sufficient evidence that the applicant is a citizen of the United States, the Coast Guard issues the applicant a letter acknowledging this determination.

§ 141.30 Evidence of status as a resident alien.

The owner or operator may accept as sufficient evidence that a person is a resident alien any one of the following documents and no others:

(a) A merchant mariner's document issued by the Coast Guard under 46 CFR Part 12.

(b) An alien registration receipt card issued by the Immigration and Naturalization Service certifying that the card holder has been admitted to the United States as an immigrant.

(c) A declaration of intention to become a citizen of the United States issued by a Naturalization Court.

§ 141.35 Records to be kept by the owner or operator.

(a) The owner or operator of any unit subject to this subpart that is engaged in OCS activities shall maintain a record identifying which of the documents listed in §§ 141.25 and 141.30 were relied upon by the owner or operator for each employee. The record must consist of either a copy of the document or the following information for each document:

(1) For a merchant mariner's document or a United States passport, the document's title and control number.

(2) For a birth certificate or birth registration, the document's title and the employee's date and place of birth.

(3) For all other documents listed in §§ 141.25 and 141.30, the document's title and date and place of issuance.

(b) The owner or operator of any unit engaged in OCS activities that is subject to this subpart shall maintain on board the unit:

(1) A copy of any determination under § 141.15(c) as to whether a particular individual or position is part of the regular complement of the unit;

(2) A copy of any Coast Guard certification issued under § 141.20 to employ persons who are not citizens of the United States or lawfully admitted aliens as part of the regular complement of the unit; and

(3) A written description of the positions that make up the regular complement of the unit and the name and nationality of the individual filling

each employee position on board the unit.

(c) The information required by paragraphs (a) and (b)(3) of this section may be in summary form and any simple format.

4. By revising Part 142 to read as follows:

PART 142—WORKPLACE SAFETY AND HEALTH

Sec.

142.1 Duties of lessees, permittees, and persons responsible for actual operations.

142.5 Reports of unsafe working conditions.

Authority: Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; sec. 22 of sec. 208, Pub. L. 95-372, 92 Stat. 655 (43 U.S.C. 1348); 49 CFR 1.46(z).

§ 142.1 Duties of lessees, permittees, and persons responsible for actual operations.

(a) Each holder of a lease or permit under the Act shall ensure that all places of employment within the lease area or within the area covered by the permit on the OCS are maintained in compliance with occupational safety and health regulations and, in addition, free from recognized hazards.

(b) Persons responsible for actual operations, including owners, operators, contractors, and subcontractors, shall ensure that those operations subject to their control are conducted in compliance with occupational safety and health regulations and, in addition, free from recognized hazards.

(c) "Recognized hazards", in paragraphs (a) and (b) of this section, means conditions which are—

(1) Generally known among persons in the affected industry as threatening the health or safety of persons exposed to those conditions; and

(2) Routinely controlled in the affected industry.

§ 142.5 Reports of unsafe working conditions.

(a) Any person may report a possible violation of any regulation in this subchapter or any other hazardous or unsafe working condition on any unit engaged in OCS activities to an Officer in Charge, Marine Inspection.

(b) After reviewing the report and conducting any necessary investigation, the Officer in Charge, Marine Inspection, notifies the owner or operator of any deficiency or hazard and initiates enforcement measures as the circumstances warrant.

(c) The identity of any person making a report under paragraph (a) of this section is not made available, without the permission of the reporting person, to anyone other than those officers and employees of the Department of

Transportation who have a need for the record in the performance of their official duties.

5. By revising Part 143 to read as follows:

PART 143—DESIGN AND EQUIPMENT

Subpart A—General

Sec.

143.1 Purpose.

143.3 Relationship to other law.

143.15 Lights and warning devices.

Subpart B—OCS Facilities

143.100 Applicability.

143.101 Means of escape.

143.105 Personnel landings.

143.110 Guards and rails.

143.120 Floating installations.

Subpart C—Mobile Offshore Drilling Units

143.200 Applicability.

143.201 Existing units exempted from new design requirements.

143.205 Requirements for U.S. and undocumented units.

143.207 Requirements for foreign units.

143.210 Letter of compliance.

Subpart D—Vessels

143.300 Applicability.

143.301 Load line requirements.

Authority: Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; Sec. 30 of sec. 208, Pub. L. 95-372, 92 Stat. 669 (43 U.S.C. 1356); 49 CFR 1.46(z).

Subpart A—General

§ 143.1 Purpose.

This part prescribes design and equipment requirements for units engaged in OCS activities.

§ 143.3 Relationship to other law.

(a) Design and equipment requirements of this part for OCS facilities, including mobile offshore drilling units in contact with the seabed of the OCS for exploration or exploitation of subsea resources, are in addition to the regulations and orders of the U.S. Geological Survey applicable to those facilities.

(b) Any apparent conflict between the application of any requirement of this part and any regulation or order of the U.S. Geological Survey should immediately be brought to the attention of the Officer in Charge, Marine Inspection.

(c) This part does not establish design requirements for fixed, bottom-founded OCS facilities or regulate drilling or production equipment on any OCS facility except for matters affecting navigation or workplace safety or health.

§ 143.15 Lights and warning devices.

(a) OCS facilities must maintain and display lights and warning devices in

accordance with the requirements of Part 67 of this chapter concerning aids to navigation on artificial islands and fixed structures.

(b) Vessels engaged in OCS activities, including attending vessels, must display lights and warning devices in accordance with the International Regulations for Preventing Collisions at Sea 1972 (33 CFR Part 87, Appendix A) or the local rules established in accordance with Rule 1 of those Regulations.

Subpart B—OCS Facilities

§ 143.100 Applicability.

This subpart applies to OCS facilities except mobile offshore drilling units.

§ 143.101 Means of escape.

(a) "Primary means of escape" shall be fixed stairways or fixed ladders of metal construction.

(b) "Secondary means of escape" shall be types approved for "primary means of escape" or portable, flexible ladders, knotted man ropes, and other devices satisfactory to the Officer in Charge, Marine Inspection.

(c) Manned OCS facilities shall be provided with at least two "primary means of escape" extending from the uppermost platform level that contains living quarters or that personnel occupy continuously, to each successively lower working level and to the water surface. Working levels without living quarters, shops, or offices in manned facility structural appendages, extensions, and installations that personnel occupy only occasionally shall be provided with one "primary means of escape" and, when necessary in the opinion of the Officer in Charge, Marine Inspection, one or more "secondary means of escape."

(d) Unmanned OCS facilities shall be provided with at least one "primary means of escape" extending from the uppermost platform working level to each successively lower working level and to the water surface. When personnel are on board, unmanned facilities shall also be provided with one or more "secondary means of escape," but not more than one will be required for every 10 persons extending from the uppermost working level of the facility to each successively lower working level and to the water surface, excluding facility appendages and installations, unless "secondary means of escape" from such appendages and installations are necessary in the opinion of the Officer in Charge, Marine Inspection.

(e) "Means of escape" shall be suitably accessible to personnel for rapid facility evacuation.

(f) When two or more "means of escape" are installed, at least two shall be located as nearly diagonally opposite each other as practicable unless such requirement is unreasonable or impracticable in the opinion of the Officer in Charge, Marine Inspection.

§ 143.105 Personnel landings.

(a) Sufficient personnel landings shall be provided on each manned OCS facility to assure safe access and egress. When due to special construction personnel landings are not feasible, then suitable transfer facilities to provide safe access and egress shall be installed.

(b) The personnel landings shall be provided with satisfactory illumination. The minimum shall be one-foot candle of artificial illumination as measured at the landing floor and guards and rails.

§ 143.110 Guards and rails.

(a) Except for helicopter landing decks which are provided for in paragraph (b) of this section, and areas not normally occupied, the unprotected perimeter of all floor or deck areas and openings shall be rimmed with guards and rails or wire mesh fence. The guard rail or fence shall be at least 42 inches high. The two intermediate rails shall be so placed that the rails are approximately evenly spaced between the guard rail and the floor or deck area: *Provided*, That if a toe board is installed then one of the intermediate rails may be omitted and the other rail placed approximately half way between the top of the toe board and the top guard rail.

(b) The unprotected perimeter of the helicopter landing deck shall be protected with a device of sufficient strength and size as to prevent any person from falling from such deck.

(c) Each catwalk and each stairway shall be provided with a suitable guard rail or rails, as necessary.

§ 143.120 Floating installations.

(a) Before construction is started on a proposed floating installation, the owner or operator of the installation must submit plans and information indicating the proposed arrangement and construction of the installation to the Coast Guard for approval following the procedures of Subpart C of 46 CFR Part 107.

(b) The installation must comply with the marine and electrical engineering requirements of Subchapters F and J of 46 CFR Chapter I and the design and equipment requirements of 46 CFR Part 108. Where unusual design or equipment needs make compliance impracticable, alternative proposals that provide an

equivalent level of safety may be accepted.

Subpart C—Mobile Offshore Drilling Units

§ 143.200 Applicability.

This subpart applies to mobile offshore drilling units when engaged in OCS activities.

§ 143.201 Existing units exempted from new design requirements.

Any mobile offshore drilling unit built before or under construction on [the effective date of final regulations] is not required to meet the design requirements of this subpart until the unit is rebuilt. Until rebuilt, the unit must continue to comply with the design requirements applicable to the unit on [one day before the effective date of final regulations].

§ 143.205 Requirements for U.S. and undocumented units.

Each mobile offshore drilling unit that is documented under the laws of the United States and each mobile offshore drilling unit that is not documented under the laws of any nation must comply with the design, equipment, and inspection requirements of 46 CFR Parts 107 and 108 in order to engage in OCS activities.

§ 143.207 Requirements for foreign units.

Each mobile offshore drilling unit that is documented under the laws of a foreign nation must, when engaged in OCS activities, comply with one of the following:

(a) The design and equipment standards of 46 CFR Part 108.

(b) The design and equipment standards of the documenting nation if the standards provide a level of safety generally equivalent to or greater than that provided under 46 CFR Part 108.

(c) The design and equipment standards for mobile offshore drilling units contained in the International Maritime Consultative Organization (IMCO) Code for Construction and Equipment of Mobile Offshore Drilling Units (IMCO Assembly Resolution A414(XI), 1979).

§ 143.210 Letter of Compliance.

The Officer in Charge, Marine Inspection, determines whether a mobile offshore drilling unit which does not hold a valid Coast Guard Certificate of Inspection meets the requirements of § 143.205 or § 143.207 relating to design and equipment standards and issues a letter of compliance to the owner or operator of each unit which meets the requirements. Inspection of the unit may

be required as part of this determination.

Subpart D—Vessels

§ 143.300 Applicability.

This subpart applies to all vessels engaged in OCS activities except mobile offshore drilling units.

§ 143.301 Load line requirements.

(a) Vessels, including foreign vessels, which would be subject to the requirements of Subchapter E of 46 CFR Chapter I concerning load lines when arriving at or proceeding to sea from any port or place within the United States must comply with those requirements when engaged in activities on the OCS.

(b) Load line certificates and load line exemption certificates issued or accepted under Subchapter E of 46 CFR Chapter 1 are accepted as evidence of compliance with paragraph (a) of this section.

PART 144—LIFESAVING APPLIANCES

6. By adding new paragraphs (c) and (d) to § 144.01-20 as follows:

§ 144.01-20 Life preservers.

(c) Each life preserver carried on a manned platform after [six months after the effective date of final regulations] must have a personal flotation device light that is approved under 46 CFR 161.012. Each light must be securely attached to the front shoulder area of the life preserver.

(d) Each life preserver carried on a manned platform after [six months after the effective date of final regulations] must have at least 200 sq. cm (31 sq. in.) of retroreflective material attached on its front side, at least 200 sq. cm on its back side, and at least 200 sq. cm of material on each of its reversible sides. The material must be Type I material that is approved under 46 CFR Subpart 164.018. The material attached on each side of a life preserver must be divided equally between the upper quadrants of the side, and the material in each quadrant must be attached as closely as possible to the shoulder area of the life preserver.

7. By revising Part 146 to read as follows:

PART 146—OPERATIONS

Subpart A—OCS Facilities

Sec.

146.1 Applicability.

146.5 Person in charge.

146.10 Notice of new facilities.

146.15 Maintenance of emergency equipment.

146.20 Work vests.

Sec.

- 146.30 Notice of casualty or accident.
 146.35 Written report of casualty.
 146.40 Diving casualties.
 146.45 Reporting of oil pollution incidents.

Subpart B—Manned OCS Facilities

- 146.101 Applicability.
 146.105 General alarm system.
 146.110 Emergency signals.
 146.115 Duties of personnel.
 146.120 Manning of survival craft.
 146.125 Emergency drills.
 146.130 Station bill.
 146.135 Markings for emergency equipment.

Subpart C—Mobile Offshore Drilling Units

- 146.201 Applicability.
 146.202 Notice of arrival or relocation of units on the OCS.
 146.203 Requirements for U.S. and undocumented units.
 146.205 Requirements for foreign units.

Subpart D—Vessels

- 146.301 Applicability
 146.303 Notice of casualty or accident.
 Authority: Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; 49 CFR 1.46(z).

Subpart A—OCS Facilities**§ 146.1 Application.**

The provisions of this subpart apply to OCS facilities except mobile offshore drilling units.

§ 146.5 Person in charge.

(a) The owner or operator, or the agent of either of them, shall designate by title and in order of succession the persons on each OCS facility who shall be the "person in charge."

(b) In case an emergency arises, nothing in the regulations in this subchapter shall be so construed as preventing the person in charge from pursuing the most effective action in that person's judgement for rectifying the conditions causing the emergency.

§ 146.10 Notice of new facilities.

(a) The owner or operator of each OCS facility not in operation before [the effective date of the final regulations] shall, at least 30 days before the date operation of the facility is expected to commence, notify the District Commander for the area in which the facility is located of—

- (1) The position in which the facility will be operated;
- (2) The designation assigned to the facility for identification under 30 CFR 250.37;
- (3) The date when operation of the facility is expected to commence; and
- (4) The date when the facility will be available for inspection by Coast Guard.

(b) The information required in paragraph (a) of this section may be submitted together with and need not repeat information submitted in

connection with the application and notice requirements in 33 CFR Part 67 for aids to navigation on the Outer Continental Shelf.

§ 146.15 Maintenance of emergency equipment.

(a) The emergency equipment provided, regardless of whether or not required by this subchapter, shall be maintained in good condition at all times. Good operating practices require replacement of expended equipment, as well as periodic renewal of those items which have a limited period of effectiveness, such as replacing charges in fire extinguishers.

(b) Each personal flotation device light that has a non-replaceable power source must be replaced on or before the expiration date of the power source.

(c) Each replaceable power source for a personal flotation device light must be replaced on or before its expiration date and the light must be replaced when it is no longer serviceable.

§ 146.20 Work vests.

(a) *Approved unicellular plastic foam.* Buoyant work vests carried under the permissive authority of this section shall conform to the specifications for Type V work vests in 46 CFR Subpart 160.053.

(b) *Use.* Approved buoyant work vests are considered to be items of safety apparel and may be carried aboard OCS facilities to be worn by persons employed thereon when working near or over the water under favorable work conditions. The use and control of such vests shall be under the supervision of the person in charge of the facility. When carried, such vests shall not be accepted in lieu of any portion of the required number of approved life preservers and shall not be substituted for the approved life preservers required to be worn during drills and emergencies.

(c) *Stowage.* The work vests shall be stowed separately from the regular stowage of approved life preservers. The location for the stowage of work vests shall be such as not to be easily confused with that for approved life preservers.

(d) *Inspections.* Each work vest shall be subject to examination by a marine inspector to determine its serviceability. If found to be satisfactory, it may be continued in service, but shall not be stamped by a marine inspector with a Coast Guard stamp. If a work vest is found not to be in a serviceable condition, then such work vest shall be removed from the OCS facility. If a work vest is beyond repair, it shall be destroyed or mutilated in the presence

of a marine inspector so as to prevent its continued use as a work vest.

§ 146.30 Notice of casualties.

(a) The owner, operator, and person in charge of an OCS facility shall ensure the Coast Guard is notified immediately, by the most rapid means available, of each casualty involving the facility which results in—

- (1) Death; or
- (2) Injury to 5 or more persons in a single incident.

(b) The owner, operator, and person in charge shall ensure the Coast Guard is notified promptly of each casualty involving the facility which results in—

- (1) Damage affecting the usefulness of primary lifesaving or firefighting equipment;
- (2) Injury causing any person to be incapacitated for more than 72 hours;
- (3) Damage to the facility exceeding \$10,000 resulting from a collision by a vessel with the facility; or
- (4) Damage to a floating installation exceeding \$25,000.

(c) The notice required by paragraphs (a) and (b) of this section must identify the person giving the notice and the facility involved and describe, in so far as practicable, the nature of the casualty and the extent of injury to personnel and damage to property.

(d) The damage amounts set forth in paragraphs (b)(3) and (b)(4) of this section are based on the costs necessary to restore the facility to the same condition of serviceability that the facility was in before the casualty, including the cost of salvage, gas freeing, and drydockage. It does not include demurrage or similar items.

§ 146.35 Written report of casualty.

(a) In addition to the notice of a casualty required by § 146.30, the owner, operator, and person in charge shall ensure that, within 10 days of the casualty, the Officer in Charge, Marine Inspection, is provided a written report which—

- (1) Identifies the facility involved, its owner, operator and person in charge;
- (2) Describes the casualty, including the date and time;
- (3) Describes the nature and extent of injury to personnel and damage to property;
- (4) Describes the apparent cause of the casualty;
- (5) Gives the name, address, and phone number of persons involved in or witnessing the casualty; and
- (6) Gives any desired comments, especially with respect to use of or need for emergency equipment.

(b) The written report required by paragraph (a) of this section may be—

- (1) In narrative form;
 (2) On Form CG 2692 for casualties resulting in only property damage; or
 (3) On Form CG 924E for casualties resulting only in injury to personnel.
 (c) If filed within 5 days of the casualty, the written report required by paragraph (a) of this section serves as the notice required by § 146.30(b).

§ 146.40 Diving casualties.

Diving related casualties are reported in accordance with 46 CFR 197.484 and 46 CFR 197.486.

§ 146.45 Reporting of oil pollution incidents.

Oil pollution incidents involving an OCS facility are reported in accordance with § 135.305 and § 135.307 of this chapter. Additional provisions concerning liability and compensation because of oil pollution are contained in Subchapter M of this chapter.

Subpart B—Manned OCS Facilities

§ 146.101 Application.

The provisions of this subpart apply only to manned OCS facilities except mobile offshore drilling units.

§ 146.105 General alarm system.

Each manned facility shall be provided with a general alarm system. When operated, this system shall be audible in all parts of the facility on which provided.

§ 146.110 Emergency signals.

(a) The owner, or his agent, or the person in charge shall establish emergency signals to be used for calling the personnel to their emergency stations.

(b) The emergency signal shall be an intermittent signal on the general alarm system for not less than 15 seconds. The abandon facility signal shall be a continuous signal on the general alarm system.

§ 146.115 Duties of personnel.

(a) The owner, or his agent, or the person in charge, shall assign to each person on a manned facility special duties and duty stations so that in event an emergency arises confusion will be minimized and no delay will occur with respect to the use or application of equipment required by this subchapter. The duties shall, as far as possible, be comparable with the regular work of the individual.

(b) The duties shall be assigned as necessary for the proper handling of any emergency, and shall include the following:

- (1) the closing of airports, watertight doors, scuppers, sanitary and other

discharges which lead through the facility's hull.

(2) The stopping of fans and ventilation systems.

(3) The donning of life preservers.

(4) The preparation and launching of life floats, lifeboats, or life rafts.

§ 146.120 Manning of survival craft.

The owner, or the owner's agent, or the person in charge, shall assign a person to each life float, lifeboat, life raft, or survival capsule who shall be responsible for launching it in event of an emergency.

§ 146.125 Emergency drills.

(a) Emergency drills shall be conducted at least once each month by the person in charge of the manned facility. The drill shall be conducted as if an actual emergency existed. All personnel should report to their respective stations and be prepared to perform the duties assigned to them.

(b) The person in charge and conducting the emergency drill shall give such instructions to the personnel as are necessary to insure that all persons are familiar with their duties and stations.

(c) The date and time of such drills shall be reported in writing by the person in charge at the time of the drill to the owner who shall maintain this report record for a year and furnish it upon request to the Coast Guard. After one year, such records may be destroyed. When it is impossible to conduct emergency drills as required by this section during a particular calendar month, during the following month a written report by the owner shall be submitted to the Officer in Charge, Marine Inspection, stating why the drills could not be conducted.

§ 146.130 Station bill.

(a) The owner, the owner's agent, and the person in charge, shall be responsible for and have prepared a station bill (muster list). This station bill must be signed by the person in charge. Copies shall be duly posted in conspicuous locations on the manned platform.

(b) The station bill shall set forth the special duties and duty stations of each member of the personnel for any emergency which involves the use or application of equipment required by this subchapter. In addition, it shall contain all other duties assigned and considered as necessary for the proper handling of any emergency.

(c) The station bill shall contain the various signals to be used for calling the personnel to their emergency stations, and to abandon the facility.

§ 146.135 Markings for emergency equipment.

(a) Markings shall be provided as considered necessary for the guidance of persons on manned facilities.

(b) The general alarm bell switches shall be identified by red letters at least one inch high with a contrasting background: "General Alarm."

(c) All general alarm bells shall be identified by a sign at each bell in red letters at least one inch high with a sharp contrasting background: "General Alarm—When Bell Rings Go To Your Station."

(d) All life floats, lifeboats, life rafts, and survival capsules, together with paddles or oars, shall be conspicuously marked with a name or number or identification of the facility on which placed. The number of persons allowed on each life float, lifeboat, or life raft shall be conspicuously marked thereon in letters and numbers 1½ inches high. These numbers shall be placed on both sides of the life float, lifeboat, or life raft. Inflatable life rafts shall be marked in accordance with Subpart 160.051 of this chapter and no additional markings are required.

(e) All life preservers and ring life buoys shall be marked with the name and number or identification of the facility on which placed.

Subpart C—Mobile Offshore Drilling Units

§ 146.201 Application.

This subpart applies to mobile offshore drilling units engaged in OCS activities.

§ 146.202 Notice of arrival or relocation of units on the OCS.

(a) The owner or operator of any mobile offshore drilling unit engaged in OCS activities shall, as soon as a permit from the Corps of Engineers is obtained or, if possible, 30 days before arrival of the unit on the OCS, notify the District Commander for the area in which the unit will operate of—

(1) The unit's name, nationality, and designation assigned for identification under 30 CFR 250.37;

(2) The location and year that the unit was built;

(3) The name and address of the owner and the owner's local representative, if any;

(4) Classification or inspection certificates currently held by the unit;

(5) The location and date operations on the OCS are expected to commence; and

(6) The location and date that the unit will be available and ready for inspection by the Coast Guard.

(b) Once a unit is located on the OCS, the owner or operator of the unit shall notify the District Commander before relocating the unit.

(c) The information required in paragraphs (a) and (b) of this section may be submitted together with and need not repeat information submitted in connection with the application and notice requirements in 33 CFR Part 67 for aids to navigation on the Outer Continental Shelf.

§ 146.203 Requirements for U.S. and undocumented units.

Each mobile offshore drilling unit documented under the laws of the United States and each mobile offshore drilling unit that is not documented under the laws of any nation must comply with the operating standards of 46 CFR Part 109 when engaged in OCS activities.

§ 146.205 Requirements for foreign units.

Each mobile offshore drilling unit that is documented under the laws of a foreign nation must, when engaged in OCS activities, comply with one of the following:

(a) The operating standards of 46 CFR Part 109.

(b) The operating standards of the documenting nation if the standards provide a level of safety generally equivalent to or greater than that provide under 46 CFR Part 109.

(c) The operating standards for mobile offshore drilling units contained in the International Maritime Consultative Organization (IMCO) Code for the Construction and Equipment of Mobile Offshore Drilling Units and the requirements of 46 CFR Part 109 for matters not addressed by the Code.

Subpart D—Vessels

§ 146.301 Applicability.

This subpart applies to vessels engaged in OCS activities other than United States vessels already required to report marine casualties under Subpart 4.05 of 46 CFR Part 4 or Subpart D of 46 CFR Part 109.

§ 146.303 Notice and written report of casualties.

The owner, operator, and person in charge of a vessel engaged in OCS activities shall ensure that the notice of casualty requirements of § 146.30 and the written report requirements of § 146.35 are complied with whenever a casualty involving the vessel occurs which results in—

(a) Death;

(b) Injury to 5 or more persons in a single incident; or

(c) Injury causing any person to be incapacitated for more than 72 hours.

8. By revising Part 147 to read as follows:

PART 147—SAFETY ZONES

Sec.

147.1 Purpose of safety zones.

147.5 Delegation of authority.

147.10 Establishment of safety zones.

147.15 Extent of safety zones.

Authority: Sec. 4, 67 Stat. 462 [43 U.S.C. 1333] as amended; 49 CFR 1.46(z).

§ 147.1 Purpose of safety zones.

Safety zones may be established around OCS facilities being constructed, maintained, or operated on the Outer Continental Shelf to promote the safety of life and property on the facilities, their appurtenances and attending vessels, and on the adjacent waters within the safety zones. Regulations adopted for safety zones may extend to the prevention or control of specific activities and access by vessels or persons, and include measures to protect the living resources of the sea from harmful agents. The regulations do not encompass the operating equipment or procedures used in the drilling for and production of oil, gas, or other minerals, or the transportation of oil, gas, or other minerals by pipeline except as they relate to the safety of life and property on OCS facilities and on the waters adjacent to OCS facilities or to the protection of the living resources of the sea within a safety zone from harmful agents.

§ 147.105 Delegation of authority.

The authority to establish safety zones and to issue and enforce safety zone regulations in accordance with the provisions of this part is delegated to District Commanders.

§ 147.10 Establishment of safety zones.

(a) Whenever it comes to the attention of the District Commander that a safety zone and regulations may be required concerning any OCS facility being constructed, maintained, or operated on the Outer Continental Shelf or its appurtenances and attended vessels, or the adjacent waters, the District Commander may initiate appropriate inquiry to determine whether a safety zone and regulations should be established. In making this determination, the District Commander considers all relevant safety factors, including existing or reasonably foreseeable congestion of vessels, the presence of unusually harmful or hazardous substances, and any obstructions within 500 meters of the OCS facility. If the District Commander

determines that the circumstances warrant the establishment of a safety zone and regulations the District Commander takes action as necessary consistent with the provisions of this part.

(b) Except as provided in paragraph (c) of this section, a safety zone and necessary regulations may be established concerning any OCS facility being constructed, maintained or operated on the Outer Continental Shelf, following publication of a notice of proposed making in the Federal Register and after interested parties have been given the opportunity to submit comments. A zone and necessary regulations may be in effect during any period when construction equipment and materials are within 500 meters of the construction site until the removal of all portions of the facility.

(c) A safety zone and necessary regulations may be established without public rule making procedures when the District Commander determines that imminent danger exists with respect to the safety of life and property on an OCS facility constructed, maintained, or operated on the Outer Continental Shelf, its appurtenances and attending vessels or adjacent waters. A safety zone and regulations may be made effective on the date the rule is published in the Federal Register. However, if circumstances require, they may be placed into effect immediately, followed promptly by publication in the Federal Register. The District Commander may utilize, in addition to broadcast Notices to Mariners, Local Notices to Mariners, and Notices to Mariners, newspapers, and broadcasting stations to disseminate information concerning a safety zone and regulations pertaining thereto. The public may comment concerning the establishments of a safety zone or regulations under this paragraph. A safety zone or regulations may be modified or withdrawn, as appropriate, based on the comments received.

§ 147.15 Extent of safety zones.

A safety zone established under this part may extend to a maximum distance of 500 meters around the OCS facility measured from each point on its outer edge or from its construction site, but may not interfere with the use of recognized sea lanes essential to navigation.

(43 U.S.C. 1331 et seq.; 49 CFR 1.46(z))

Dated: April 23, 1980.

Henry H. Bell,
Rear Admiral, U.S. Coast Guard, Chief, Office
of Merchant Marine Safety.

[FR Doc. 80-13309 Filed 4-28-80; 10:22 am]

BILLING CODE 4910-14-M

33 CFR Part 157

[CGD 79-152]

Tank Vessels Transferring Outer Continental Shelf Oil; Proposed Design and Equipment Standards

AGENCY: Coast Guard, DOT.

ACTION: Proposed rules.

SUMMARY: The Coast Guard proposes to require tank vessels engaged in the transfer of oil in bulk as cargo from an offshore oil exploitation or production facility on the Outer Continental Shelf (OCS) of the United States to have segregated ballast tanks, dedicated clean ballast tanks, or special ballast arrangements as outlined in this document. This proposal would implement subsection 7(M) of Section 5 of the Port and Tanker Safety Act of 1978. These proposals would eliminate the mixing of ballast water and oil and thus reduce operational pollution that could occur if there was a substantial in vessel traffic transferring Outer Continental Shelf oil ashore.

DATES: Written comments must be received on or before June 16, 1980.

ADDRESSES: Written comments should be submitted to Commandant (G-CMC/TP24) (CGD 79-152), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593. Comments may be delivered to and will be available for inspection or copying at the Marine Safety Council (G-CMC/TP24), Room 2418, TransPoint Building, 2100 2nd Street SW., Washington, D.C. 20593, between the hours of 7:00 a.m. and 5:00 p.m. Monday thru Thursday. Copies of the Draft Environmental Assessment and the Draft Regulatory Evaluation are available during the same hours and days at the preceding address.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Richard S. Tweedie, Merchant Marine Technical Division (G-MMT/TP13), U.S. Coast Guard Headquarters, 2100 Second St. SW., Washington, D.C. 20593 (202-426-4431).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD

79-152) and the specific section of the proposed regulations to which their comments apply, and give reasons for their comments. Persons desiring acknowledgement that their comment has been received should enclose a self-addressed, stamped postcard or envelope. The regulations may be changed as a result of the comments received. All comments received before expiration of the comment period will be considered before final action is taken on these proposed regulations. No public hearing is planned, but one may be held at a time and place to be set in a later notice in the Federal Register if requested in writing by an interested person who can demonstrate that the opportunity to make an oral presentation will aid in this rulemaking.

Drafting Information

The principal persons involved in drafting this proposal are: Lieutenant Commander Richard S. Tweedie, Project Manager, Office of Merchant Marine Safety, and Mr. Stanley Colby, Project Attorney, Office of Chief Counsel.

Background

Ninety-five percent of the Outer Continental Shelf oil produced in the U.S. is transferred to shore via pipeline at the present time. This is the most cost effective and efficient transfer method for most established wells on the OCS. The remaining five percent of the total OCS oil produced in this country is transferred by tank barge. The oil that is transferred by tank vessel usually comes from one of four sources:

- a. A new well which has not been connected to a pipeline.
- b. A gas well which also produces a limited amount of distillate for which a pipeline may be uneconomical or under construction.
- c. A marginal well that produces insufficient crude to justify the construction of a pipeline.
- d. A well for which a pipeline may not be acceptable due to technical, political, or environmental concerns. The OCS oil presently being transported by tank vessel is stored aboard the platform until a sufficient quantity is available for transfer to shore. Currently there are 19 tank barges and no tank ships holding a Federal Maritime Commission Certificate of Financial Responsibility permitting them to engage in this trade.

Future discoveries may result in an increase in the transfer of OCS oil by tank vessels as finds are made further offshore or in areas where it is more costly to lay pipelines. An increase in this trade could increase the threat of oil pollution to the waters in which this

traffic would take place. These regulations are being proposed to reduce this threat.

Discussion

The proposed regulations would require all tank vessels, except barges that do not ballast cargo tanks while enroute, engaged in the transfer of oil from an offshore oil exploitation or production facility on the OCS of the United States to have by June 1, 1980:

- a. Segregated ballast tanks (SBT),
- b. Dedicated clean ballast tanks (CBT), or

c. Special ballast arrangements.

While most of the OCS oil will be transported by U.S. flag vessels some could be transported by foreign flag vessels under certain limited circumstances. This proposal includes requirements for U.S. flag and foreign flag vessels such that the marine environment is protected under all possible circumstances. The vessels engaged in this trade would also have to meet all other applicable requirements of 33 CFR Part 157, including §§ 157.10 and 157.10a.

SBT are tanks which are completely separated from cargo oil and fuel oil systems and which are permanently allocated to the carriage of water ballast.

CBT are cargo tanks dedicated solely to the carriage of clean ballast water and are no longer used to carry cargo. The associated piping systems and pumps may be common for both cargo and ballast systems provided they are capable of being drained and thoroughly flushed prior to handling clean ballast.

The capacity of SBT or CBT required would be dependent upon the vessel's size with two different minimum mean draft and maximum trim requirements—one for vessels 150 meters or more in length and one for vessels less than 150 meters in length. The standards for vessels 150 meters or more in length are the same as those contained in the International Convention for the Prevention of Pollution from Ships, 1973. The proposed draft and trim standards for vessels less than 150 meters in length are the recommendations of the Intergovernmental Maritime Consultative Organization (MEPC XI/21).

Special ballast arrangements are ballasting methods that would allow for the safe navigation of the vessel, would prevent the mixing of ballast water with cargo oil through the use of vessel design requirements and operating restrictions, and would have to be acceptable to the Commandant. This proposal limits the use of special ballast arrangements to a specified route on which the vessels do not travel more

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federal register

Thursday
October 2, 1980

Department of Transportation

Coast Guard

**Lifesaving Appliances, Editorial
Amendment; Final Rule**

(d) Records of validated license shipments—Entries on reverse side of license.³

* * * * *

(Secs. 4, 5, 13, 15, and 21, Pub. L. 96-72, to be codified at 50 U.S.C. App. 2401 *et seq.*, Executive Order No. 12214 (45 FR 29783, May 6, 1980); Department Organization Order 10-3 (45 FR 6141, January 25, 1980); International Trade Administration Organization and Function Order 41-1 (45 FR 11862, February 22, 1980); and, International Trade Administration Organization and Function Order 41-4 (effective August 26, 1980))

Kent N. Knowles,
 Director, Office of Export Administration,
 International Trade Administration.

[FR Doc. 80-30729 Filed 10-1-80; 8:45 am]
 BILLING CODE 3510-25-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM79-14]

Incremental Pricing Acquisition Cost Thresholds Under Title II of the Natural Gas Policy Act of 1978

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order prescribing Incremental Pricing Thresholds.

³The requirement that shipments be recorded on the reverse side of a validated export license does not apply to exports made under a Project License (§ 373.2), a Distribution License, (§ 373.3), a Qualified General License (§ 373.4), or a Service Supply License (§ 373.7).

Table I.—Incremental Pricing Acquisition Cost Threshold Prices

| | Jan. | Feb. | March | Apr. | May | June | July | Aug. | Sept. | Oct. |
|--|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| Incremental pricing threshold | \$1.702 | \$1.738 | \$1.750 | \$1.762 | \$1.776 | \$1.790 | \$1.804 | \$1.819 | \$1.834 | \$1.849 |
| NGPA section 102 threshold | 2.358 | 2.381 | 2.404 | 2.428 | 2.453 | 2.478 | 2.504 | 2.532 | 2.560 | 2.588 |
| NGPA section 109 threshold | 1.786 | 1.799 | 1.812 | 1.825 | 1.839 | 1.853 | 1.867 | 1.883 | 1.899 | 1.915 |
| 130 pct of No. 2 fuel oil in New York City threshold | 7.170 | 7.260 | 7.410 | 7.110 | 7.380 | 8.040 | 7.840 | 7.380 | 7.400 | 7.400 |

[FR Doc. 80-30677 Filed 10-1-80; 8:45 am]
 BILLING CODE 6450-85-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 144

[CGD 79-165b]

Lifesaving Appliances; Editorial Amendment

AGENCY: Coast Guard, DOT.

SUMMARY: The Director of the Office of Pipeline and Producer Regulation is issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the Natural Gas Policy Act and 18-CFR 282.304. The Act requires the Commission to compute and publish the threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging.

EFFECTIVE DATE: October 1, 1980.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, D.C. 20426, (202) 357-8500.

Order of the Director, OPFR

Issued: September 26, 1980.

Section 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(1) of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer Regulation, the incremental pricing acquisition cost threshold prices for the month of October 1980, is issued by the publication of a price table for the applicable month.

Kenneth A. Williams,
 Director, Office of Pipeline and Producer Regulation.

ACTION: Final rule.

SUMMARY: This document revises the provisions in the Artificial Islands and Fixed Offshore Structures Regulations that allow automatic electric water lights meeting 46 CFR Subpart 161.001 to be used with life floats and ring life buoys. These amendments are necessary to reflect the revocation of the approval specification for these items.

The lights may still be used if maintained in good condition. These revisions are not substantive and have a minimal effect on industry and the public.

EFFECTIVE DATE: These revisions are effective October 2, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Frank K. Thompson, Merchant Marine Technical Division (G-MMT/12), Room 1216, U.S. Coast Guard Headquarters, 2100 Second St., S.W., Washington, D.C. 20593 (202) 426-2174.

SUPPLEMENTARY INFORMATION: Since this document only makes editorial amendments to the regulations, the Coast Guard has determined under 5 U.S.C. 553 that the requirements for notice and comment do not apply and that the amendment may be made effective in less than 30 days after publication in the Federal Register.

Drafting Information

The principal persons involved in drafting these rules are Mr. Frank K. Thompson, Project Manager, Office of Merchant Marine Safety and Lieutenant George J. Jordan, Project Attorney, Office of the Chief Counsel.

Discussion

Subpart 161.001 of Title 46, Code of Federal Regulations has been revoked by the rulemaking action, CGD 79-165a, which appears elsewhere in this issue of the Federal Register. The background and reasons for those revocations are discussed in the preamble to that document.

Because of the revocation of 46 CFR Subpart 161.001, it is necessary to revise the life float and ring life buoy requirements of 33 CFR Part 144. Under these revised regulations, water lights on Artificial Islands, Fixed Offshore Structures, must meet 46 CFR Part 161.010; however, water lights that were previously approved under the revoked subparts may be retained in use as long as they are maintained in good condition. These revisions do not, therefore, substantively change the requirements of the affected regulations and their effect on the public and industry is negligible.

Regulatory Analysis/Final Evaluation

This is an nonsignificant regulatory action for which a Regulatory Analysis is not required. Because its expected impact is so minimal, a full evaluation is not warranted under paragraph 10e of

the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

In consideration of the foregoing, Part 144 of Title 33, Code of Federal Regulations, is amended as follows:

PART 144—LIFESAVING APPLIANCES

1. By revising § 144.01-10(b) to read as follows:

§ 144.01-10 Equipment for life floats.

(b) Each life float must have a water light of an approved automatic electric type constructed in accordance with 46 CFR Subpart 161.010, except a water light constructed in accordance with former 46 CFR Subpart 161.001 that was installed before January 1, 1972, may be retained in an existing installation as long as it is maintained in good condition. The water light must be attached to the life float by a 12-thread manila or equivalent synthetic lanyard not less than 2 meters (6 feet) nor more than 4 meters (12 feet) in length. The water light must be mounted on a bracket so that when the life float is launched, the water light will pull free of the bracket.

2. In § 144.01-25, by revising paragraph (b) to read as follows:

§ 144.01-25 Ring life buoys.

(b) Each ring life buoy must have a water light of an approved automatic electric type constructed in accordance with 46 CFR Subpart 161.010. A water light constructed in accordance with former 46 CFR Subpart 161.001 that was installed before January 1, 1972 may be retained in an existing installation as long as it is maintained in good condition. The water light must be attached to the ring life buoy by a 12-thread manila or equivalent synthetic lanyard not less than 1 meter (3 feet) nor more than 2 meters (6 feet) in length. The water light must be mounted on a bracket near the ring life buoy so that when the ring life buoy is cast loose, the water light will pull free of the bracket.

(43 U.S.C. 1333(e); 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Dated: September 25, 1980.

Henry H. Bell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 80-30072 Filed 10-1-80; 8:45 am]

BILLING CODE: 4910-14-M

33 CFR Part 165

[CGD11-80-10; Order No. 3-80]

Safety Zone—San Pedro Bay, Los Angeles, Calif.

September 24, 1980.

AGENCY: Coast Guard, DOT.

ACTION: Interim Rule.

SUMMARY: This amendment to the Coast Guard's Safety Zone Regulations establishes a safety zone in San Pedro Bay. This safety zone is established to protect recreational boaters and commercial shipping during construction of the landfill site for the Los Angeles Harbor Main Channel dredging project.

EFFECTIVE DATE: This amendment is effective 24 September 1980 and will remain in effect until rock dike construction for the landfill is completed.

ADDRESS: Comments should be submitted to and will be available for examination at the Office of the Coast Guard Captain of the Port Los Angeles-Long Beach, 165 N. Pico Ave., Long Beach, CA 90802.

FOR FURTHER INFORMATION/CONTACT: Lt. N. S. Porter, Assistant Port Operations Officer at telephone No. (213) 590-2315.

SUPPLEMENTARY INFORMATION: Dredging of the Los Angeles Harbor Main Channel is scheduled to begin in early 1981. Prior to commencement of the dredging project, a landfill site will be developed in the Los Angeles Outer Harbor. This development is scheduled to begin in mid-September 1980 and will involve the construction of a rock dike to contain the dredged spoils. The work will involve a large amount of floating equipment and numerous submerged obstacles which will imperil the safety of boaters and commercial shipping. Rock dike construction is expected to last for one year and the safety zone will remain in effect until the Captain of the Port Los Angeles-Long Beach determines that the public is no longer endangered. The southerly and easterly sides of the safety zone will be clearly delineated by white buoys displaying the orange diamond cross daymark. A series of mooring buoys for use by construction equipment will be placed in B-1 and B-2 anchorages. They will be in a line parallel to and about 150 yards south of the southern boundary of the safety zone. The effect of these moorings will be to preclude the use of these two anchorages. Additionally, the safety zone will impinge on a portion of B-1 anchorage and thereby limit its use.

Due to the recent date of contract award and the rapidly approaching start-up date, the normal rulemaking process for the safety zone is not feasible; thus an interim final rule is being utilized. Use of an interim final rule temporarily establishes a rule and allows interested persons to submit comments on the rulemaking prior to its adoption as a final rule. Interested persons are invited to comment on this interim rule prior to 15 November 1980. All comments received prior to that date will be considered before issuance of this regulation as a final rule. The final rule may be changed based on the comments submitted. No public hearing is scheduled but one may be held if it is requested in writing by a person raising a genuine issue and desiring to comment orally at a public forum. The time and place of any such hearing will be announced in the Federal Register.

Drafting Information: The principal persons involved in the drafting of this rulemaking are: CDR L. A. ONSTAD, Project Officer, and LT N. S. PORTER, Assistant Port Operations Officer, c/o Captain of the Port Los Angeles-Long Beach, 165 N. Pico Ave., Long Beach, CA 90802. The project attorney is CDR R. N. ROUSSEL, c/o Commander, Eleventh Coast Guard District (dl), 400 Ocean Gate, Long Beach, CA 90822.

In consideration of the above, Part 165 of Title 33 of the Code of Federal Regulations is amended by adding a new § 165.1108 to read as follows:

§ 165.1108 San Pedro Bay, Los Angeles, California.

(a) The area enclosed by the following boundary is a safety zone—the waters of San Pedro Bay enclosed by a line beginning at Fish Harbor Channel Light 4 (latitude 33-43-51.0N, longitude 118-15-50.0W); thence southeasterly to latitude 33-43-43.5N, longitude 118-15-45.8W; thence northeasterly to latitude 33-44-03.6N, longitude 118-14-36.4W; thence northwesterly to latitude 33-44-43.8N, longitude 118-14-56.0W; thence southwesterly along the Terminal Island shoreline to the beginning point.

(b) No vessel may enter or remain in the safety zone except: (1) vessels engaged in the construction of the landfill site for the Los Angeles Harbor dredging project; (2) vessels operated by or under contract to the U.S. Army Corps of Engineers or the City of Los Angeles; and (3) any other vessels specifically authorized to be in the zone by the Captain of the Port Los Angeles-Long Beach.

Note.—The southerly and easterly sides of the safety zone will be clearly marked by white buoys displaying the orange diamond cross daymark.

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Final Regulations

Thursday
March 4, 1982

Part VI

Department of Transportation

Coast Guard

Outer Continental Shelf Activities; Final
Rules

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 140, 141, 142, 143, 144, 145, 146, and 147

[CGD 78-160]

Outer Continental Shelf Activities

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule amends Coast Guard requirements for facilities, vessels, and other units, domestic and foreign, engaged in mineral exploration, production, or development activities on the Outer Continental Shelf. The changes implement provisions of the Outer Continental Shelf Lands Act Amendments of 1978 and conform the scope of the existing regulations to the broader scope of the amended Act and to Coast Guard regulations for mobile offshore drilling units and life preservers. The amendments affect requirements for design, equipment, operations, manning, inspections and investigations. The regulations are intended to ensure that foreign mobile offshore drilling units operating on the Outer Continental Shelf meet standards comparable to standards met by U.S. units, to implement statutory provisions for manning by U.S. citizens, and to improve the safety of activities on the Outer Continental Shelf.

EFFECTIVE DATE: April 5, 1982, except § 146.130 (Station Bill) which contains information collection requirements not yet approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35.

FOR FURTHER INFORMATION CONTACT: Lieutenant Dennis J. Cashman, Office of Merchant Marine Safety, Room 2505, U.S. Coast Guard Headquarters, 2100 2nd St. SW., Washington, D.C. 20593 (202-472-5160).

SUPPLEMENTARY INFORMATION: The Coast Guard published a Notice of Proposed Rulemaking (NPRM) concerning these amendments on May 1, 1980 at 45 FR 29072. Twenty-seven written comments were received in response to the NPRM and are discussed in this document. Comments were received from private individuals, commercial enterprises, industry associations, federal agencies, and a foreign government. None of the comments requested a public hearing. Because the Coast Guard did not believe a public hearing would provide additional beneficial information, no public hearing was scheduled.

Drafting Information

The principal persons involved in drafting this rule are Lieutenant Commander Thomas J. Barrett, Outer Continental Shelf Safety Project Staff, Office of Merchant Marine Safety and Mr. Stephen H. Barber, Project Attorney, Office of the Chief Counsel.

Discussion of Major Comments

General Comments

1. Several comments emphasized the need to avoid conflicting or duplicative Coast Guard and U.S. Geological Survey requirements for units engaged in Outer Continental Shelf (OCS) activities. The Coast Guard is conscious of the need to avoid conflicting requirements and on December 18, 1980 the Commandant of the Coast Guard and the Director of the U.S. Geological Survey signed a Memorandum of Understanding concerning agency responsibilities for OCS activities. The agreement was reprinted in the January 8, 1981 Federal Register (46 FR 2199). Part IX of the Memorandum provides that both agencies will review reporting requirements, data collection requirements, and current standards, regulations and orders and propose revisions where necessary to eliminate duplicative requirements. The relationship between the requirements of Subchapter N and requirements administered by the U.S. Geological Survey is stated in § 140.4 of the regulations.

2. Another comment welcomed the added safety precautions in these rules, but emphasized the need for further assessment of the adequacy of existing drill vessels to operate in deeper waters on tracts susceptible to slumping, subsidence, shallow gas, and other geohazards. In this regard, the comment referred to the joint Geological Survey/Coast Guard study under section 21(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1347(a)) on technology, equipment, and techniques available for exploration, development, and production of the minerals of the OCS. Results of the study are expected to be available in the summer of 1982.

3. Another comment noted that the proposed rule contained new reporting and recordkeeping requirements and questioned whether enforcement of these requirements could be stayed pending receipt of approval by the Office of Management and Budget (OMB). New provisions requiring OMB approval have been approved as indicated under the section entitled "Paperwork Reduction Act" in this preamble.

4. Another comment, noting that Part 145 on firefighting equipment was not revised, suggested that the Coast Guard consider requiring a fixed water firemain system on manned platforms and additional firefighting equipment for helicopter facilities on platforms. The Coast Guard is reviewing requirements for firefighting equipment on OCS facilities and any changes to the existing rules which appear necessary will be addressed in a subsequent rulemaking project (Coast Guard Docket 80-160).

5. Another comment expressed concern that the offshore portion of the petroleum industry might be required to change its industrial practices to conform to Coast Guard marine standards, even though the petroleum industry uses common equipment and techniques offshore, onshore, and in state waters. Coast Guard requirements for mobile offshore drilling units take industry standards into account. This rule does not contain new standards for offshore production systems.

6. The same comment also urged the Coast Guard to avoid the certification of individual employees as qualified for a particular job. Such certification, the comment asserts, would not improve safety performance and could have a negative impact. This rule does not require certification of employee qualifications.

7. One comment suggested that "unit" and "unit engaged in OCS activities" meant the same and that the former should be used throughout. By definition under § 140.10, "unit" refers to a vehicle or structure, not to its use. This definition is used in other Coast Guard regulations which may or may not relate to OCS activities. The use of the phrase "engaged in OCS activities" limits the units being regulated only to those engaged in OCS activities.

Specific Comments: Part 140

1. Section 140.3—One comment suggested that this section be expanded to identify the role of the U.S. Geological Survey concerning facility design and construction. The relationship between the requirements of this subchapter and Geological Survey requirements is explained in § 140.4, which has been renumbered from proposed § 143.3. The roles of the Coast Guard and Geological Survey are more fully explained in the December 18, 1980 Memorandum of Understanding (46 FR 2199; January 8, 1981).

2. Section 140.5—One comment suggested limiting the power of the Officer in Charge, Marine Inspection, to grant exemptions. As this could restrict the flexibility needed to accommodate

the many different construction and erection methods used offshore, the suggestion was not adopted.

3. Section 140.7—(a) Several comments were received on the incorporation by reference section. The information provided by this section is required by 1 CFR Part 51 for the benefit of those affected by the rulemaking; however, the format used to convey this information has changed since the date the proposed regulations were published for comment. This section has been changed to conform to the new format. Under the new procedure, the addresses where the material is maintained on file for inspection and copying by the public are now listed in paragraph (a) and the information listing the source of the material incorporated, the date of the edition incorporated, and the address where the material is available for purchase is now set out in the Finding Aids section at the end of Volume (Title) 33, Parts 1 to 199, of the Code of Federal Regulations.

(b) Several comments questioned whether the material incorporated was to apply to domestic as well as foreign flag MODUs. The two sections in the regulations which refer to the material incorporated (§§ 143.207 and 146.205, both entitled "Requirements for foreign MODUs") clearly apply only to foreign MODUs. Therefore, no change to the regulations in response to these comments was considered necessary.

(c) Four comments pointed out the confusion that can result from the provision in § 140.7(a) as to the publication of future revisions to the Code by IMCO. The new wording of this section clarifies this point. Under 1 CFR Part 51, no change to the IMCO Code after the effective date of this rulemaking can "automatically" be incorporated by reference, as the incorporation is limited to the material as it exists on the effective date of the rulemaking. Should the Coast Guard consider incorporating a subsequent change to the IMCO Code, it must publish an amendatory document in the Federal Register for public comment.

(d) Several comments suggested that proposed § 140.7(c) on approval of the incorporation by the Director of the Federal Register was administrative and, therefore, unnecessary. The information on approval must be noted in the regulatory document to comply with the requirements of 1 CFR Part 51.

4. Section 140.10—(a) One comment suggested that the definitions be conformed to those used in the Memorandum of Understanding for the OCS between the Coast Guard and the U.S. Geological Survey. The definitions used in § 140.10 are consistent with

those in the memorandum; however, because the regulations and the memorandum serve different purposes, identical wording could not always be used.

(b) Three comments recommended that the proposed definition of "attending vessel" be revised to clarify that the moored vessel is present for the purpose of providing services to the facility. The definition has been revised to do this.

(c) Two comments suggested that the proposed definition of "floating installation" be modified to include vessels, on the grounds that shipshape hulls are "utilized for and have the same potential for facility installations as semisubmersibles." Because permanently moored shipshape hulls may fall within this category, the definition has been modified to include them. Also, the term "floating installation" has been changed to "floating OCS Facility" because "installation" is not a defined term.

(d) Two comments suggested the proposed definition of "manned facility" was indefinite. The definition has been modified to provide a clearer standard. If personnel are routinely aboard a facility for more than 12 hours in successive 24 hour periods the facility will be considered "manned."

(e) Another comment stated that the definitions of "manned facility" and "manned platform" were inappropriate for their actual application and the safety requirements of Subpart B of Part 146 would not apply to many platforms that were, in fact, manned. The changes noted above to the definitions of "manned platform" and "manned facility" eliminate this problem.

(f) Another comment noted that the definition of "Officer in Charge, Marine Inspection" refers to marine inspection zones described in Part 3 of this Chapter, but Part 3 does not indicate the seaward boundaries of the various zones. The comment suggested that this was important because various reports must be directed to the officer in the zone where the unit is located. The Coast Guard, however, has not found this to be a problem. The appropriate marine inspection offices for various offshore areas are publicized locally by the Coast Guard and reports submitted to an incorrect office are rerouted by the Coast Guard to the correct office.

(g) One comment interpreted "operator" in the case of a unit other than a vessel to be the lease record owner or designated operator. The definition has been revised to make this clearer.

(h) Another comment suggested a similar interpretation and asked that a

review be undertaken to ensure that the person responsible for seeing that a regulation is obeyed actually has the power to do so. Review of these regulations with particular reference to owner and operator responsibility for compliance with various sections has been performed and changes made where necessary to avoid confusion.

(i) One comment suggested that the definition of "OCS facility" be revised to refer to a leasehold issued or maintained under the OCS Lands Act, including "all land covered by such lease and any associated structure or group of structures, including a mobile offshore drilling rig, when in the drilling mode, attached thereto by the leaseholder, or by anyone acting for or on behalf of the leaseholder, for use in connection with any activity directly relating to exploration, development, or production." The comment suggested that if this change was made the term "unit" could be dispensed with. The suggestion was not adopted. The definition of "OCS facility" is based on Section 4(d) of the Act. The term "unit" includes certain vessels and vehicles which would not fall within the definition of an OCS facility.

(j) One comment suggested the definition of "owner" be rewritten to refer to the revised definition of "facility" proposed above instead of "unit." As the definition of "facility" was not revised for the reason noted, the Coast Guard did not adopt this suggestion. The same comment suggested that the definition of "owner" be modified to exclude a person who, without participating in the management or operation of a vessel or offshore facility, holds indicia of ownership primarily to protect a security interest. The suggestion was adopted. The definition has been revised using language similar to that of Title III of the Act.

(k) Three comments suggested the term "pipeline" in the definition of OCS facility be further defined to clarify its meaning. All three suggested including references to pipelines as defined in 49 CFR Parts 192 and 195 and those under the jurisdiction of the U.S. Geological Survey under OCS Order No. 9. Because the Coast Guard does not regulate pipelines under the Act, there is no need to further define the particular types of pipeline which are excluded from these regulations.

(l) One comment suggested that the definition of "person in charge" be revised to address persons in charge of vessels differently from persons in charge of other units because of differences in unit organization. The

suggestion was not adopted. The person in charge is the individual with primary accountability for the safety of a unit and the personnel on it, whatever its type, even though the individual's position, title or general authority may vary in different organizational structures.

(m) One comment suggested that the definition of "production" refer to workover rather than workover drilling. The definition has been so revised.

(n) One comment suggested that the proposed definition of "rebuilt" would allow an older unit to remain in service indefinitely if it was reconstructed to original plans without "alteration." To avoid misinterpretation, the term "reconstruction" has been added to the definition.

(o) One comment suggested that an unmanned facility serviced by an attending vessel should be considered a manned facility, with the manned facility regulations applying to both the vessel and the facility. The suggestion was not adopted. Certain requirements applicable to manned facilities are unnecessary for either the unmanned facility or the attending vessel.

5. Section 140.15—(a) One comment suggested that, in determination of equivalents, the Officer in Charge, Marine Inspection, should consider a comparable degree of environmental protection as well as safety. Because safety is the primary consideration, the change was not considered necessary.

(b) Four comments suggested that the words lifesaving and firefighting be inserted in paragraph (b) to restrict the types of equipment which might be subject to approval on OCS facilities. Because the types of equipment that might require approval in the future cannot be predicted, the suggestion was not adopted. However, the Coast Guard does not at present intend to expand the types of equipment requiring approval under the subchapter.

(c) Another comment urged the fullest use of performance practices and standards in new or revised requirements for equipment. The Coast Guard will take this into consideration if new equipment requirements are developed.

6. Section 140.25—One comment suggested that the language of paragraphs (a) and (b) be revised to clarify that the 30 day limit on appeals follows reconsideration. The language has been so revised.

7. Section 140.30—(a) One comment suggested that § 140.30 was extraneous and that the actions referred to in the section were patently obvious. Section 23 of the Act (43 U.S.C. 1349) imposes procedural constraints which must be

met to bring certain judicial actions involving the Act, review of the regulations in this subchapter, and final agency decisions involving these regulations. The Coast Guard believes it is in the public interest to draw attention to these requirements.

(b) The comment also suggested that, if this section remained, it be moved to Part 143. As these requirements apply to the entire subchapter, location in Part 140 is appropriate and the suggestion was not adopted.

8. Section 140.35—(a) Two comments suggested deletion of references to violations relating to conservation of natural resources in paragraph (b) as a matter of U.S. Geological Survey rather than Coast Guard responsibility. The reference has been deleted.

(b) One comment suggested that fines should not be effective until the appeals provided for in § 140.25 have been exhausted. Civil penalties for violations of the regulations in this subchapter can be assessed only by the Secretary of Interior and become due in accordance with the regulations issued by the U.S. Geological Survey under 30 CFR 250.80-1.

9. Section 140.40—(a) Four comments objected to referral of civil penalty cases to the Secretary of Interior and suggested that the Coast Guard was the proper agency to assess penalties for violations of Coast Guard regulations. The Conference Committee Report which accompanied the OCS Lands Act (HR-Rep. 95-1474, 95th Cong. 2nd sess p. 115) makes it clear that only the Secretary of Interior may assess, collect, and compromise civil penalties under the Act.

10. Section 140.101—(a) Several comments objected to unannounced Coast Guard inspections, as authorized by § 140.101(b), and one comment questioned their constitutionality. Though the Coast Guard gives advance notice of most inspections, periodic inspections without notice are required by section 22(c) of the Act (43 U.S.C. 1348(c)). Additionally, OCS facilities are located upon federal leases and the Conference Report (H.R. Rep. No. 95-1474) which accompanied the Act notes at p. 111 that lease and permit holders "should expect that inspectors will visit the site of any operation with or without advance notice." Section 140.101 is based directly upon 43 U.S.C. 1348, which the Coast Guard presumes to be constitutional until held otherwise by a court of competent jurisdiction.

(b) One comment suggested that all onsite inspections be announced to ensure platform safety. Although notice of most Coast Guard inspections is provided in advance, periodic

inspections without advance notice are required by the Act. The inspections are conducted without creating safety hazards.

(c) One comment suggested that the records required under paragraph (c) for reviews be better defined and that Coast Guard inspections be limited to specific items. As an example, the comment stated that the Coast Guard should not conduct pit drills to evaluate the competency of drilling crews. Though the Coast Guard does not conduct pit drills, paragraph (c) has been modified to clearly indicate that the records reviewed, and drills and tests observed, are related only to applicable Coast Guard requirements.

(d) Four comments noted that the person in charge and not the inspector should have final authority to determine the specific time for drills because a drill held at a critical time may needlessly endanger the safety of the unit and its personnel or disrupt critical operations. An additional sentence has been added to proposed § 140.101(c) to require that the marine inspector consult with the person in charge before conducting the drill.

(e) Another comment questions why this subpart requires a letter of compliance or other certification for foreign mobile offshore drilling units (§ 140.102) but not for platforms. Section 143.120(c) requires a Certificate of Inspection for all floating OCS facilities and § 143.210 requires a letter of compliance for all MODU's not certified by the Coast Guard. However, certification for fixed OCS facilities is not considered necessary because they are bottom founded and not subject to being moved from one Coast Guard marine inspection zone to another.

11. Section 140.103—(a) Five comments suggested that setting a time period for correction of deficiencies in every case without considering factors such as the availability of materials and personnel and the degree of hazard was undesirable. Flexibility to consider these and other factors was intended and changes have been made to make this clearer.

(b) Another comment objected to the provision that provides for mutilation of defective lifesaving or firefighting equipment which cannot be satisfactorily repaired. The comment stated that this provision fostered animosity and disregarded safety because defective equipment, if not mutilated, could be used to save a life. The comment also stated that mutilation prevented return of equipment to suppliers. It is the obligation of the owner or operator to maintain the

lifesaving and firefighting equipment in good condition. The purpose for mutilating defective equipment that is beyond repair is to preclude the equipment from being relied upon as lifesaving equipment by persons unaware of the defect. This provision has been in effect since 1957 and has not presented serious problems in administration. The suggestion was not adopted.

12. Section 140.105—(a) Three comments suggested deletion of the word "comprehensive" in § 140.103(b) to avoid the implication that the annual inspection had to be comprehensive in every case, even though a facility may have been thoroughly inspected on a recent date. As deletion of this term does not limit the flexibility of the Officer-in-Charge, Marine Inspection, to conduct as thorough an inspection as necessary, the suggestion was adopted.

(b) Another comment suggested that the inspection items in paragraph (c) appeared to exceed agreed to limits of responsibility with the U.S. Geological Survey. The section clearly applies only to Coast Guard approved or required equipment and procedures and not to those of any other federal agency.

(c) One comment suggested that paragraph (d) was superfluous. However, this section makes it clear that an inspection may be required before drilling or production commences.

(d) Another comment suggested that paragraph (d) be reworded to provide for the conduct of the inspection "after construction but prior to drilling and production operation." Although the inspection is normally not conducted during construction, there may be circumstances when it may be desirable to do so to avoid delaying drilling or production operations. The suggestion was not adopted.

13. Section 140.201—(a) Three comments suggested that § 140.201 be modified to exclude incidents investigated by the U.S. Geological Survey. Another comment suggested that dual investigations were unnecessary and likely to result in confusion and delay. Two other comments suggested that dual investigations were prohibited by the language of section 22(d)(1) of the Act. In many instances joint investigations are the most efficient and least costly means of reviewing casualties. The Report by the Ad Hoc Select Committee on the Outer Continental Shelf to accompany H.R. 1614 (H.R. Report 95-590, p. 160) states: "As it is possible, even probable, that a major fire or major oil spill might also involve serious bodily injury or deaths, it is the

intention of the committee that the responsible agencies will act in a cooperative and joint fashion." The suggestions were not adopted.

(b) Three comments stated that other agencies should not proceed with investigations under Coast Guard authority. These regulations do not provide for such an arrangement. When another agency, in particular the U.S. Geological Survey, participates in an investigation with the Coast Guard, the agency is acting under its own authority.

(c) One comment suggested a change in the language of paragraph (e) to make it clear that not every incident need be investigated, only those deemed necessary to promote the safety of life or property or protect the marine environment. The language has been modified to make this clearer.

(d) Another comment suggested deleting the language of paragraph (d) referring to one occurrence during a thirty-day period because it was unclear. This language is taken directly from the Act and refers to a single source which discharges 200 or more barrels within 30 days.

(e) Another comment suggested that the Coast Guard was exceeding its authority by referring to protecting the marine environment. The Coast Guard exercises significant environmental protection responsibilities under the Clean Water Act, other domestic laws, and international conventions.

(f) Another comment suggested that the term "major fire" be defined. A definition has been added providing that a major fire is one that results either in death, serious injury, or property damage exceeding \$25,000.

14. Section 140.203—(a) Three comments again questioned the provision for joint investigations by the Coast Guard and the U.S. Geological Survey. When more than one agency has an interest in a casualty, joint investigations and hearings reduce costs to participants and provide a more thorough and effective investigation. The provision for joint actions was retained.

(b) Four comments suggested adding a provision requiring that employers or other parties investigated be furnished a copy of the investigation when it is completed. This is the existing Coast Guard practice and the regulations have been modified to make this clearer.

(c) One comment asked how to obtain a copy of a report. The reports are on file at Coast Guard Headquarters and Coast Guard District Offices in accordance with 49 CFR Part 7, Appendix B. A copy of a particular report is made available upon request.

Specific Comments: Part 141

1. Section 141.5—(a) One comment maintained that paragraph (b)(3) was unclear in its purpose and did not meet the intent of reciprocity stated in Congressional discussions of the amendments. The language of paragraph (b)(3) follows closely the language of Section 30(c)(2) of the Act. Foreign units are exempt unless the President determines that a foreign nation has implemented a national manning requirement. This is a direct reciprocity provision.

(b) The same comment suggested that paragraphs (c) and (d) be combined and shortened to improve clarity. Because the objectives of the paragraphs are different, though related, their separation should enhance clarity and the suggestion was not adopted.

(c) Another comment objected to leaving the exemption decision to the discretion of the President. Presidential responsibility is required by the Act.

(d) The same comment suggested implementing this provision 30 days after rules are finalized. This would be contrary to the requirement of the Act that the rules become enforceable one year after the effective date of final regulations.

(e) Another comment sought further clarification of the phrase "right effectively to control," particularly whether operational and managerial control would be considered more important than financial control in determining whether the right to control existed. The Coast Guard intends to look primarily at operational matters. Financial interests would be examined when it appears financially interested parties are using those interests to control management or operation of the unit.

(f) Another comment endorsed the approach taken by the proposed regulations and noted it would prevent "paper subsidiaries" from circumventing the provisions of section 30(a)(3) of the Act.

(g) One comment suggested that the provision of § 141.5(c) authorizing the District Commander "upon request," to make determinations of foreign ownership be changed to require the District Commander to make such determinations whenever requested to do so. As this could limit the District Commander's discretion in a particular case, the suggestion was not adopted. The term "District Commander" in § 141.5 (c), (d) and (e) has been changed to "Commandant" to centralize the process of making such determinations.

2. Section 141.10—One comment maintained that § 141.10(c)(3) in effect established four criteria for judging whether a unit was exempt from U.S. manning requirements whereas Section 30(c)(2) of the Act only provides two, i.e. (1) where 50% of the ownership is by citizens of a foreign nation or (2) where citizens of a foreign nation have a right effectively to control a unit. The comment suggested that § 141.10(c)(3) be amended to read "in the case a corporation, one which is incorporated under the laws of a nation other than the United States so long as (i) over 50% of the ownership of such corporation is held by persons not citizens of the U.S. and (ii) the right to effectively control is in persons other than citizens of the United States." The criteria set forth for this exception in Section 30(c)(2) of the Act (43 U.S.C. 1358(c)(2)) are twofold. To qualify for the exception, a party must first show that it is a "citizen of a foreign nation" and then either that it has the "right effectively to control" the unit in question or that it owns over 50 percent of the unit. The first element is addressed in § 141.10(c) which defines who a citizen of a foreign nation is. This definition is based, in part, on terms used by Congress in the Shipping Act (46 U.S.C. 802(b)) for that Act's definition of a citizen of the United States. The second element, the right effectively to control or the over 50 percent ownership, is determined under the procedures in §§ 141.5 (c), (d), and (e).

3. Section 141.15—(a) Several comments, mostly concerning workers engaged in building platforms on the OCS, indicated that the criteria for determining when a position is not part of the regular complement of the unit is unclear. The second sentence in § 141.15(b), listing personnel who are not included in the regular complement, has been revised to track precisely the language used in the Conference Report (H.R. Report No. 95-1474, page 125). The key word in the report is "temporary" operation. Those who are on board the unit to perform a temporary function, such as those responding to an emergency, trainees, and consultative personnel providing non-routine, specialized advice or assistance, would be excluded. In determining if a position is excluded, it is important to note that a position may be part of the regular complement on one unit, but not on another. For example, a geologist may be a member of the regular complement on a seismic survey vessel; but that same geologist, if temporarily called on board a production platform to offer advice, does not necessarily become a

member of the complement of the platform as well.

(b) One comment suggested that construction workers building a platform be considered part of the regular complement of the construction barge from which they work, if that vessel's primary purpose is construction, fabrication, or alteration of structures attached to the Outer Continental Shelf. The language of § 141.15 already permits such a conclusion and no change has been made.

(c) One comment suggested that only the person in charge of a unit and not the Coast Guard was qualified to determine who makes up the regular complement. Another comment suggested that only the Coast Guard should make this determination. The language of the section contemplates that the owner or the person in charge would normally establish the regular complement; however, the Coast Guard reserves the right to do so when necessary.

(d) Another comment suggested that the wording of § 141.15 would result in harassment by allowing any member of the public to request a determination. Although any member of the public may request a determination, it is the Officer in Charge, Marine Inspection, who decides whether a determination is warranted. The section has been revised to make this clearer.

(e) Five comments suggested changing the term "owner or operator" in paragraph (a) to "employer" to place responsibility for ensuring compliance on the person with access to employee records and in control of employee hiring. The paragraph has been revised to refer to "employer." To be consistent throughout this subpart, "owner or operator" as used in §§ 141.20, 141.25(a), 141.30, 141.35 (a) and (b) has been replaced by "employer."

(f) Another comment suggested that paragraph (b) be revised to delete the reference to support personnel who are directly employed by the owner or operator of the unit. The suggestion was not adopted because support personnel, such as kitchen workers, are necessary for the routine functioning of the unit and are considered part of the regular crew.

(g) Four comments suggested changing the term "including" in paragraph (b) to "may include" to make it clear that crew make-up varies considerably with the type, size, and configuration of unit and that all units do not include personnel in all of these categories. Crew make-up does vary and not all units include all of these categories of personnel; however, personnel falling within the listed

categories are considered part of the regular complement. Because the suggested change could be confusing, it was not adopted.

(h) Another comment suggested that requiring only citizens of the United States to be employed as members of the regular complement of a unit could be a violation of the Civil Rights Act; no additional explanation was provided. Manning by U.S. citizens or lawfully admitted aliens is required by section 30 of the Act. Although the particular provision of law to which the comment refers was not provided, the Coast Guard is not aware of any provision of Federal law in conflict with section 30 of the Act.

(i) Another comment noted that the definition of "regular complement" in § 141.15(b) extends to personnel on virtually all devices used offshore, including vessels, MODUs, lay barges, service lift barges, pipelay barges, and production platforms. This is a correct construction of this provision which is based on the language of section 30 of the Act referring to "vessels, rigs, platforms, vehicles, or other structures."

(j) One comment questioned whether divers would be considered part of the "regular complement" because divers are employed under different circumstances. As divers could function either as regular crew members or as specialized workers for a temporary job, application to divers would depend on the particular circumstances. As the rule allows for this situation, no change was necessary.

(k) Another comment suggested that paragraphs (a) (1) and (2) of section 30 of the Act express a legislative desire to subject those who engage in construction and alteration activities to citizenship manning requirements and that the exclusion of construction personnel from the regular complement was contrary to that intent. However, neither paragraph (a)(1), which deals with safety standards, nor paragraph (a) (2), which deals with vessel documentation, refers to manning requirements.

4. Section 141.20—(a) One comment noted that for an alien employee to work on a geophysical crew, including on the OCS, he must have an H-2 visa issued by the U.S. Immigration and Naturalization Service, which uses procedures for eligibility determinations similar to those in this part. The comment suggested that the Coast Guard accept such visas as evidence of compliance with the citizenship requirements in these rules. In the opinion of the Immigration and Naturalization Service, the Immigration

and Naturalization Act does not apply on the OCS. Thus a worker on a geophysical crew operating only on the OCS is not required to have an H-2 visa. However, because in many cases these vessels operate both on and off the OCS and H-2 visas are needed by workers on these vessels, the Coast Guard will accept an H-2 visa as evidence that an individual is filling a position for which there are not a sufficient number of citizens of the United States or resident aliens qualified and available for work. The regulations have been modified to provide for this.

(b) Another comment suggested that the Coast Guard be required to publish notice when it seeks an opinion from the Department of Labor to determine the availability of U.S. workers. Requests for opinions are available to the public upon request. However, publication in every case would unnecessarily delay the review process. Therefore, this suggestion was not adopted.

(c) One comment suggested that public notice be required when an owner or operator seeks an exemption under proposed § 141.20(c). The time delay and additional cost associated with publication in every instance are not, in the Coast Guard's judgment, warranted under these circumstances.

(d) Another comment suggested that requests for an exemption under proposed paragraph (c) should not have to await the formulation of an advisory opinion by the Department of Labor and that the Coast Guard should be limited to a 10 day processing time. The same comment suggested establishing an emergency request procedure to provide for temporary exemption of an individual or position subject to later confirmation by the Coast Guard. Because consultation with other federal agencies is necessary, a 10 day time frame could not always be met. However, the section has been revised to provide an automatic temporary exemption if the Coast Guard does not respond to a request within 30 days.

(e) Another comment requested that applications from United Kingdom operators might be considered favorably under the national interest provision on the grounds that reciprocal arrangements exist for United States operators on the United Kingdom continental shelf. This determination, however, is reserved by the Act to the President. The procedure for seeking such a determination is contained in new paragraph (e).

(f) Because of the many changes made to this section as a result of the comments, this section has been reorganized for clarity.

5. Section 141.25—One comment observed that § 141.25(a)(2) fails to recognize other political subdivisions which carry the privilege of U.S. citizenship. Although the comment did not specify what subdivisions were being addressed, presumably political subdivisions such as the Commonwealth of Puerto Rico were intended. These entities commonly provide for U.S. citizenship only to persons born after a certain date; thus, a birth certificate prior to that date would not necessarily establish U.S. citizenship. Therefore, § 141.25(b) has been revised to provide that birth certificates from political subdivisions outside the United States may be considered as evidence of citizenship, though additional evidence may be necessary.

6. Section 141.35(a)—Two comments suggested deleting the requirement in proposed paragraph (b)(3) that a record of positions that make up the regular complement be maintained and, instead, inserting a requirement that a record of employees who are not U.S. citizens or lawfully admitted aliens be maintained. This change would complicate enforcement as an inspector would have no way of identifying the entire rig crew and verifying the status of employees not listed. The suggestion was not adopted.

(b) Another comment suggested adding a statement to the effect that a station bill indicating each individual's nationality would suffice for this purpose. Because a station bill indicating each individual's nationality meets the requirements of proposed paragraph (b)(3), no change to the language is necessary to permit this.

(c) Another comment suggested deleting the requirement in proposed § 141.35(b)(3) that a description of the positions that make up the regular complement be maintained and argued that the wide variation of job duties will make classification of positions impractical. However, each job position on a unit need not be described in detail and a listing of individuals with their job title would suffice. The term "description" has been replaced by the term "list" to make it clearer that each job need not be described in detail.

(d) Two comments suggested that it be permissible to maintain the citizenship records at field offices when it is impracticable to maintain them on board a unit. This section has been changed to permit this option.

(e) Another comment suggested that proposed § 141.35(b)(1) is unnecessary. Proposed paragraph (b)(1) would require that a copy of each determination made by the Coast Guard under § 141.15(c) concerning whether a position is part of

the regular complement be maintained on the unit. As these determinations are already maintained by the Coast Guard, this provision has been deleted. For similar reasons, proposed paragraph (b)(2) referring to the maintenance of Coast Guard certificates issued under § 141.20 has been deleted.

(f) Another comment suggested deleting references to "position," as the responsibility for determining positions belongs to the employer. As the Officer in Charge, Marine Inspection, may make determinations concerning position in disputed cases, the suggestion was not adopted.

Specific Comments: Part 142

1. Section 142.1—(a) Three comments suggested that the lessee's responsibility for maintaining all places of employment within the lease areas free from occupational hazards be revised to refer only to places of employment owned and operated by the lessee. The comments maintained that the operators of major equipment including MODUs, barges, and other vessels were separately and independently responsible for safety and health on those units. Although operators of major equipment are separately and primarily responsible for safety and health on their units, section 22(b) of the Act, on which § 142.1(a) is based, specifically extends the duties of lessees or permittees to all places of employment within the area covered by the lease or permit.

(b) One comment suggested that the occupational safety and health regulations referenced in paragraphs (a) and (b) be limited to those "in this part." Although all safety and health requirements applicable to the lease or permit area or to the operations within that area may not appear in this part, it is correct that these paragraphs require compliance only with the regulations in this part. The section has been changed by adding the words "of this part" and by changing "occupational" to "workplace" to conform with the title of the part.

(c) Another comment suggested changing the language of paragraphs (a) and (b) to refer to "applicable occupational safety and health regulations." The change noted above makes this unnecessary.

(d) Another comment suggested that § 142.1(b) would relieve lease and permit holders of their statutory obligation to comply with OCS safety and environmental regulations. However, this obligation is clearly stated in § 142.1(a) and in 43 U.S.C. 1348(b).

(e) Another comment suggested revising paragraph (c) by redefining "recognized hazards" to refer to hazards which are causing or likely to cause death or serious physical harm and which are detectable (1) by means of the (unaided) human senses or (2) by means of testing devices recognized by the affected industry as a means for making its presence known. The definition in proposed paragraph (c) contained two elements: First, the hazard must be one generally recognized in the affected industry; and second, the hazard must be routinely controlled in the industry concerned. The second provision implicitly recognizes that not all hazards which can be identified can be controlled. The suggested change does not take this problem into account and, therefore, was not adopted. However, some of the clarifying language suggested has been incorporated.

(f) Another comment asked what OSHA-type regulations must be complied with under paragraphs (a) and (b). Two other comments suggested there was no need to apply OSHA regulations, because they might conflict with Coast Guard regulations or be inappropriate for offshore operations. This section does not apply regulations of the Occupational Safety and Health Administration (OSHA).

(g) Two comments suggested deleting the term "free from recognized hazards" from paragraphs (a) and (b) as being unreasonably absolute, arguing that most work places have recognized hazards, the effects of which are minimized by protective equipment and safe work practices. The standard, "free from recognized hazards," is imposed by the Act. Paragraph (c) was included in the regulations to avoid any unreasonably absolute interpretation of this standard.

(h) Another comment suggested deletion of paragraph (c). As this could allow unreasonable application of the standard imposed by the Act, the suggestion was not adopted.

(i) Another comment stated that the wording of paragraph (c) had no basis in the Act or its legislative history. The requirement to keep workplaces "free from recognized hazards" appears in section 22(b) of the Act and is identical to language used in the Occupational Safety and Health Act of 1970 (29 U.S.C. 654). Paragraph (c) simply makes it clear that this requirement does not apply unless the hazard is capable of control and is routinely controlled in the affected industry.

(j) One comment noted that there is no mention in the Act of any duty being placed on a category of person other than lessees and permittees and

suggested that, if others were to be included, a provision making each employee responsible for compliance with all occupational safety and health standards should be added. The comment noted that such a duty is placed on employees under the Occupational Safety and Health Act. The legislative history of section 22(b) of the Act makes it clear that section 22(b) does not relieve any contractor, subcontractor, or other person responsible for actual operations from the obligation to comply with occupational safety regulations. Section 142.1(b) applies to "persons." Under the definition in § 140.10, "person" includes individuals and, therefore, does not exclude employees. Therefore, the suggested change was considered unnecessary.

(k) Another comment questioned whether the occupational safety and health regulations referred to were Coast Guard, Corps of Engineers, OSHA, or USGS. The addition of the words "of this part," as noted above, eliminates this problem.

(l) One comment noted that use of the term "controlled" in the definition of "recognized hazards" did not mean that a hazard did not exist, it simply recognized the hazard and the fact that appropriate controls over activities were necessary. The Coast Guard agrees as explained in paragraph (e) above.

(m) The same comment suggested that paragraphs (a) and (b) be redrafted to exclude the requirement that a workplace be free from recognized hazards. This requirement is imposed by section 22 of the Act. The suggestion, therefore, was not adopted.

2. Section 142.5—(a) One comment suggested that, prior to any enforcement measures, the Officer in Charge, Marine Inspection, should be required to conduct an investigation. Although this is the normal Coast Guard practice, prior investigation may not be possible or desirable in every instance and the suggestion was not adopted.

(b) Two comments suggested that paragraph (c) should be revised to require persons reporting under paragraph (a) to do so in writing or by a sworn statement based on first hand knowledge. However, permitting only written or sworn reports may discourage persons with legitimate complaints from reporting. Therefore, this suggestion was not adopted.

(c) Two comments suggested that reporting be limited to employees, crew, and others directly affected by the unsafe conditions. The legislative history of section 21(e) makes it clear that any interested person, not merely

employees, crew, or those directly affected, can report violations.

(d) Another comment suggested that the name, address, and telephone number of the proper Coast Guard official should be required to be displayed on all OCS facilities. Such a requirement is presently being considered under Coast Guard rulemaking docket #79-077, primarily for the purpose of informing the worker of his right to notify the Coast Guard of unsafe working conditions.

(e) Another comment suggested that Department of Transportation employees be included in § 142.5 as a function of investigative necessity. The investigative function is delegated to the Coast Guard and other Department of Transportation employees do not participate in these investigations. Therefore, the suggestion was not adopted.

Specific Comments: Part 143

1. Section 143.3—(a) This section has been transferred to § 140.4 without change, other than as noted in paragraph (b) below.

(b) One comment suggested adding the term "attending vessel" to § 143.3(c) because, for the purposes of this section, industrial equipment on an attending vessel should be treated in the same manner as that on a fixed structure. "Attending vessel" has been added.

2. Section 143.15—One comment on paragraph (a) suggested that mobile offshore drilling units in contact with the seabed not be required to display the lights and warning devices required for facilities but, instead, be allowed to display those required for vessels. The comment suggested that the lighting required for facilities under Part 67 of this chapter would not convey as much information to other vessels as would COLREG lighting and could be dangerously misleading. However, COLREG lighting requirements (33 CFR Chapter I, Subchapter DD) do not provide as much light display as do the requirements for artificial islands and fixed structures. Various means to differentiate MODUs from other structures is currently being reviewed by the Coast Guard's Office of Navigation as part of its review of Part 67. Any changes proposed will be published in the *Federal Register* for comment.

3. Sections 143.101, .105, and .110—Several comments suggested substantive changes to §§ 143.101, 143.105, and 143.110. As the preamble to the proposed rule noted, proposed §§ 143.101, 143.105, and 143.110 simply restate the existing regulations without

substantial change. The Coast Guard is aware that these sections need revising and will consider such revisions in a subsequent rulemaking notice. These comments, however, will be considered in developing the subsequent notice.

4. Section 143.120—(a) "Installation," as used throughout proposed §143.120, has been replaced by "facility." "Floating OCS facility" is the defined term (§140.10) which describes this type of unit.

(b) Two comments suggested that stability plans be submitted for Coast Guard approval, in addition to the arrangement and construction plans called for in §143.120(a). Because it is the intention of the Coast Guard that all plans applicable to the facility that are listed in Subpart C of Part 107 be submitted and because Subpart C already lists stability plans, it is not necessary to refer to stability plans in this paragraph. Paragraph (a) has been revised to make it clear that all plans listed in Subpart C that relate to the facility to be constructed are to be submitted for Coast Guard approval.

(c) Several comments suggested that paragraph (b) be deleted. Paragraph (b) requires floating OCS facilities to meet the same electrical engineering, marine, design, and equipment requirements as are required for vessels and MODUs. The comments argue that because the facilities serve an industrial function, rather than a marine transportation function, the facilities should not be required to comply with the same equipment regulations. Floating OCS facilities, MODUs, and vessels are all used in the open ocean and are subject to many of the same risks. However, it is correct to state that §143.120 does not apply to production systems on board floating facilities and a statement to that effect has been added to paragraph (b).

(d) In response to the comments considered in paragraph 10(e) of the preamble's discussion of Part 140, a new paragraph (c) is added to §143.120 to require a certificate of inspection for floating OCS facilities. The new paragraph (c) tracks the language of §143.210 requiring letters of compliance for uncertified MODUs.

5. Section 143.201—(a) One comment suggested that further explanation of the meaning of "design requirements" was needed to explain the application of 46 CFR Part 108, Design and Equipment, to existing units. The comment assumed that existing units must contain the necessary systems and equipment as stated in 46 CFR Part 108, (e.g. hull structure, fire protection, ventilation, rails, firemain systems) but that the design of the equipment need not be upgraded to meet the requirements of 46

CFR Part 108. The extent to which existing units must upgrade equipment to meet the requirements of 46 CFR Part 108 is evaluated on a unit by unit basis as explained in Navigation and Vessel Inspection Circular 4-78, which accompanied publication of 46 CFR Parts 107, 108, and 109. Revision of proposed §143.201 is not needed to make this clear.

(b) Another comment suggested rewording this paragraph to identify existing units more clearly. Specifically, the comment wanted to clarify that foreign documented units were included and that U.S. operators could continue to operate those units under the same grandfathering provisions extended to U.S. units by Subchapter IA of 46 CFR Chapter I. Section 143.201 does not distinguish between U.S. and foreign units and both units are to be treated the same for grandfathering purposes. Therefore, §143.201 has not been changed.

(c) Three comments raised the question of whether U.S.-owned/foreign-documented MODUs would be treated the same as U.S.-owned/U.S.-documented MODUs for purposes of the exemption provided for existing units under §143.201. The section does not distinguish between U.S. and foreign units and all are treated in the same manner under this exemption.

(d) Another comment questioned whether the provision was limited to design features and not equipment, noting that certain safety and equipment features need to be kept abreast of current technology. The Coast Guard believes it is clear that the exemption applies to features that affect the design of the unit.

6. Section 143.207—(a) Three comments suggested changes to §143.201 to make it clear that existing foreign units can continue to operate as long as they comply with the same grandfathering provisions extended to U.S. vessels. No change to this section is required to provide for this.

(b) For the response to comments concerning the incorporation by reference of the IMCO Code referred to in §143.207(c), see the discussion under §140.7 in this preamble.

Specific Comments: Part 144

1. The proposed revisions to Part 144 did not contain a provision updating the authority citation for this part. Because it was the intention, as expressed in the notice of proposed rulemaking, "to conform the scope of the existing regulations to the broader scope of the amended Act," the authority cited for this part is updated to refer to the delegation of authority under 49 CFR

1.46(z) and to delete the outmoded reference to 49 U.S.C. 1655(b)(1), relating to the transfer of the Coast Guard from the Department of the Treasury to the Department of Transportation.

2. Section 144.01-20—(a) Two comments suggested that the requirement for life preserver lights be deleted because lights are costly and retroreflective material, as required in paragraph (b), is sufficient. This requirement is equivalent to 46 CFR Part 108.514(e) requiring lights on life preservers on mobile offshore drilling units. The Coast Guard published a final rule on July 2, 1981 (46 FR 38778) concerning lights and retroreflective material for life preservers and other lifesaving equipment on ocean and coastwise vessels. The regulations are based upon recommendations resulting from investigations of vessel casualties and upon a Coast Guard study entitled "Comparative Evaluation of Visual Distress Signals." Use of lights and retroreflective material should significantly increase the probability of detecting personnel who fall overboard or who are forced to abandon a facility in darkness.

(b) One comment suggested that lights on life preservers should not be required for five years because of a short supply. Life preserver lights, however, are becoming readily available and will be capable of attachment to existing preservers.

(c) Another comment found the requirements for retroreflective material too specific and preferred a performance oriented requirement. The material requirements in Subchapter Q are performance oriented. The requirements specify how much light is to be reflected under various conditions. They do not specify how the results are to be achieved. In conjunction with these minimum requirements, specifying the location and size of the retroreflecting patches is necessary in order to assume adequate visibility.

Specific comments: Part 146

1. Section 146.5—(a) One comment suggested that the requirement to designate a person in charge be limited to manned facilities. However, there are many instances when facilities that do not meet the criteria for manned facilities have numerous personnel working on board and a responsible person in charge is required under these circumstances.

(b) The comment also suggested the person in charge be confined to field supervisors who are on scene. The Coast Guard believes the owner and operator are generally in the best

position to select the individual designated as the person in charge and their ability to designate an appropriate individual should not be restricted.

2. Section 146.10—(a) One comment noted that this section appeared directed at fixed or floating installations and suggested that § 146.10(a) be amended to exclude mobile offshore drilling units. The Coast Guard agrees that the section does not apply to mobile offshore drilling units but a language change is not necessary. Section 146.1 notes that Subpart A of Part 146 applies to OCS facilities except mobile offshore drilling units.

(b) Another comment noted that the regulation should require advance notice of the date when construction will begin in order to allow the District Commander to determine the need for, and to establish, safety zones. The section has been modified to provide for notice prior to construction.

(c) Three other comments stated that notice is often difficult to give because the movement of a rig is not always known many days in advance. As noted above, this section does not apply to mobile rigs, which are covered under § 146.202.

(d) Another comment suggested that the Officer in Charge, Marine Inspection, be provided with a copy of the facility's plan of development. As these plans are available from the Department of the Interior, there is no need to provide for them here.

3. Section 146.15—Four comments suggested deleting or revising the reference to replacement of charges in fire extinguishers because not all fire extinguisher charges have a fixed life. The reference has been deleted.

4. Section 146.20—(a) Three comments suggested deleting the reference in paragraph (b) to "favorable work conditions" because the term is subject to wide interpretation. As the use of these vests is under the supervision of the person in charge, the reference has been deleted.

(b) Another comment objected to the requirement in paragraph (d) that a work vest that is beyond repair be destroyed or mutilated to prevent continued use as a work vest. If a work vest is beyond repair, the Coast Guard intends to preclude its subsequent use by persons who might innocently rely on it. No change to paragraph (d) was made.

5. Section 146.30—(a) One comment objected to the requirement that deaths, or injuries to five or more persons in a single incident, be reported immediately. The comment noted that other duties of the responsible person might take precedence over "immediate" reporting.

The section has been revised to make it clearer that reports need to be made rapidly but recognize that reports cannot be made "immediately" under all circumstances.

(b) Another comment stated that this section requires three notices on the same incident—one by the owner, one by the operator, and one by the person in charge. Only one notice to the Coast Guard is required. The owner, the operator, and the person in charge are responsible for agreeing among themselves how the notice is given. The language also recognizes that they do not need to make the report personally but may allow agents to make it for them.

(c) Another comment suggested raising the dollar damage reporting requirements to \$50,000. The Coast Guard has reevaluated the proposed monetary damage criterion and has increased the dollar amount to \$25,000 for all categories.

(d) Another comment noted that the U.S. Geological Survey is responsible for verifying the structural adequacy of fixed facilities and suggested that reports to the Coast Guard of damage involving collisions be limited to damage to vessels and floating facilities. However, because the Coast Guard is interested in the fact that a collision took place, regardless of which "unit" was damaged, the suggestion was not adopted.

(e) One comment suggested that the operator should be prohibited from willfully disposing of any equipment directly related to a serious accident. The Coast Guard does not consider such a requirement necessary. Preservation of damaged equipment is a common practice and there are circumstances under which a requirement not to dispose of equipment would be unreasonable. If a problem develops in this regard, the Coast Guard will reconsider the need for such a requirement.

(f) Another comment suggested that, because the U.S. Geological Survey requires certain injury and damage reports, the Coast Guard should obtain copies of these reports from the Geological Survey. The Coast Guard and U.S. Geological Survey agreed in the Memorandum of Understanding dated December 18, 1980 to review reporting requirements and eliminate duplicative ones whenever possible. Under the agreement, the Coast Guard is generally responsible for the investigation of deaths and injuries. Additionally, the U.S. Geological Survey regulations (30 CFR 250.45) do not require reports of multiple injuries, damage to lifesaving or firefighting

equipment, damage to a facility resulting from a collision, or damage to a floating installation. The suggestion was not adopted.

(g) One comment suggested that the Coast Guard and the U.S. Geological Survey use the same reporting form. U.S. Geological Survey regulations do not specify a reporting form or format, and the use of Coast Guard forms is optional. Both the Coast Guard and U.S. Geological Survey will accept a report in any format so long as it contains the required information.

(h) One comment suggested deleting the dollar damage criteria in § 146.30(b) except when the seaworthiness or the ability of a facility to perform its function is affected. The Coast Guard considers simple monetary damage criteria to be a more definite and workable standard than the one suggested.

(i) One comment suggested that the term "incapacitated" was uncertain and should be changed to "hospitalized." As commonly defined, "incapacitated" means incapable of normal activity, which does not necessarily involve hospitalization. The suggestion was not adopted.

(j) One comment suggested that the term "facility" should be changed to "OCS facility" if that was intended. It was, and the term has been changed.

6. Section 146.35—(a) Three comments suggested changes to § 146.35 to eliminate what they perceived as requirements for multiple reports. Multiple reports are not required but the section has been revised to make this clearer.

(b) One comment suggested that the requirement to report the apparent cause of a casualty could create problems because of the legal actions often associated with a casualty. The Coast Guard believes causal information is necessary to identify problems which need correction to prevent similar casualties from recurring in the future. However, rather than require identification of a single cause, the language has been changed to allow reporting of multiple factors which may have contributed to causing a casualty. This is more accurate and avoids the need to assign all responsibility for an accident to a single factor in cases where this may be difficult.

(c) One comment suggested beginning the ten day time period for submitting a report when the responsible person learned a casualty required reporting because it could take more than 10 days to determine the cost of damage to property. Approximate estimates of damage can be made quickly and

provide sufficient guidance to determine whether a report need be submitted. If a responsible individual is in doubt, a report should be submitted.

(d) One comment maintained that requiring identification of witnesses in § 146.30(a)(2) was excessive except when the Coast Guard decides to investigate a particular casualty. It is essential to promptly identify persons who are witnesses to casualties; if this is not done until a determination to investigate is made, the information may be lost. The suggestion was not adopted.

(e) One comment suggested that the term "filed" should be changed to "postmarked or mailed" because of the limited time available to prepare this information. The Coast Guard agrees that mailing satisfies the requirement and the language has been revised.

7. Sections 146.105, .110, .115, .120, .125, .130, and .135—Several comments suggest substantive changes to these sections in Subpart B. As the preamble to the proposed rule noted, Subpart B restates the existing regulations without substantial change, other than to exclude mobile offshore drilling units from coverage under this subpart. As the preamble also stated, the Coast Guard is reviewing the substantive provisions of this subpart and will consider changes to these provisions in a subsequent rulemaking notice. Comments on this subpart submitted in response to the notice of May 1, 1980 will be considered in developing the subsequent notice.

8. Section 146.202—(a) One comment suggested that the information required for notice of arrival or relocation of units on the OCS could be obtained through the U.S. Geological Survey and thus avoid additional paperwork. No paperwork is required; oral notice is sufficient. Additionally, information on aids to navigation, inspection certificates, and construction data is not always available through the Geological Survey.

(b) The same comment suggested that the data should not be required for relocation in the same area. Precise location information is needed for search and rescue, notices to mariners, and navigation and inspection functions. Therefore, the suggestion was not adopted.

(c) Another comment suggested that some of this information is already provided in an application for certificate of financial responsibilities under 33 CFR Parts 135. Section 146.202(c) has been revised to take this into account.

(d) The comment also suggested that the information required by paragraph (a) would have to be provided by the owner. The section has been revised to reflect this.

(e) The same comment maintained that this provision duplicated § 146.10. However, § 146.10 applies only to fixed units.

(f) Another comment suggested a more flexible notice provision of 14 days or as soon as practicable because of the occasional necessity to move units on short notice. The section has been revised to reflect this.

(g) Several comments noted that the reference to Corps of Engineers permits would not be helpful as they are often of a general nature. Reference to Corps of Engineers permits in paragraph (a) has been deleted.

(h) Another comment suggested that the Coast Guard probably has no use for most classification or inspection certificates held by the unit. However, the certificates aid the Coast Guard in determining the condition of the unit and the amount of inspection likely to be required.

9. Section 146.205—(a) One comment suggested including mobile well servicing units in this section. Because the requirements for mobile offshore drilling units would not be appropriate for many mobile well servicing units, these requirements were not extended to these units.

(b) Another comment suggested deleting the term "operating" as the IMCO standards are not "operating" standards. Chapter XII of the IMCO Code is titled "Operating Requirements" and contains a number of provisions covering MODU operation.

(c) For the response to comments concerning the incorporation by reference of the IMCO Code referred to in § 146.205(c), see the discussion under § 140.7 in this preamble.

10. Section 146.303—One comment suggested changing this section to eliminate what the comment believed to be duplicate reports. Another suggested that paragraph (c) was duplicative of Geological Survey requirements. The Geological Survey requirements, however, apply only to lessees and many vessels engaged in OCS activities are not within the scope of the Geological Survey reporting requirements. The suggestions were not adopted.

Specific Comments: Part 147

1. One comment suggested addition of a new subpart to automatically establish a 500 meter safety zone around all manned facilities quartering personnel on the OCS to reduce the risk of accidents involving large numbers of personnel. The Coast Guard believes the need for safety zones varies with the location of the facility and Part 147 provides ample authority for local

District Commanders to establish such zones whenever necessary.

2. Section 147.1—One comment suggested that the Coast Guard was exceeding its authority by referring to protection of the living resources of the sea from harmful agents and that only oil spill cleanup should be referred to. Under the Clean Water Act (33 U.S.C. 1321) and the 1958 Geneva Convention on the Continental Shelf (TIAS 5200), the Coast Guard has authority to protect marine resources from hazardous polluting substances in addition to oil.

Incorporation by Reference

If subsequent changes to the material incorporated are considered, the changes will be published in the **Federal Register** for comment before final action by the Coast Guard.

The material incorporated by reference is maintained on file at the Library of the Office of the Federal Register, Room 8301, 1100 T Street, NW., Washington, D.C. 20408 and is available for inspection and copying at Coast Guard Headquarters, Room 4407, 2100 2d Street, SW., Washington, D.C. 20593. A copy of the material may be purchased from the Inter-Governmental Maritime Consultative Organization, IMCO Sales, New York Nautical Instrument and Service Corp., 140 West Broadway, New York, NY 10013.

Regulatory Evaluation

This regulatory action is considered to be "non-major" under Executive Order 12291 (46 FR 13193; February 19, 1981) and classified as "non-significant" under the Department of Transportation Order 2100.5, "Policies and Procedures for Simplification, Analysis, and Review of Regulations," dated May 22, 1980. Though exempt from the requirement for Regulatory Impact Analysis under E.O. 12291, a final regulatory evaluation has been prepared, copies of which are available for inspection or copying at the Office of the Marine Safety Council, Room 4402, U.S. Coast Guard Headquarters, 2100 2d Street SW., Washington, D.C. 20593, (202) 426-1477. This rulemaking is also exempt from the requirements of the Regulatory Flexibility Act (Pub. L. 96-354) as provided for under the Effective Date section (Section 4) of that Act; however, the impact of these regulations on small entities was considered during the preparation of the evaluation.

As explained more fully in the evaluation, many of the amendments to Subchapter N do not impose an economic burden. Several of the requirements which do impose economic burdens, such as the requirements for

manning by U.S. citizens, are required by the Act. The estimated total cost to comply with the other proposed changes to Subchapter N is estimated at \$9.1 million. Annual costs are estimated at \$1.8 million. The principal benefit of these amendments is expected to be the improved safety of operations on the Outer Continental Shelf.

The following comments were received on the draft regulatory evaluation:

1. Two comments stated that the total compliance cost estimated in the draft evaluation for the rules (\$8.2 million) was too low. One estimated that the average unit on the OCS will require \$25,000 to achieve compliance and that drilling units will require even more. The comment suggested that the total compliance cost would exceed \$45 million. As indicated in the evaluation, the project compliance cost for a unit substantially affected by these regulations will exceed \$25,000 and is estimated at \$337,000 for new construction and \$116,000 for existing units. However, these costs directly affect only a limited number of units, primarily foreign flag mobile offshore drilling units. The \$45 million estimate in the comment assumed 1,900 units would be directly affected by most of the new requirements. However, as of October 1981, there were 163 mobile rigs working on the OCS. Less than 60 of these rigs should incur significant costs because of these requirements. Total compliance cost for these units is estimated at approximately \$7 million.

2. Another comment estimated that it would cost an additional \$30 million to bring foreign documented MODUs into compliance with § 143.207. Section 143.207 allows foreign units to comply with one of three sets of design and equipment requirements: the IMCO Code for Mobile Offshore Drilling Units, 46 CFR Part 108, or the standards of the documenting nation which provide a level of safety equivalent to Part 108. In addition, § 143.201 exempts existing MODUs, including foreign units, from any new design requirements. As a result, these regulations will substantially affect only a limited number of foreign MODUs. In October 1981, there were 19 foreign units operating on the OCS; less than 10 of these should incur significant costs because of these requirements. These costs are included in the total compliance estimate.

Paperwork Reduction Act

Information collection requirements contained in this regulation (§§ 141.5(c), 141.15(c), 141.20, 141.25, 141.35, 146.30, 146.35, 146.40, 146.125, and 146.303) have

been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned one or more of the following OMB control numbers: 2115-0003, 2115-0004, 2115-0071, and 2130-0182. The control numbers have been inserted in the regulatory text at the end of the paragraphs or sections to which the numbers apply. No number is inserted at the end of § 146.40 because that section merely cross references existing reporting requirements which have been approved under OMB control number 2115-0004.

The requirement in § 146.130 (old § 146.05-30) calling for the preparation of a station bill (muster list) has not yet been approved by OMB and will not become effective until so approved.

Environmental Assessment

The Coast Guard has considered the environmental impact of the regulations and concluded that preparation of an environmental impact statement is not necessary. An environmental assessment with a finding of no significant impact has been prepared and is on file in the rulemaking docket.

In consideration of the foregoing, Parts 140, 141, 142, 143, 144, 146, and 147 of Subchapter N, Chapter I, Title 33, Code of Federal Regulations, are amended as follows.

1. By revising the title of Subchapter N to read as follows:

Subchapter N—Outer Continental Shelf Activities

2. By revising Part 140 to read as follows:

PART 140—GENERAL

Subpart A—General

- Sec.
- 140.1 Purpose.
 - 140.3 Applicability.
 - 140.4 Relationship to other law.
 - 140.5 Exemptions during construction.
 - 140.7 Incorporation by reference.
 - 140.10 Definitions.
 - 140.15 Equivalents and approved equipment.
 - 140.20 Delegations.
 - 140.25 Intra-agency appeals.
 - 140.30 Judicial review.
 - 140.35 Sanctions.
 - 140.40 Processing penalty cases.

Subpart B—Inspections

- 140.101 General inspection requirements.
- 140.102 Foreign units.
- 140.103 Deficiencies discovered during inspections.
- 140.105 OCS facility inspections.

Subpart C—Investigations

- 140.201 General.

- 140.203 Procedures.
- 140.205 Subpoenas.
- 140.210 Access.

Authority: Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; sec. 22 of sec. 208, Pub. L. 95-372, 92 Stat. 655 (43 U.S.C. 1348); sec. 30 of sec. 208, Pub. L. 95-372, 92 Stat. 669 (43 U.S.C. 1356); 49 CFR 1.46(z).

Subpart A—General

§ 140.1 Purpose.

This subchapter is intended to promote safety of life and property on Outer Continental Shelf (OCS) facilities, vessels, and other units engaged in OCS activities, protect the marine environment, and implement the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), as amended by the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372, 92 Stat. 629).

§ 140.3 Applicability.

Unless otherwise stated, this subchapter applies to OCS facilities, vessels, and other units engaged in OCS activities as the term "OCS activities" is defined in § 140.10. This subchapter does not apply to pipelines and deepwater ports (as the term "deepwater port" is defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502)).

§ 140.4 Relationship to other law.

(a) Design and equipment requirements of this subchapter for OCS facilities, including mobile offshore drilling units in contact with the seabed of the OCS for exploration or exploitation of subsea resources, are in addition to the regulations and orders of the U.S. Geological Survey applicable to those facilities.

(b) Any apparent conflict between the application of any requirement of this subchapter and any regulation or order of the U.S. Geological Survey should immediately be brought to the attention of the Officer in Charge, Marine Inspection.

(c) This subchapter does not establish design requirements for fixed OCS facilities or regulate drilling or production equipment on any OCS facility or attending vessel, except for matters affecting navigation or workplace safety or health.

§ 140.5 Exemptions during construction.

The Officer in Charge, Marine Inspection, may exempt any unit under construction from any requirements of this subchapter that would be impracticable or unreasonable to apply during construction or erection of the unit.

§ 140.7 Incorporation by reference.

(a) Certain materials are incorporated by reference into this subchapter with the approval of the Director of the Federal Register. The Office of the Federal Register publishes a table, "Material Approved for Incorporation by Reference," which appears in the Finding Aids section of this volume. In that table is found the date of the edition approved, citations to the particular sections of this subchapter where the material is incorporated, addresses where the material is available, and the date of the approval by the Director of the Federal Register. To enforce any edition other than the one listed in the table, notice of the change must be published in the Federal Register and the material made available. All approved material is on file at the Office of the Federal Register, Washington, DC 20408 and is available for inspection or copying at U.S. Coast Guard Headquarters, Room 2418, Transpoint Building, 2100 Second Street, SW., Washington, DC 20593, (202) 426-1477.

(b) The materials approved for incorporation by reference in this subchapter are:

Inter-Governmental Maritime Consultative Organization (IMCO) Resolution A.414(XI), Code for the Construction and Equipment of Mobile Offshore Drilling Units.

§ 140.10 Definitions.

As used in this subchapter: "Act" means the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331 et seq.), as amended by the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372).

"Approved" means approved by the Commandant, unless otherwise indicated.

"Attending vessel" means a vessel which is moored close to and readily accessible from an OCS facility for the purpose of providing power, fuel, or other services to the operation being conducted on the facility.

"Commandant" means Commandant of the Coast Guard or that person's authorized representative.

"Development" means those activities which take place following discovery of minerals in paying quantities, including, but not limited to, geophysical activity, drilling, and platform construction, and which are for the purpose of ultimately producing the minerals discovered.

"District Commander" means an officer who commands a Coast Guard District described in Part 3 of this chapter or that person's authorized representative.

"Exploration" means the process of searching for minerals, including, but not limited to, (1) geophysical surveys

where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such minerals, and (2) any drilling, whether on or off known geological structures, including the drilling of a well in which a discovery of oil or natural gas in paying quantities is made and the drilling of any additional delineation well after the discovery which is needed to delineate any reservoir and to enable the lessee to determine whether to proceed with development and production.

"Fixed OCS facility" means a bottom founded OCS facility permanently attached to the seabed or subsoil of the OCS, including platforms, guyed towers, articulated gravity platforms, and other structures.

"Floating OCS facility" means a buoyant OCS facility securely and substantially moored so that it cannot be moved without a special effort. This term includes tension leg platforms and permanently moored semisubmersibles or shipshape hulls but does not include mobile offshore drilling units and other vessels.

"Investigating officer" means a person assigned by the Commandant, a District Commander, or an Officer in Charge, Marine Inspection, to conduct an investigation of an accident, casualty, or other incident.

"Manned facility" means an OCS facility on which people are routinely accommodated for more than 12 hours in successive 24 hour periods.

"Manned platform" means a fixed OCS facility on which people are routinely accommodated for more than 12 hours in successive 24 hour periods.

"Marine inspector" means a person designated as such by an Officer in Charge, Marine Inspection, to perform inspections of units to determine whether or not the requirements of laws administered by the Coast Guard and of Coast Guard regulations are met.

"Minerals" includes oil, gas, sulphur, geopressured-geothermal and associated resources, and all other minerals which are authorized by an Act of Congress to be produced from "public lands" as defined in section 103 of the Federal Lands Policy and Management Act of 1976 (43 U.S.C. 1702(e)).

"Mobile offshore drilling unit" or "MODU" means a vessel, other than a public vessel of the United States, capable of engaging in drilling operations for exploration or exploitation of subsea resources.

"Officer in Charge, Marine Inspection" means a person who commands a Marine Inspection Zone described in Part 3 of this chapter and who is immediately responsible for the performance of duties with respect to

inspections, enforcement, and administration of regulations governing units.

"Operator" means—(1) In the case of a vessel, a charterer by demise or any other person who is responsible for the operation, manning, victualing, and supplying of the vessel; or

(2) In the case of an OCS facility, the operator as defined in 30 CFR 250.2(gg).

"Outer Continental Shelf" or "OCS" means all submerged lands lying seaward and outside of the area of "lands beneath navigable waters" as defined in section 2(a) of the Submerged Lands Act (43 U.S.C. 1301(a)) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

"OCS activity" means any offshore activity associated with exploration for, or development or production of, the minerals of the Outer Continental Shelf.

"OCS facility" means any artificial island, installation, or other device permanently or temporarily attached to the subsoil or seabed of the Outer Continental Shelf, erected for the purpose of exploring for, developing, or producing resources therefrom, or any such installation or other device (other than a ship or vessel) for the purpose of transporting such resources. The term includes mobile offshore drilling units when in contact with the seabed of the OCS for exploration or exploitation of subsea resources. The term does not include any pipeline or deepwater port (as the term "deepwater port" is defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502)).

"Owner" means a person holding title to or, in the absence of title, other indicia of ownership of a unit; however, this does not include a person who holds indicia of ownership primarily to protect a security interest in the unit and does not participate in the management or operation of the unit.

"Person" means an individual, association, partnership, consortium, joint venture, private, public, or municipal firm or corporation, or a government entity.

"Person in charge" means the master or other individual designated as such by the owner or operator under § 146.5 of this subchapter or 46 CFR 109.107.

"Production" means those activities which take place after the successful completion of any means for the removal of minerals, including, but not limited to, such removal, field operations, transfer of minerals to shore, operation monitoring, maintenance, and workover.

"Rebuilt" means having had substantial alteration or reconstruction

of the hull or principal structural component.

"Unit" means any OCS facility, vessel, rig, platform, or other vehicle or structure, domestic or foreign.

"Unmanned facility" means an OCS facility, other than a floating facility or mobile offshore drilling unit, which is not a manned facility even though it may be continuously serviced by an attending vessel.

"Unmanned platform" means a fixed, bottom-founded OCS facility which is not a manned facility even though it may be continuously serviced by an attending vessel.

"Vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

§ 140.15 Equivalents and approved equipment.

(a) The use of alternate equipment or procedures for those specified in this subchapter may be permitted by an Officer in Charge, Marine Inspection, to the extent and upon conditions as will insure a degree of safety comparable to or greater than that provided by the minimum standards in this subchapter.

(b) Where equipment in this subchapter is required to be of an approved type, the equipment requires the specific approval of the Commandant. Approvals are published in the Federal Register and Coast Guard Publication CG-190, "Equipment Lists", available from Commandant (G-MMT-2), U.S. Coast Guard, Washington, D.C. 20593.

(c) Specifications for certain items required to be of an approved type are contained in 46 CFR Parts 160 through 164.

§ 140.20 Delegations.

(a) Each District Commander is responsible for the administration and enforcement of the regulations in this subchapter within that person's assigned district.

(b) Under the general superintendence of the District Commander, the Officer in Charge, Marine Inspection, is delegated authority to administer and enforce the regulations in this subchapter.

(c) Authority delegated under this section may be redelegated as necessary by the delegate.

§ 140.25 Appeals.

(a) Any person directly affected by an action or decision of an Officer in Charge, Marine Inspection, under the Act or the regulations in this subchapter may request reconsideration of that action or decision. If still dissatisfied,

that person may appeal the action or decision of the Officer in Charge, Marine Inspection, within 30 days to the District Commander of the District in which the action was taken or the decision made. The District Commander issues a decision after reviewing the appeal submitted under this paragraph.

(b) Any person not satisfied with the decision of a District Commander may appeal that decision within 30 days to the Commandant, who issues a ruling after reviewing the appeal submitted under this paragraph. Rulings of the Commandant constitute final agency action.

(c) An appeal to the District Commander or Commandant—

(1) Must be made in writing, except in an emergency when an oral appeal may be accepted;

(2) Must be submitted to the District Commander of the District in which the action was taken or the decision made;

(3) Must describe the decision or action being appealed;

(4) Must state the reasons why the action or decision should be set aside or modified; and

(5) May contain any supporting documents and evidence that the appellant wishes to have considered.

(d) Pending determination of any appeal, the action or decision appealed remains in effect, unless suspended by the District Commander to whom the appeal was made or by the Commandant.

§ 140.30 Judicial review.

(a) Nothing in this subchapter shall be construed to prevent any interested party from seeking judicial review as authorized by law.

(b) Judicial review of the regulations in this subchapter, or any final ruling or order of the Commandant or that person's delegate pursuant to the Act or the regulations in this subchapter, is governed by the judicial review provisions of section 23 of the Act (43 U.S.C. 1349).

§ 140.35 Sanctions.

(a) Any person who fails to comply with—

(1) Any provision of the Act;

(2) Any regulation in this subchapter;

or

(3) Any order issued under the Act or the regulations in this subchapter by the Commandant, a District Commander, or an Officer in Charge, Marine Inspection, after notice of the failure and after expiration of any reasonable period allowed for corrective action, shall be liable for a civil penalty of not more than \$10,000 for each day of the continuance of the failure.

(b) Any person who knowingly and willfully—

(1) Violates any provision of the Act;

(2) Violates any regulation in this subchapter designed to protect health, safety, or the environment;

(3) Violates any order of the Commandant, District Commander, or Officer in Charge, Marine Inspection, issued under the Act or the regulations in this subchapter that is designed to protect health, safety, or the environment;

(4) Makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under the Act or the regulations in this subchapter;

(5) Falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act or the regulations in this subchapter; or

(6) Reveals any data or information required to be kept confidential by the Act shall, upon conviction, be punished by a fine of not more than \$100,000, or by imprisonment for not more than ten years, or both. Each day that a violation under paragraph (b)(1), (b)(2), or (b)(3) of this section continues, or each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity described in paragraph (b)(5) of this section, constitutes a separate violation.

(c) Whenever a corporation or other entity is subject to prosecution under paragraph (b) of this section, any officer or agent of the corporation or entity who knowingly and willfully authorized, ordered, or carried out the prescribed activity shall be subject to the same fines or imprisonment, or both, as provided for under paragraph (b) of this section.

(d) The penalties prescribed in this section are concurrent and cumulative and the exercise of one does not preclude the exercise of the others. Further, the penalties prescribed in this section are in addition to any other penalties afforded by any other law or regulation.

§ 140.40 Processing penalty cases.

Apparent violations of the regulations in this subchapter are processed in accordance with Subpart 1.07 of 33 CFR Part 1 on civil and criminal penalty proceedings, except as follows:

(a) The District Commander refers civil penalty cases to the Secretary of the Interior, or that person's delegate, who, under the Act, assesses, collects, and compromises civil penalties.

(b) If a possible violation investigated by the Coast Guard carries both a civil and a criminal penalty, the District Commander determines whether to refer the case to the U.S. Attorney for criminal prosecution or to the Secretary of the Interior, or that person's delegate, for civil penalty proceedings.

(c) When the U.S. Attorney declines to institute criminal proceedings, the District Commander decides whether to refer the case to the Secretary of the Interior, or that person's delegate, for civil penalty proceedings or to close the case.

Subpart B—Inspections

§ 140.101 General inspection requirements.

(a) Each unit engaged in OCS activities is subject to inspection by the Coast Guard.

(b) Under the direction of the Officer in Charge, Marine Inspection, marine inspectors inspect units engaged in OCS activities to determine whether the requirements of this subchapter are met. These inspections may be conducted with or without advance notice at any time deemed necessary by the Officer in Charge, Marine Inspection.

(c) As part of an inspection, a marine inspector may review records and require and observe the conduct of emergency drills and other tests and procedures as may be necessary to demonstrate to that person's satisfaction that the unit and its equipment are in full compliance with applicable Coast Guard regulations. The marine inspector consults with the person in charge of the unit before requiring a drill or other test or procedure to be conducted to minimize disruption of unit activities and risk to life or property.

§ 140.102 Foreign units.

(a) Coast Guard inspections of foreign units recognize valid international certificates accepted by the United States, including Safety of Life at Sea (SOLAS), Loadline, and Mobile Offshore Drilling Unit (MODU) Code certificates for matters covered by the certificates, unless there are clear grounds for believing that the condition of the unit or its equipment does not correspond substantially with the particulars of the certificate.

(b) The owner or operator of a foreign mobile offshore drilling unit which must comply with requirements of this subchapter is issued a letter of compliance by the Officer in Charge, Marine Inspection, when that person determines the requirements of this subchapter are met.

(c) A letter of compliance issued under this section is valid for one year or until a unit departs the OCS for foreign operations, whichever comes first.

§ 140.103 Deficiencies discovered during inspections.

(a) Any deficiency or hazard discovered during an inspection is reported to the unit's owner or operator, who shall have the deficiency or hazard eliminated or corrected as soon as practicable and within any period of time that may be specified for elimination or correction by the Coast Guard marine inspector.

(b) Whenever a deficiency or hazard remains uneliminated or uncorrected after notice and after the expiration of any period specified for elimination or correction by the marine inspector, the Officer in Charge, Marine Inspection, initiates appropriate enforcement measures.

(c) Lifesaving or firefighting equipment which is found defective by a marine inspector and which cannot be satisfactorily repaired shall be so mutilated that it cannot be used for the purpose for which it was originally intended.

§ 140.105 OCS facility inspections.

(a) This section applies to OCS facilities other than mobile offshore drilling units required to be inspected under 46 CFR Part 107.

(b) Each OCS facility is subject to an annual on-site inspection by the Coast Guard.

(c) An annual inspection includes inspection of all Coast Guard approved or required equipment and procedures designed to prevent or mitigate fires, spillages, and other major accidents on OCS facilities.

(d) The Coast Guard may conduct the first annual inspection of any OCS facility prior to commencement of drilling or production operations.

Subpart C—Investigations

§ 140.201 General.

Under the direction of the Officer in Charge, Marine Inspection, investigating officers investigate the following incidents occurring as a result of OCS activities:

- (a) Death.
- (b) Injury resulting in substantial impairment of any bodily unit or function.
- (c) Fire which causes death, serious injury or property damage exceeding \$25,000.

(d) Oil spillage exceeding two hundred barrels of oil in one occurrence during a thirty-day period.

(e) Other injuries, casualties, accidents, complaints of unsafe working conditions, fires, pollution, and incidents occurring as a result of OCS activities as the Officer in Charge, Marine Inspection, deems necessary to promote the safety of life or property or protect the marine environment.

§ 140.203 Investigation procedures.

(a) Insofar as practicable, investigations conducted pursuant to this subchapter shall follow the procedures of 46 CFR Part 4.

(b) Representatives of the U.S. Geological Survey may participate in these investigations. This participation may include, but is not limited to—

- (1) Participating in a joint on-scene investigation;
- (2) Making recommendations concerning the scope of the investigation;
- (3) Calling and examining witnesses; and
- (4) Submitting or requesting additional evidence.

(c) Reports of investigations conducted under this subchapter shall be made available to parties to the investigation and the public upon completion of agency action.

§ 140.205 Subpoenas.

(a) In any investigation conducted pursuant to this subchapter, the investigating officer shall have the power to administer necessary oaths, subpoena witnesses, and require the production of books, papers, documents, and any other evidence.

(b) Attendance of witnesses or the production of books, papers, documents, or any other evidence shall be compelled by a process similar to that used in the District Courts of the United States.

3. By adding a new Part 141 to read as follows:

PART 141—PERSONNEL

Subpart A—Restrictions on Employment

Sec.

- 141.1 Purpose.
- 141.5 Applicability.
- 141.10 Definitions.
- 141.15 Restrictions on employment.
- 141.20 Exemptions from restrictions on employment.
- 141.25 Evidence of U.S. citizenship.
- 141.30 Evidence of status as a resident alien.
- 141.35 Records to be kept by the employer.

Authority: Sec. 30 of sec. 208, Pub. L. 95-372, 92 Stat. 669 (43 U.S.C. 1356); 49 CFR 1.46(z).

Subpart A—Restrictions on Employment

§ 141.1 Purpose.

This subpart prescribes rules governing restrictions on the employment of personnel on units engaged in OCS activities.

§ 141.5 Applicability.

(a) This subpart applies to employment of personnel on units engaged in OCS activities, except as provided in paragraph (b) of this section.

(b) This subpart does not apply to employment of personnel on any—

(1) Vessel subject to the citizenship requirements of 46 U.S.C. 672a for pilots, licensed officers, and unlicensed crew when the vessel is transiting to or from an OCS facility or a United States port;

(2) Vessel subject to the citizenship requirements of 46 U.S.C. 1132 for officers and crew on federally subsidized or documented vessels; or

(3) Unit over 50 percent of which is owned by one or more citizens of a foreign nation or with respect to which one or more citizens of a foreign nation have the right effectively to control, except to the extent and to the degree that the President determines that the government of such foreign nation or any of its political subdivisions has implemented, by statute, regulation, policy, or practice, a national manning requirement for equipment engaged in the exploration, development, or production of oil or gas in its offshore areas.

(c) The Commandant may, upon request or upon that person's own initiative, determine whether over 50 percent of a particular unit is owned by citizens of a foreign nation or whether citizens of a foreign nation have the right effectively to control the unit.

(Approved by the Office of Management and Budget under OMB control number 2130-0182)

(d) In determining whether ownership or a right effectively to control exists, the Commandant may consider operational control of a unit, management responsibility, title, lease and charter arrangements, and financial interests.

(e) The owner or operator of any unit affected is notified of the Commandant's determination.

§ 141.10 Definitions.

As used in this subpart:
"Citizens of the United States" means—

(1) In the case of an individual, one who is a native born, derivative, or fully naturalized citizen of the United States;

(2) In the case of a partnership, unincorporated company, or association, one in which 50% or more of the controlling interest is vested in citizens of the United States; or

(3) In the case of a corporation, one which is incorporated under the laws of the United States or of any State thereof. "Citizen of a foreign nation" means—

(1) In the case of an individual, one who is not a citizen of the United States;

(2) In the case of a partnership, unincorporated company, or association, one in which more than 50% of the controlling interest is vested in citizens of a nation other than the United States; or

(3) In the case of a corporation, one which is incorporated under the laws of a nation other than the United States so long as (i) the title to a majority of the stock thereof is free from any trust or fiduciary obligation in favor of any citizen of the United States; (ii) the majority of the voting power in the corporation is not vested in any citizen of the United States; (iii) through any contract or understanding, the majority of the voting power may not be exercised directly or indirectly on behalf of any citizen of the United States; or (iv) by no other means, control of the corporation is conferred upon or permitted to be exercised by any citizen of the United States.

"Resident alien" means an alien lawfully admitted to the United States for permanent residence in accordance with section 101(a)(20) of the Immigration and Nationality Act of 1952, as amended, 8 U.S.C. 1101(a)(20).

§ 141.15 Restrictions on employment.

(a) On or after April 5, 1983, each employer of personnel on any unit engaged in OCS activities that is subject to this part must employ, as members of the regular complement of the unit, only citizens of the United States or resident aliens except as provided by § 141.20.

(b) As used in paragraph (a) of this section, "regular complement of a unit" means those personnel necessary for the routine functioning of the unit, including marine officers and crew; industrial personnel on the unit, such as toolpushers, drillers, roustabouts, floor hands, crane operators, derrickmen, mechanics, motormen, and general maintenance personnel; and support personnel on the unit, such as cooks, stewards and radio operators. The term does not include specialists, professionals, or other technically trained personnel called in to handle emergencies or other temporary

operations; extra personnel on a unit for training; and other personnel temporarily on a unit for specialized operations, such as construction, alteration, well logging, or unusual repairs or emergencies.

(c) The Officer in Charge, Marine Inspection, may determine whether a particular individual or position is part of the regular complement of a unit. A copy of the determination is provided to the owner or operator of the unit affected.

(Approved by the Office of Management and Budget under OMB control number 2130-0182)

§ 141.20 Exemptions from restrictions on employment.

(a) An employer may request an exemption from the restrictions on employment in § 141.15 in order to employ persons other than citizens of the United States or resident aliens as part of the regular complement of the unit under the following circumstances:

(1) When specific contractual provisions or national registry manning requirements in effect on September 18, 1978 provide that a person other than a citizen of the United States or a resident alien is to be employed on a particular unit.

(2) When there is not a sufficient number of citizens of the United States or resident aliens qualified and available for the work.

(3) When the President determines with respect to a particular unit that the employment of only citizens of the United States or resident aliens is not consistent with the national interest.

(b) The request must be in writing, identify the provision of paragraph (a) of this section relied upon, and—

(1) If involving specific contractual provisions under paragraph (a)(1) of this section, list the persons claimed exempt and contain a copy of the contract;

(2) If involving persons without an H-2 Visa under paragraph (a)(2) of this section, list the persons or positions sought to be exempted; or

(3) If under paragraph (a)(3) of this section, identify the unit involved and contain any information in support of the claim.

(c) Requests must be submitted to the Commandant (G-MVP), U.S. Coast Guard Headquarters, 2100 2nd Street, SW., Washington, D.C. 20593.

(d) Upon receipt of a request under paragraph (a)(2) of this section, the Coast Guard seeks information from the Department of Labor concerning whether there are citizens of the United States or resident aliens qualified and available for work. If information is

provided that citizens of the United States or resident aliens are qualified and available, the employer may be required to seek their employment before the request is approved.

(e) Upon receipt of a request under paragraph (a)(3) of this section and after consulting with other Federal agencies as appropriate, the Commandant forwards the request and the comments of the Coast Guard and other interested agencies to the President for determination.

(f) Upon approval by the President for request under paragraph (a)(3) of this section or by the Coast Guard for all other requests, the Coast Guard issues a certification of the exemption. A certification issued under paragraph (a)(2) of this section is valid for one year from the date of issuance.

(g) If, within 30 days of receipt by the Coast Guard of a request under paragraph (a)(2) of this section, the Coast Guard does not make a determination or advise the employer that additional time for consideration is necessary, the request is considered approved for a period of 90 days from the end of the 30 day period.

(h) A request need not be submitted for persons who are not citizens of the United States or resident aliens and who—

(1) Are employed under the national registry manning requirements exception in paragraph (a)(1) of this section; or

(2) Have been classified and admitted to the United States as temporary workers under 8 U.S.C. 1101(a)(15)(H)(ii) for work in a position for which admitted.

(Approved by the Office of Management and Budget under OMB control number 2130-0182)

§ 141.25 Evidence of citizenship.

(a) The employer may accept as sufficient evidence that a person is a citizen of the United States any one of the following documents and no others:

(1) A merchant mariner's document issued by the Coast Guard under 46 CFR Part 12 which shows the holder to be citizen of the United States.

(2) An original or certified copy of a birth certificate or birth registration issued by a state or the District of Columbia.

(3) A United States passport.

(4) A Certificate of Citizenship issued by the Immigration and Naturalization Service.

(5) A Certificate of Naturalization issued by a Naturalization Court.

(6) A letter from the Coast Guard issued under paragraph (d) of this section.

(b) If a person does not have one of the documents listed in paragraphs (a)(1) through (a)(6) of this section, that person may appear in person before an Officer in Charge, Marine Inspection, and submit one or more of the following documents which may be considered as evidence that the applicant is a citizen of the United States:

(1) A Certificate of Derivative Citizenship or a Certificate of Naturalization of either parent and a birth certificate of the applicant or other evidence satisfactorily establishing that the applicant was under 21 years of age at the time of the parent's naturalization.

(2) An original or certified copy of a birth certificate from a political jurisdiction outside the United States which demonstrates citizenship status.

(3) A Baptismal certificate or parish record recorded within one year after birth.

(4) A statement of a practicing physician certifying that the physician attended the birth and has a record showing the date on which the birth occurred.

(5) A commission, or evidence of commission, in the Armed Forces of the United States which shows the holder to be a citizen of the United States.

(6) A continuous discharge book or certificate of identification issued by the Coast Guard or the former Bureau of Marine Inspection, provided the document shows that the applicant produced satisfactory evidence of citizenship at the time the document was issued.

(7) A delayed certificate of birth issued under a state seal, provided there are no collateral facts indicating fraud in its procurement.

(8) A report of the Census Bureau showing the earliest available record of the applicant's age or birth.

(9) Affidavits of parents, relatives, or two or more responsible citizens of the United States, school records; immigration records; insurance policies; or other records which support the citizenship claim.

(c) In any case where doubt exists concerning evidence of citizenship submitted under paragraph (b) of this section, the Officer in Charge, Marine Inspection, may refer the matter to the United States Immigration and Naturalization Service for an advisory opinion.

(d) If the documents submitted under paragraph (b) of this section are determined by the Officer in Charge, Marine Inspection, to be sufficient evidence that the applicant is a citizen of the United States, the Coast Guard issues the applicant a letter acknowledging this determination.

(Approved by the Office of Management and Budget under OMB control number 2130-0182)

§ 141.30 Evidence of status as a resident alien.

The employer may accept as sufficient evidence that a person is a resident alien any one of the following documents and no others:

(a) A merchant mariner's document issued by the Coast Guard under 46 CFR Part 12.

(b) An alien registration card issued by the Immigration and Naturalization Service certifying that the card holder has been admitted to the United States as an immigrant.

(c) A declaration of intention to become a citizen of the United States issued by the a Naturalization Court.

§ 141.35 Records to be kept by the employer.

(a) The employer of personnel subject to this subpart shall maintain, and make available to the Coast Guard upon request, a record identifying which of the documents listed in §§ 141.25 and 141.30 were relied upon for each employee. The record must consist of either a copy of the document or the following information on the document:

(1) For a merchant mariner's document or a United States passport, the document's title and identification number.

(2) For a birth certificate or birth registration, the document's title and the employee's date and place of birth.

(3) For all other documents listed in §§ 141.25 and 141.30, the document's title and date and place of issuance.

(b) The employer of personnel subject to this subpart shall maintain a written list of the positions that make up the regular complement of the unit and the name and nationality of the individual filling each employee position. This list may be in summary form and any simple format.

(Approved by the Office of Management and Budget under OMB control number 2130-0182)

4. By revising Part 142 to read as follows:

PART 142—WORKPLACE SAFETY AND HEALTH

Sec.

142.1 Duties of lessees, permittees, and persons responsible for actual operations.

142.5 Reports of unsafe working conditions.

Authority: Sec. 4, 87 Stat. 462 (43 U.S.C. 1333) as amended; sec. 22 of sec. 208, Pub. L. 95-372, 92 Stat. 655 (43 U.S.C. 1348); 49 CFR 1.46(z).

§ 142.1 Duties of lessees, permittees, and persons responsible for actual operations.

(a) Each holder of a lease or permit under the Act shall ensure that all places of employment within the lease area or within the area covered by the permit on the OCS are maintained in compliance with workplace safety and health regulations of this part and, in addition, free from recognized hazards.

(b) Persons responsible for actual operations, including owners, operators, contractors, and subcontractors, shall ensure that those operations subject to their control are conducted in compliance with workplace safety and health regulations of this part and, in addition, free from recognized hazards.

(c) "Recognized hazards", in paragraphs (a) and (b) of this section, means conditions which are—

(1) Generally known among persons in the affected industry as causing or likely to cause death or serious physical harm to persons exposed to those conditions; and

(2) Routinely controlled in the affected industry.

§ 142.5 Reports of unsafe working conditions.

(a) Any person may report a possible violation of any regulation in this subchapter or any other hazardous or unsafe working condition on any unit engaged in OCS activities to an Officer in Charge, Marine Inspection.

(b) After reviewing the report and conducting any necessary investigation, the Officer in Charge, Marine Inspection, notifies the owner or operator of any deficiency or hazard and initiates enforcement measures as the circumstances warrant.

(c) The identity of any person making a report under paragraph (a) of this section is not made available, without the permission of the reporting person, to anyone other than those officers and employees of the Department of Transportation who have a need for the record in the performance of their official duties.

5. By revising Part 143 to read as follows:

PART 143—DESIGN AND EQUIPMENT

Subpart A—General

Sec.

143.1 Purpose.

143.15 Lights and warning devices.

Subpart B—OCS Facilities

143.100 Applicability.

143.101 Means of escape.

143.105 Personnel landings.

143.110 Guards and rails.

143.120 Floating OCS facilities.

Subpart C—Mobile Offshore Drilling Units (MODUs)

143.200 Applicability.

143.201 Existing MODUs exempted from new design requirements.

143.205 Requirements for U.S. and undocumented MODUs.

143.207 Requirements for foreign MODUs.

143.210 Letter of compliance.

Subpart D—Vessels

143.300 Applicability.

143.301 Load line requirements.

Authority: Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; sec. 30 of sec. 208, Pub. L. 95-372, 92 Stat. 669 (43 U.S.C. 1356); 49 CFR 1.46(z).

Subpart A—General

§ 143.1 Purpose.

This part prescribes design and equipment requirements for units engaged in OCS activities.

§ 143.15 Lights and warning devices.

(a) OCS facilities must meet the lights and warning devices requirements under Part 67 of this chapter concerning aids to navigation on artificial islands and fixed structures.

(b) Vessels, including attending vessels but excluding MODUs under paragraph (a) of this section, must meet the lights and warning devices requirements under the International Regulations for Preventing Collisions at Sea 1972 (33 CFR Part 87, Appendix A) or under local rules provided for in Rule 1 of those Regulations.

Subpart B—OCS Facilities

§ 143.100 Applicability.

This subpart applies to OCS facilities except mobile offshore drilling units.

§ 143.101 Means of escape.

(a) "Primary means of escape" shall be fixed stairways or fixed ladders of metal construction.

(b) "Secondary means of escape" shall be types approved for "primary means of escape" or portable, flexible ladders, knotted man ropes, and other devices satisfactory to the Officer in Charge, Marine Inspection.

(c) Manned OCS facilities shall be provided with at least two "primary means of escape" extending from the uppermost platform level that contains living quarters or that personnel occupy continuously, to each successively lower working level and to the water surface. Working levels without living quarters, shops, or offices in manned facility structural appendages, extensions, and installations that personnel occupy only occasionally shall be provided with one "primary means of escape" and, when necessary in the opinion of the Officer in

Charge, Marine Inspection, one or more "secondary means of escape."

(d) Unmanned OCS facilities shall be provided with at least one "primary means of escape" extending from the uppermost platform working level to each successively lower working level and to the water surface. When personnel are on board, unmanned facilities shall also be provided with one or more "secondary means of escape," but not more than one will be required for every 10 persons extending from the uppermost working level of the facility to each successively lower working level and to the water surface, excluding facility appendages and installations, unless "secondary means of escape" from such appendages and installations are necessary in the opinion of the Officer in Charge, Marine Inspection.

(e) "Means of escape" shall be suitably accessible to personnel for rapid facility evacuation.

(f) When two or more "means of escape" are installed, at least two shall be located as nearly diagonally opposite each other as practicable unless such requirement is unreasonable or impracticable in the opinion of the Officer in Charge, Marine Inspection.

§ 143.105 Personnel landings.

(a) Sufficient personnel landings shall be provided on each manned OCS facility to assure safe access and egress. When due to special construction personnel landings are not feasible, then suitable transfer facilities to provide safe access and egress shall be installed.

(b) The personnel landings shall be provided with satisfactory illumination. The minimum shall be one-foot candle of artificial illumination as measured at the landing floor and guards and rails.

§ 143.110 Guards and rails.

(a) Except for helicopter landing decks which are provided for in paragraph (b) of this section, and areas not normally occupied, the unprotected perimeter of all floor or deck areas and openings shall be rimmed with guards and rails or wire mesh fence. The guard rail or fence shall be at least 42 inches high. The two intermediate rails shall be so placed that the rails are approximately evenly spaced between the guard rail and the floor or deck area: *Provided*, That if a toe board is installed then one of the intermediate rails may be omitted and the other rail placed approximately half way between the top of the toe board and the top guard rail.

(b) The unprotected perimeter of the helicopter landing deck shall be protected with a device of sufficient

strength and size as to prevent any person from falling from such deck.

(c) Each catwalk and each stairway shall be provided with a suitable guard rail or rails, as necessary.

§ 143.120 Floating OCS facilities.

(a) Before construction is started on a proposed floating OCS facility, the owner or operator of the facility must submit to the Coast Guard for approval all plans and information listed in Subpart C of 46 CFR Part 107 which relate to the facility. All plans and information must be submitted according to the procedures in that subpart.

(b) The facility must comply with the requirements of Subchapters F (Marine Engineering) and J (Electrical Engineering) of 46 CFR Chapter I and 46 CFR Part 108 (Design and Equipment). Where unusual design or equipment needs make compliance impracticable, alternative proposals that provide an equivalent level of safety may be accepted. These requirements do not apply to production systems on the facility.

(c) The Officer in Charge, Marine Inspection, determines whether a floating OCS facility meets the requirements of paragraph (b) of this section and issues a certificate of inspection for each facility which meets these requirements. Inspection of the facility may be required as part of this determination.

Subpart C—Mobile Offshore Drilling Units

§ 143.200 Applicability.

This subpart applies to mobile offshore drilling units when engaged in OCS activities.

§ 143.201 Existing MODUs exempted from new design requirements.

Any mobile offshore drilling unit built before, under construction on, or contracted for prior to April 5, 1982 is not required to meet the design requirements of this subpart until the unit is rebuilt. Until rebuilt, the unit must continue to comply with the design requirements applicable to the unit on April 5, 1983.

§ 143.205 Requirements for U.S. and undocumented MODUs.

Each mobile offshore drilling unit that is documented under the laws of the United States or not documented under the laws of any nation must comply with the design, equipment, and inspection requirements of 46 CFR Parts 107 and 108 in order to engage in OCS activities.

§ 143.207 Requirements for foreign MODUs.

Each mobile offshore drilling unit that is documented under the laws of a foreign nation must, when engaged in OCS activities, comply with one of the following:

(a) The design and equipment standards of 46 CFR Part 108.

(b) The design and equipment standards of the documenting nation if the standards provide a level of safety generally equivalent to or greater than that provided under 46 CFR Part 108.

(c) The design and equipment standards for mobile offshore drilling units contained in the Inter-Governmental Maritime Consultative Organization (IMCO) Code for Construction and Equipment of Mobile Offshore Drilling Units (IMCO Assembly Resolution A.414(XI)) which has been incorporated by reference.

§ 143.210 Letter of compliance.

The Officer in Charge, Marine Inspection, determines whether a mobile offshore drilling unit which does not hold a valid Coast Guard Certificate of Inspection meets the requirements of § 143.205 or § 143.207 relating to design and equipment standards and issues a letter of compliance for each unit which meets the requirements. Inspection of the unit may be required as part of this determination.

Subpart D—Vessels

§ 143.300 Applicability.

This subpart applies to all vessels engaged in OCS activities except mobile offshore drilling units.

§ 143.301 Load line requirements.

(a) Vessels, including foreign vessels, which would be subject to the requirements of Subchapter E of 46 CFR Chapter I concerning load lines when arriving at or proceeding to sea from any port or place within the United States must comply with those requirements when engaged in activities on the OCS.

(b) Load line certificates and load line exemption certificates issued or accepted under Subchapter E of 46 CFR Chapter I are accepted as evidence of compliance with paragraph (a) of this section.

PART 144—LIFESAVING APPLIANCES

6. The authority citation for Part 144 is revised to read as follows:

Authority: Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; 49 CFR 1.46(z).

7. By adding new paragraphs (c) and (d) to § 144.01-20 as follows:

§ 144.01-20 Life preservers.

* * * * *

(c) Each life preserver carried on a manned platform after October 5, 1982, must have a personal flotation device light that is approved under Subpart 161.012 of 46 CFR Part 161. Each light must be securely attached to the front shoulder area of the life preserver.

(d) Each life preserver carried on a manned platform after October 5, 1982, must have at least 200 sq. cm (31 sq. in.) of retroreflective material attached on its front side, at least 200 sq. cm on its back side, and at least 200 sq. cm of material on each of its reversible sides. The material must be Type I material that is approved under 46 CFR 164.018. The material attached on each side of a life preserver must be divided equally between the upper quadrants of the side, and the material in each quadrant must be attached as closely as possible to the shoulder area of the life preserver.

8. By revising Part 146 to read as follows:

PART 146—OPERATIONS

Subpart A—OCS Facilities

Sec.

- 146.1 Applicability.
- 146.5 Person in charge.
- 146.10 Notice of new facilities.
- 146.15 Maintenance of emergency equipment.
- 146.20 Work vests.
- 146.30 Notice of casualty or accident.
- 146.35 Written report of casualty.
- 146.40 Diving casualties.
- 146.45 Pollution incidents.

Subpart B—Manned OCS Facilities

- 146.101 Applicability.
- 146.105 General alarm system.
- 146.110 Emergency signals.
- 146.115 Duties of personnel during an emergency.
- 146.120 Manning of survival craft.
- 146.125 Emergency drills.
- 146.130 Station bill.
- 146.135 Markings for emergency equipment.

Subpart C—Mobile Offshore Drilling Units (MODUs)

- 146.201 Applicability.
- 146.202 Notice of arrival or relocation of MODUs on the OCS.
- 146.203 Requirements for U.S. and undocumented MODUs.
- 146.205 Requirements for foreign MODUs.

Subpart D—Vessels

- 146.301 Applicability.
- 146.303 Notice of casualty or accident.

Authority: Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; sec. 22 of sec. 208, Pub. L. 95-372, 92 Stat. 656 (43 U.S.C. 1348); 49 CFR 1.46(z).

Subpart A—OCS Facilities**§ 146.1 Application.**

The provisions of this subpart apply to OCS facilities except mobile offshore drilling units.

§ 146.5 Person in charge.

(a) The owner or operator, or the agent of either of them, shall designate by title and in order of succession the persons on each OCS facility who shall be the "person in charge."

(b) In case an emergency arises, nothing in the regulations in this subchapter shall be so construed as preventing the person in charge from pursuing the most effective action in that person's judgement for rectifying the conditions causing the emergency.

§ 146.10 Notice of new facilities.

(a) The owner or operator of each OCS facility not in operation before April 5, 1982 shall, at least 30 days before the date on-site construction of the facility is expected to commence, notify the District Commander for the area in which the facility will be located of—

- (1) The position in which the facility will be operated;
- (2) The designation assigned to the facility for identification under 30 CFR 250.37;
- (3) The date when operation of the facility is expected to commence; and
- (4) The date when the facility is expected to be available for inspection by the Coast Guard.

(b) The information required in paragraph (a) of this section may be submitted together with an need not repeat information submitted in connection with the application and notice requirements in 33 CFR Part 67 for aids to navigation on the Outer Continental Shelf.

§ 146.15 Maintenance of emergency equipment.

(a) The emergency equipment provided, regardless of whether or not required by this subchapter, shall be maintained in good condition at all times. Good operating practices require replacement of expended equipment, as well as periodic renewal of those items which have a limited period of effectiveness.

(b) Each personal flotation device light that has a non-replaceable power source must be replaced on or before the expiration date of the power source.

(c) Each replaceable power source for a personal flotation device light must be replaced on or before its expiration date and the light must be replaced when it is no longer serviceable.

§ 146.20 Work vests.

(a) *Approved unicellular plastic foam.* Buoyant work vests carried under the permissive authority of this section shall conform to the specifications for Type V work vests in 46 CFR Subpart 160.053.

(b) *Use.* Approved buoyant work vests are considered to be items of safety apparel and may be carried aboard OCS facilities to be worn by persons employed thereon when working near or over the water. The use and control of such vests shall be under the supervision of the person in charge of the facility. When carried, such vests shall not be accepted in lieu of any portion of the required number of approved life preservers and shall not be substituted for the approved life preservers required to be worn during drills and emergencies.

(c) *Stowage.* The work vests shall be stowed separately from the regular stowage of approved life preservers. The location for the stowage of work vests shall be such as not to be easily confused with that for approved life preservers.

(d) *Inspections.* Each work vest shall be subject to examination by a marine inspector to determine its serviceability. If found to be satisfactory, it may be continued in service, but shall not be stamped by a marine inspector with a Coast Guard stamp. If a work vest is found not to be in a serviceable condition, then such work vest shall be removed from the OCS facility. If a work vest is beyond repair, it shall be destroyed or mutilated in the presence of a marine inspector so as to prevent its continued use as a work vest.

§ 146.30 Notice of casualties.

(a) The owner, operator, and person in charge of an OCS facility shall ensure that the Coast Guard is notified as soon as possible after a casualty occurs, and by the most rapid means available, of each casualty involving the facility which results in—

- (1) Death; or
- (2) Injury to 5 or more persons in a single incident.

(b) The owner, operator, and person in charge shall ensure that the Coast Guard is notified promptly of each casualty involving the facility which results in—

- (1) Damage affecting the usefulness of primary lifesaving or firefighting equipment;
- (2) Injury causing any person to be incapacitated for more than 72 hours;
- (3) Damage to the facility exceeding \$25,000 resulting from a collision by a vessel with the facility; or
- (4) Damage to a floating OCS facility exceeding \$25,000.

(c) The notice required by paragraphs (a) and (b) of this section must identify the person giving the notice and the facility involved and describe, insofar as practicable, the nature of the casualty and the extent of injury to personnel and damage to property.

(d) The damage amounts set forth in paragraphs (b)(3) and (b)(4) of this section are based on the costs necessary to restore the facility to the same condition of serviceability that the facility was in before the casualty, including the cost of salvage, gas freeing, and drydockage. It does not include demurrage or similar items.

(Approved by the Office of Management and Budget under OMB control numbers 2115-0003 and 2115-0004)

§ 146.35 Written report of casualty.

(a) In addition to the notice of a casualty required by § 146.30, the owner, operator, or person in charge shall, within 10 days of the casualty, submit to the Officer in Charge, Marine Inspection, a written report which—

- (1) Identifies the facility involved, its owner, operator, and person in charge;
- (2) Describes the casualty, including the date and time;
- (3) Describes the nature and extent of injury to personnel and damage to property;
- (4) Describes the factors which may have contributed to causing the casualty;
- (5) Gives the name, address, and phone number of persons involved in or witnessing the casualty; and
- (6) Gives any desired comments, especially with respect to use of or need for emergency equipment.

(b) The written report required by paragraph (a) of this section may be—

- (1) In narrative form;
- (2) On Form CG 2692 for casualties resulting in only property damage; or
- (3) On Form CG 924E for casualties resulting only in injury to personnel.

(c) If filed or postmarked within 5 days of the casualty, the written report required by paragraph (a) of this section serves as the notice required by § 146.30(b).

(Approved by the Office of Management and Budget under OMB control numbers 2115-0003 and 2115-0004)

§ 146.40 Diving casualties.

Diving related casualties are reported in accordance with 46 CFR 197.484 and 197.486.

§ 146.45 Pollution incidents.

Oil pollution incidents involving an OCS facility are reported in accordance with §§ 135.305 and 135.307 of this

chapter. Additional provisions concerning liability and compensation because of oil pollution are contained in Subchapter M of this chapter.

Subpart B—Manned OCS Facilities

§ 146.101 Application.

The provisions of this subpart apply only to manned OCS facilities except mobile offshore drilling units.

§ 146.105 General alarm system.

Each manned facility must have a general alarm system. When operated, this system shall be audible in all parts of the structure on which provided.

§ 146.110 Emergency signals.

(a) The owner, the owner's agent, or the person in charge shall establish emergency signals to be used for calling the personnel to their emergency stations.

(b) The signal to man emergency stations shall be an intermittent signal on the general alarm system for not less than 10 seconds. The abandon facility signal shall be a continuous signal on the general alarm system.

§ 146.115 Duties of personnel during an emergency.

(a) The owner, the owner's agent, or the person in charge shall assign to each person on a manned facility special duties and duty stations so that in event an emergency arises confusion will be minimized and no delay will occur with respect to the use or application of equipment required by this subchapter. The duties shall, as far as possible, be comparable with the regular work of the individual.

(b) The duties shall be assigned as necessary for the proper handling of any emergency, and shall include the following:

(1) The closing of air ports, watertight doors, scuppers, and sanitary and other discharges which lead through the facility's hull.

(2) The stopping of fans and ventilation systems.

(3) The donning of life preserves.

(4) The preparation and launching of life floats, lifeboats, or life rafts.

§ 146.120 Manning of survival craft.

The owner, the owner's agent, or the person in charge shall assign a person to each life float, lifeboat, life raft, or survival capsule who shall be responsible for launching it in event of an emergency.

§ 146.125 Emergency drills.

(a) Emergency drills shall be conducted at least once each month by the person in charge of the manned

facility. The drill shall be conducted as if an actual emergency existed. All personnel should report to their respective stations and be prepared to perform the duties assigned to them.

(b) The person in charge and conducting the emergency drill shall instruct the personnel as necessary to insure that all persons are familiar with their duties and stations.

(c) The date and time of such drills shall be reported in writing by the person in charge at the time of the drill to the owner who shall maintain this report record for a year and furnish it upon request to the Coast Guard. After one year, such records may be destroyed. When it is impossible to conduct emergency drills as required by this section during a particular calendar month, during the following month, a written report by the owner shall be submitted to the Officer in Charge, Marine Inspection, stating why the drills could not be conducted.

(Approved by the Office of Management and Budget under OMB control number 2115-0071)

§ 146.130 Station bill.

(a) The person in charge of each manned platform shall be responsible for and have prepared a station bill (muster list). This station bill must be signed by the person in charge. Copies shall be duly posted in conspicuous locations on the manned platform.

(b) The station bill shall set forth the special duties and duty stations of each member of the personnel for any emergency which involves the use or application of equipment required by this subchapter. In addition, it shall contain all other duties assigned and considered as necessary for the proper handling of other emergencies.

(c) The station bill shall contain the various signals to be used for calling the personnel to their emergency stations, and to abandon the facility.

§ 146.135 Markings for emergency equipment.

(a) Markings shall be provided as considered necessary for the guidance of persons on manned facilities.

(b) The general alarm bell switches shall be identified by red letters at least one inch high with a contrasting background: "General Alarm."

(c) All general alarm bells shall be identified by a sign at each bell in red letters at least one inch high with a sharp contrasting background: "General Alarm—When Bell Rings Go to Your Station."

(d) All life floats, lifeboats, life rafts, and survival capsules, together with paddles or oars, shall be conspicuously

marked with a name or number of, or other inscription identifying, the facility on which placed. The number of persons allowed on each life float, lifeboat, or life raft shall be conspicuously marked thereon in letters and numbers 1½ inches high. These numbers shall be placed on both sides of the life float, lifeboat, or life raft. Inflatable life rafts shall be marked in accordance with Subpart 160.051 of 46 CFR Part 160 and no additional markings are required.

(e) All life preservers and ring life buoys shall be marked with the name or number of, or other inscription identifying, the facility on which placed except those which accompany mobile crews to unmanned platforms may be marked with the operator's name and field designation.

Subpart C—Mobile Offshore Drilling Units

§ 146.201 Application.

This subpart applies to mobile offshore drilling units engaged in OCS activities.

§ 146.202 Notice of arrival or relocation of MODUs on the OCS.

(a) The owner of any mobile offshore drilling unit engaged in OCS activities shall, 14 days before arrival of the unit on the OCS or as soon thereafter as practicable, notify the District Commander for the area in which the unit will operate of—

(1) The unit's name, nationality, and designation assigned for identification under 30 CFR 250.37;

(2) The location and year that the unit was built;

(3) The name and address of the owner, and the owner's local representative, if any;

(4) Classification or inspection certificates currently held by the unit;

(5) The location and date that operations are expected to commence and their anticipated duration; and

(6) The location and date that the unit will be available and ready for inspection by the Coast Guard.

(b) Once a unit is located on the OCS, the owner of the unit shall notify the District Commander before relocating the unit.

(c) The information required in paragraphs (a) and (b) of this section may be provided by telephone or may be submitted together with, and need not repeat information contained in, applications and notices under 33 CFR Part 67 for aids to navigation on the Outer Continental Shelf or 33 CFR Part 135 for applications for certificate of financial responsibility.

§ 146.203 Requirements for U.S. and undocumented MODUs.

Each mobile offshore drilling unit documented under the laws of the United States and each mobile offshore drilling unit that is not documented under the laws of any nation must comply with the operating standards of 46 CFR Part 109 when engaged in OCS activities.

§ 146.205 Requirements for foreign MODUs.

Each mobile offshore drilling unit that is documented under the laws of a foreign nation must, when engaged in OCS activities, comply with one of the following:

(a) The operating standards of 46 CFR Part 109.

(b) The operating standards of the documenting nation if the standards provide a level of safety generally equivalent to or greater than that provided under 46 CFR Part 109.

(c) The operating standards for mobile offshore drilling units contained in the Inter-Governmental Maritime Consultative Organization (IMCO) Code for the Construction and Equipment of Mobile Offshore Drilling Units (IMCO Assembly Resolution A. 414(XI)) which has been incorporated by reference and the requirements of 46 CFR Part 109 for matters not addressed by the Code.

Subpart D—Vessels

§ 146.301 Applicability.

This subpart applies to vessels engaged in OCS activities other than United States vessels already required to report marine casualties under Subpart 4.05 of 46 CFR Part 4 or Subpart D of 46 CFR Part 109.

§ 146.303 Notice and written report of casualties.

The owner, operator, or person in charge of a vessel engaged in OCS activities shall ensure that the notice of casualty requirements of §146.30 and the written report requirements of §146.35 are complied with whenever a casualty involving the vessel occurs which results in—

- (a) Death;
- (b) Injury to 5 or more persons in a single incident; or
- (c) Injury causing any person to be incapacitated for more than 72 hours.

(Approved by the Office of Management and Budget under OMB control numbers 2115-0003 and 2115-0004)

9. By revising Part 147 to read as follows:

PART 147—SAFETY ZONES

Sec.

147.1 Purpose of safety zones.

147.5 Delegation of authority.

147.10 Establishment of safety zones.

147.15 Extent of safety zones.

Authority: Sec 4, 87 Stat. 462 (43 U.S.C. 1333) as amended; 49 CFR 1.46(z).

§ 147.1 Purpose of safety zones.

Safety zones may be established around OCS facilities being constructed, maintained, or operated on the Outer Continental Shelf to promote the safety of life and property on the facilities, their appurtenances and attending vessels, and on the adjacent waters within the safety zones. Regulations adopted for safety zones may extend to the prevention or control of specific activities and access by vessels or persons, and include measures to protect the living resources of the sea from harmful agents. The regulations do not encompass the operating equipment or procedures used in the drilling for and production of oil, gas, or other minerals, or the transportation of oil, gas, or other minerals by pipeline except as they relate to the safety of life and property on OCS facilities and on the waters adjacent to OCS facilities or to the protection of the living resources of the sea within a safety zone from harmful agents.

§ 147.5 Delegation of authority.

The authority to establish safety zones and to issue and enforce safety zone regulations in accordance with the provisions of this part is delegated to District Commanders.

§ 147.10 Establishment of safety zones.

(a) Whenever it comes to the attention of the District Commander that a safety zone and regulations may be required concerning any OCS facility being constructed, maintained, or operated on the Outer Continental Shelf or its appurtenances and attending vessels, or the adjacent waters, the District Commander may initiate appropriate inquiry to determine whether a safety zone and regulations should be established. In making this determination, the District Commander considers all relevant safety factors, including existing or reasonably foreseeable congestion of vessels, the presence of unusually harmful or hazardous substances, and any obstructions within 500 meters of the OCS facility. If the District Commander determines that the circumstances warrant the establishment of a safety zone and regulations the District

Commander takes action as necessary consistent with the provisions of this part.

(b) Except as provided in paragraph (c) of this section, a safety zone and necessary regulations may be established concerning any OCS facility being constructed, maintained or operated on the Outer Continental Shelf, following publication of a notice of proposed rule making in the Federal Register and after interested parties have been given the opportunity to submit comments. A zone and necessary regulations may be in effect during any period when construction equipment and materials are within 500 meters of the construction site until the removal of all portions of the facility.

(c) A safety zone and necessary regulations may be established without public rule making procedures when the District Commander determined that imminent danger exists with respect to the safety of life and property on an OCS facility constructed, maintained, or operated on the Outer Continental Shelf, its appurtenances and attending vessels or adjacent waters. A safety zone and regulations may be made effective on the date the rule is published in the Federal Register. However, if circumstances require, they may be placed into effect immediately, followed promptly by publication in the Federal Register. The District Commander may utilize, in addition to broadcast Notices to Mariners, Local Notices to Mariners, and Notices to Mariners, newspapers, and broadcasting stations to disseminate information concerning a safety zone and regulations pertaining thereto. The public may comment concerning the establishment of a safety zone or regulations under this paragraph. A safety zone or regulations may be modified or withdrawn, as appropriate, based on the comments received.

§ 147.15 Extent of safety zones.

A safety zone establishment under this part may extend to a maximum distance of 500 meters around the OCS facility measured from each point on its outer edge or from its construction site, but may not interfere with the use of recognized sea lanes essential to navigation.

(43 U.S.C. 1331 et seq.; 49 CFR 1.46(z))

Dated: March 1, 1982.

Clyde T. Lusk, Jr.,

Rear Admiral, Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 82-5650 Filed 3-3-82; 8:45 am]

BILLING CODE 4910-14-M

federal register

Thursday
March 11, 1982

Department of
Transportation

Coast Guard

Lifesaving Equipment; Final Rule

Dated: February 23, 1982.

John D. Costello,
Rear Admiral, U.S. Coast Guard, Commander,
Fifth Coast Guard District.

[FR Doc. 82-6727 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Parts 144, 149, and 175

[CGD 80-155b]

Lifesaving Equipment

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: In a separate document, published elsewhere in this issue, the Coast Guard is revoking obsolete specifications concerning cork and balsa wood ring life buoys (Type IV personal flotation devices). This action requires editorial amendments to the regulations that allow cork and balsa wood ring buoys on artificial islands, fixed offshore structures, and recreational boats. Since equipment that has been previously approved may be used if in good and serviceable condition, there are no substantive changes to the regulations.

EFFECTIVE DATE: This final rule becomes effective on April 12, 1982.

FOR FURTHER INFORMATION CONTACT:

Mr. Frank K. Thompson, Merchant Marine Technical Division (G-MMT/12), Office of Merchant Marine Safety, Room 1216, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593, (202) 426-2174.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the Federal Register of July 20, 1981, (46 FR 37286). The public was invited to submit comments until September 3, 1981. No comments were received and the rules are therefore made effective as proposed.

Drafting Information

The principal persons involved in drafting this final rule are Mr. Frank K. Thompson, Project Manager, Office of Merchant Marine Safety, and Lieutenant Walter J. Brudzinski, Project Counsel, Office of the Chief Counsel.

Discussion

Because they are no longer being manufactured, the approval specifications for cork or balsa ring life buoys and the material specifications for balsa wood and sheet cork have been revoked. These revocations are contained in Coast Guard Final Rule CGD 80-155a, which appears elsewhere in this issue of the Federal Register.

This final rule involves only editorial amendments to reflect the revocations.

There are no substantive changes to the lifesaving equipment regulations. The amendments allow previously approved cork and balsa wood ring life buoys to continue to be sold and used as long as they are in good and serviceable condition. This final rule also updates the authority citations of the affected CFR Parts.

Evaluation

The Coast Guard has evaluated this final rule under Executive Order 12291 and has determined that it is not a major regulation. The Coast Guard has also determined that it is nonsignificant in accordance with the guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 dated 5-22-80). An economic evaluation has not been conducted since this final rule involves no substantive changes to the lifesaving equipment regulations, and its impact is expected to be minimal.

Final Regulations

In consideration of the foregoing, Parts 144, 149, and 175 of Title 33, Code of Federal Regulations are amended as follows:

PART 144—LIFESAVING APPLIANCES

1. The authority citation for Part 144 is revised to read as follows:

Authority: Sec. 4(e), 67 Stat. 462, as amended, (43 U.S.C. 1333(d)); 49 CFR 1.46(b).

2. In § 144.01-25, paragraph (a) is revised to read as follows:

§ 144.01-25 Ring life buoys.

(a) Each manned platform must have at least four approved ring life buoys constructed in accordance with 46 CFR Subpart 160.050; except ring life buoys approved under former 46 CFR Subpart 160.009 may be used as long as they are in good and serviceable condition. One ring life buoy must be placed on a suitable rack on each side of a manned platform in an accessible place. The ring life buoy must always be capable of being cast loose and may not be permanently secured in any way.

3. In § 144.10-1, Table 2 is removed, paragraph (a)(2) is revised, and a new paragraph, (a)(3), is added to read as follows:

§ 144.10-1 Lifesaving equipment.

(a) * * *
(2) An approved ring life buoy (Type IV PFD) for every two persons, but no more than four devices are required. Each ring life buoy must be of a type constructed in accordance with 46 CFR Subpart 160.050; except a ring life buoy

that was approved under former 46 CFR Subpart 160.009 may be used as long as it is in good and serviceable condition.

(3) Each ring life buoy under paragraph (a)(2) of this section must have an approved automatic electric water light that is attached as described in § 144.01-25(b).

* * * * *

PART 149—DESIGN, CONSTRUCTION, AND EQUIPMENT

1. The authority citation for Part 149 reads as follows:

Authority: Secs. 5(a), 5(b), Pub. L. 93-627, 88 Stat. 2131 (33 U.S.C. 1504(a), (b)); 49 CFR 1.46(g).

2. Section 149.526 is revised to read as follows:

§ 149.526 Approved ring life buoys (Type IV personal flotation devices).

(a) Each PPC must have at least 8 approved ring life buoys (Type IV PFDs) and mounting racks distributed about the perimeter of the platform.

(b) Each ring life buoy must be constructed in accordance with 46 CFR Subpart 160.050 except a ring life buoy that was approved under former 46 CFR Subpart 160.009 may be used as long as it is in good and serviceable condition. Each ring life buoy must be of the 30-inch size, international orange, and easily accessible to persons on board.

(c) At least fifty percent of the ring life buoys required by this section must have an electric water light approved under 46 CFR 161.010.

(d) At least one ring life buoy on each side of the platform must have a buoyant line attached to it that is 1½ times the distance from the buoy to the mean low water line of the platform, or 15 fathoms in length, whichever is greater.

3. Section 149.526 in the table of sections is revised to read as follows:

149.526 Approved ring life buoys (Type IV personal flotation devices).

PART 175—EQUIPMENT REQUIREMENTS

1. The authority citation for Part 175 is revised to read as follows:

Authority: Secs. 5, 39, 85 Stat. 215, 228, as amended (48 U.S.C. 1454, 1488); 49 CFR 1.46(n)(1), unless otherwise noted.

2. Footnote 1 is added to Table 175.23 to read as follows:

§ 175.23 Personal flotation device equivalents.

* * * * *

federal register

Monday
March 15, 1982

Department of
Transportation

Coast Guard
MODU Design; Correction

33 CFR Part 143

[CGD 78-160]

Outer Continental Shelf Activities*Correction*

In FR Doc. 82-5850, appearing at page 9365, as the Part VI of the issue of Thursday, March 4, 1982, on page 9384, in § 143.201, the date "April 5, 1983" appearing in the last line should have read "April 4, 1982". For the convenience of the reader the section is corrected and is republished to read as follows:

§ 143.201 Existing MODUs exempted from new design requirements.

Any mobile offshore drilling unit built before, under construction on, or contracted for prior to April 5, 1982 is not required to meet the design requirements of this subpart until the unit is rebuilt. Until rebuilt, the unit must continue to comply with the design requirements applicable to the unit on April 4, 1982.

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR**National Park Service****36 CFR Part 7****Fire Island National Seashore, New York; Seaplane Regulations****AGENCY:** National Park Service, Interior.**ACTION:** Final rule.

SUMMARY: On August 28, 1981, the National Park Service published in the Federal Register (46 FR 43471) a proposal to regulate the use of seaplanes and amphibious aircraft. The regulations are needed to control seaplane and amphibious aircraft operations within Fire Island National Seashore. Unregulated use of surface waters by seaplanes and amphibious aircraft has resulted in aircraft accidents, near collisions with small boats, and complaints of extremely low overflights and trespassing. It is the objective of these regulations to promote public safety, minimize the conflicts among the various users and to protect the resources of the seashore.

EFFECTIVE DATE: April 14, 1982.

FOR FURTHER INFORMATION CONTACT: Don Weir, Chief Ranger, Fire Island National Seashore, Patchogue, New York 11772, Telephone (516) 289-4810.

SUPPLEMENTARY INFORMATION:**Background**

On July 30, 1979, the National Park Service promulgated final regulations to control seaplane and amphibious aircraft operations within Fire Island National Seashore (44 FR 44492). This rule established zones for take-offs and landings, and designated areas where taxiing could take place. These regulations were developed to promote public safety, to minimize the conflicts among the various users, and to protect the resources of the seashore.

The designation of these taxi routes was based on public comment received during the public involvement phase of the rulemaking process. Twelve island communities indicated a desire to permit seaplane and amphibious aircraft access.

After the promulgation of this regulation in July, 1979, there continued to be a conflict between the property owners and visitors in three of the island communities—Fair Harbor, Ocean Bay Park, and Cherry Grove. Due to the fact that these three communities have bayside swimming beaches and mooring access, interaction between seaplanes and those pursuing water recreation activities continued and created numerous public safety problems. From July 22 to September 9, 1979, 50 complaints were filed with the National Park Service. These complaints cited such incidents as near collisions between seaplanes and boats, and seaplanes taxiing among swimmers.

As a result of these complaints and the potential threat to life and property indicated, the representatives of the Fair Harbor, Ocean Bay Park and Cherry Grove communities approached the National Park Service and asked that their communities no longer be designated as access points for seaplane use. Notarized letters to this effect have been received by the Superintendent of Fire Island National Seashore indicating that community referendums were held and a majority favored the removal of seaplane access designation. Regulations published July 25, 1980, removed the three communities from the designation as seaplane access points, as requested by the community leaders.

During the past summer season, the residents and visitors in the communities of Dunewood and Point O' Woods experienced similar problems and likewise forwarded notarized letters indicating the need for greater protection from seaplane use and showing the results of referenda indicating the majority desire to restrict seaplane access from the lands and waters within their community boundaries.

At the time these seaplane and amphibious aircraft regulations were initially proposed in 1978 (43 FR 35070), an environmental assessment was prepared as required by the National Environmental Policy Act (83 Stat. 852, 42 U.S.C. 4321 *et seq.*). This assessment is on file at the park headquarters listed above.

On August 28, 1981, this rule was published as a proposed rule (46 FR 43471) and a period of 30 days for public comment was set. No comments have been received on this regulation. The rule promulgated here, is the same as that proposed.

Drafting Information

The author of this regulation is Donald H. Weir, Fire Island National Seashore.

Compliance With Other Laws

The National Park Service has determined that this rulemaking is not a "major rule" with the meaning of Executive Order 12291, 46 FR 13193 (February 19, 1981), nor will it have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, 94 Stat. 1164. This rulemaking contains no provisions that would entail the collection of information or require compliance with the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, 94 Stat. 2812. In addition, the Service has determined that this regulation is not a major Federal action significantly affecting the quality of the human environment, which would require preparation of an environmental impact statement.

Authority

(Sec. 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; (16 U.S.C. 3))

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

In consideration of the foregoing, 36 CFR Part 7 is amended by revising § 7.20(b)(3) as follows:

§ 7.20 Fire Island National Seashore.

* * * * *

(b) * * *

(3) Aircraft may taxi on routes perpendicular to the shoreline to and from docking facilities at the following locations:

(i) Kismet—located at approximate longitude 73° 12½' and approximate latitude 40° 38½'.

(ii) Lonelyville—located at approximate longitude 73° 11' and approximate latitude 40° 38½'.

federal register

Monday
August 16, 1982

Department of Transportation

Coast Guard

**Casualty Reporting Requirements;
Interim Final Rule**

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 146****[CGD 82-023a]****Casualty Reporting Requirements****AGENCY:** Coast Guard, DOT.**ACTION:** Interim final rule.

SUMMARY: This rule amends those sections of the regulations that relate to the written reporting requirements for marine casualties, injuries and loss of life on Outer Continental Shelf (OCS) facilities, vessels and other units engaged in OCS activities. These changes specifically provide for the use of a single new casualty reporting form which will replace the presently used Forms CG-2692 and 924E. Under present requirements both forms must be submitted for certain types of casualties. The new form also will provide certain information necessary for the evaluation and analysis of safety issues and trends that is not presently available. In addition, these changes eliminate the present requirement to report casualties in person. The effect of these changes will be to reduce the paperwork burden on the public and improve the Coast Guard's analysis of accidents and casualties.

DATES: This interim rule becomes effective August 16, 1982. Comments on this rule and form must be received on or before January 1, 1983. Any necessary changes made to the form will be published in the final rule.

ADDRESS: Comments should be submitted to: Commandant (G-CMC/24), U.S. Coast Guard Headquarters, 2100 2nd St., SW., Washington, DC 20593. Comments received may also be inspected at Room 4402 between 7:30 A.M. and 5:30 P.M. Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: LCDR T. E. Hart, Office of Merchant Marine Safety (G-MMI/24), Room 2412, U.S. Coast Guard Headquarters, 2100 2nd St., SW., Washington, DC 20593, Phone: 202-426-6251, between the hours of 7:00 A.M. and 3:30 P.M., Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: The Coast Guard has determined under the provisions of 5 U.S.C. 553(b)(B) that a notice of proposed rulemaking was unnecessary and contrary to the public interest for the following reasons. The Coast Guard feels that in order for the public to provide meaningful comments on the new form, a period of actual usage would be highly beneficial. The new form includes many suggestions

received informally over the past several years. It is considered timely and most practical to implement this form and give the public the opportunity to use it and offer comments and suggestions rather than publishing a hypothetical version which would not get a trial period of use. During this evaluation period, the public will receive the benefit of the reduced reporting requirements. Since the use of a single form reduces the reporting burden, good cause exists for making the interim rule effective less than thirty days after publication.

The present regulations require the person in charge of the vessel or facility to report to the Coast Guard in writing and in person the facts regarding the occurrence of marine casualties, personnel injuries or loss of life. The specific kinds of casualties to be reported are listed in 33 CFR Part 146.30. Similar reporting requirements found in Title 46 CFR are being revised in a regulatory revision [CGD 82-023] in this edition of the Federal Register.

The written report must be submitted on Form CG-2692 entitled "Report of Vessel Casualty or Accident" or Form CG-924E entitled "Report of Personal Injury or Loss of Life".

The Coast Guard has developed a new reporting form which combines the present Form CG-2692 and Form CG-924E into a single Form CG-2692 entitled "Report of Marine Accident, Injury or Death". The revised form has been changed to require only information necessary to carry out casualty investigation, statistical gathering and identification of hazardous conditions or situations. This information is used to determine whether new or revised safety initiatives are necessary for the protection of life and property in the maritime environment.

A significant change to the format is in the personnel accident section. Specific information is needed regarding the injured or deceased's employment onboard a vessel or facility, time in the industry and hours on duty. This information will enable the Coast Guard to better evaluate such human factors as experience, training and fatigue, and their effect on the accident rate in various marine occupations.

This revised form is expected to greatly simplify the present reporting requirements. The new form is reproduced following this Preamble.

The Coast Guard will continue to supply accident reporting forms free of charge through its Marine Inspection and Marine Safety Offices. Only an original of the form need be completed thus eliminating the previous requirement for an original and two copies. After the effective date of this

Interim final rule, the Coast Guard will provide the new form as supplies become available. The old form will continue to be accepted until 1 January 1983 to allow for convenient transition.

Drafting Information

The principal persons involved in drafting this rule are LCDR T.E. HART, Project Manager, Office of Merchant Marine Safety, and LCDR W.B. SHORT, Project Attorney, Office of the Chief Counsel.

Evaluation and Initial Regulatory Flexibility Analysis

The Coast Guard has evaluated this proposal under Executive Order 12291 and the Department of Transportation's "Policies and Procedures for Simplification, Analysis, and Review of Regulations" [DOT Order 2100.5 dated May 22, 1980], and has determined that it is neither a major nor a significant rulemaking. The proposed regulation has been evaluated under Public Law 96-354 (94 Stat. 1168). The compliance cost to the public required to complete the new form is approximately 50,000 dollars. The combined form is expected to yield a reduction from 2900 annual responses to 2500. This 400 response reduction would yield an average annual savings of \$8,000 to the public based on an assumed one hour time for completion of the form at twenty dollars an hour. Since a report is required only when an accident occurs, the impact of this change on individual entities is negligible. Therefore this rule is certified as having no significant economic impact on a substantial number of small entities.

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the reporting or recordkeeping provisions that are included in this regulation have been submitted for approval to the Office of Management and Budget (OMB). OMB Control Number 2115-0003 has been assigned.

Environmental Statement

The Coast Guard has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, it has been determined that this action is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 146

Coast Guard, Outer Continental Shelf, Marine safety, Vessels, Reporting requirements.

BILLING CODE 4910-14-M

INSTRUCTIONS**FOR COMPLETION OF FORM CG-2692****REPORT OF MARINE ACCIDENT, INJURY OR DEATH****AND FORM CG-2692A, BARGE ADDENDUM****WHEN TO USE THIS FORM**

1. This form satisfies the requirements for written reports of accidents found in the Code of Federal Regulations for vessels, Outer Continental Shelf (OCS) facilities, mobile offshore drilling units (MODUs), and diving. The kinds of accidents that must be reported are described in the following paragraphs.

VESSELS

2. A vessel accident must be reported if it involves any vessel (except a publicly owned vessel or a recreational vessel) upon the navigable waters of the U.S., its territories or possessions; or whenever an accident involves a U.S. vessel (except a publicly owned vessel or a recreational vessel) wherever the accident may occur. The accident must also result in one of the following (ref. 46 CFR 4.05-1):

A. All accidental groundings and any intentional grounding which also meets any of the other reporting criteria or creates a hazard to navigation, the environment, or the safety of the vessel;

B. Loss of main propulsion or primary steering, or an associated component or control system, the loss of which causes a reduction of the maneuvering capabilities of the vessel. Loss means that systems, component parts, subsystems, or control systems do not perform the specified or required function;

C. An occurrence materially adversely affecting the vessel's seaworthiness or fitness for service or route including but not limited to fire, flooding, failure or damage to fixed fire extinguishing systems, lifesaving equipment or bilge pumping systems;

D. Loss of life;

E. Injury causing any person to be incapacitated for a period in excess of 72 hours.

F. An occurrence not meeting any of the above criteria but resulting in damage to property in excess of \$25,000. This does not include demurrage and similar costs.

MOBILE OFFSHORE DRILLING UNITS

3. MODUs are required by 46 CFR 109.411 to report an accident that results in any of the events listed above for vessels (2-A through 2-F).

BARGES

4. When an accident, as described in Paragraphs (2-A) through (2-F), involves a tug or towboat with barges attached, Form CG-2692 must be filled out for the tug or towboat in control and for each barge causing or sustaining damages. When no towboat is involved (such as a breakaway from a shore mooring, a fire on a moored barge, etc.), enter your company's name in block (1) and complete the form except for blocks (2) through (3). The information for one barge causing or sustaining damage will be entered in blocks (27) through (38). If in either of the above cases more than one barge under the control of your tug, towboat or company causes or sustains damage, form CG-2692A (Barge Addendum) may be used to report all additional barges. The Barge Addendum may never be used alone - Form CG-2692 must always be filled out first.

OCS FACILITIES

5. All OCS facilities (except mobile offshore drilling units) engaged in mineral exploration, development or production activities on the Outer Continental Shelf of the U.S. are required by 33 CFR 146.30 to report accidents resulting in:

(1) Death;

(2) Injury to 5 or more persons in a single incident;

(3) Injury causing any person to be incapacitated for more than 72 hours.

(4) Damage affecting the usefulness of primary lifesaving or firefighting equipment;

(5) Damage to the facility in excess of \$25,000 resulting from a collision by a vessel;

(6) Damage to a floating OCS facility in excess of \$25,000.

6. Foreign vessels engaged in mineral exploration, development or production on the U. S. Outer Continental Shelf, other than vessels already required to report by paragraphs 2 and 3 above, are required by 46 CFR 146.303 to report casualties that result in:

A. Death;

B. Injury to 5 or more persons in a single incident; or

C. Injury causing 1 person to be incapacitated for more than 72 hours.

DIVING

7. Diving casualties include injury or death that occurs while using underwater breathing apparatus while diving from a vessel or OCS facility.

A. **COMMERCIAL DIVING.** A dive is considered commercial if it is for commercial purposes from a vessel required to have a Coast Guard certificate of inspection, from an OCS facility or in its related safety zone or in a related activity, at a deepwater port or in its safety zone. Casualties that occur during commercial dives are covered by 46 CFR 197.486 if they result in:

1. Loss of life;
2. Injury causing incapacitation over 72 hours;
3. Injury requiring hospitalization over 24 hours.

In addition to the information requested on this form, also provide the name of the diving supervisor and, if applicable, a detailed report on gas embolism or decompression sickness as required by 46 CFR 197.410(a)(9).

Exempt from the commercial category are dives for:

1. Marine science research by educational institutions;
2. Research in diving equipment and technology;
3. Search and Rescue controlled by a government agency.

B. **ALL OTHER DIVING.** Diving accidents not covered by Paragraph (7-A) but involving vessels subject to Paragraph (2), **VESSELS**, must be reported if they result in death or injury causing incapacitation over 72 hours (Ref. 46 CFR 4.03-(c)).

HAZARDOUS MATERIALS

8. When an accident involves hazardous materials, public and environmental health and safety require immediate action. As soon as any person in charge of a vessel or facility has knowledge of a release or discharge of oil or a hazardous substance, that person is required to immediately notify the U. S. Department of Transportation's National Response Center (telephone toll-free 800-424-8802). Anyone else knowing of a pollution incident is encouraged to use the toll-free telephone number to report it. If etiologic (disease causing) agents are involved, call the U. S. Public Health Service's Center for Disease Control in Atlanta, Ga. (telephone 404-633-5313). (Ref. 42 USC 9603; 33 CFR 153; 49 CFR 171.15)

HOW TO USE THIS FORM

1. This form may be used to report vessel, facility and personnel accidents, and other loss of life incidents. When complete, deliver or mail this form as soon as possible to the Coast Guard Marine Safety or Marine Inspection Office nearest to the location of the casualty or, if at sea, nearest to the port of first arrival.

2. Please type or print clearly. Fill in all blanks that apply to the kind of accident that has occurred. If a question is not applicable or if the information is not available, the abbreviation "NA" should be entered in that space. For accidents involving barges, towboats or personnel, refer to the special instructions in the following sections.

3. SPECIAL INSTRUCTIONS

A. **"LOCATION."** Block (15) should be filled out as accurately as possible. If at sea, latitude and longitude are best, if known. Otherwise give loran lines, water depth or whatever is most reliably known. In pilot waters, reference to a known landmark or object (buoy, light, etc.) with distance and bearing of the object is appropriate. On rivers or other waterways, the mile marker is a good reference. Always identify the body of water or waterway referred to.

B. **"FOR TOWING ONLY."** Blocks (23) through (26) must be completed for all accidents involving towboats with tows under their control. Complete blocks (27) through (38) for a barge causing or sustaining damage in an accident. If more than one barge in your tow causes or sustains damage, the "Barge Addendum" (CG-2692A) may be used to provide the information requested in Blocks (27) through (38) for the additional barges. When no towboat is involved, see Paragraph (4) under "When to Use This Form."

C. **"PERSONNEL ACCIDENT INFORMATION."** Blocks (39) through (56) must be completed for a death or injury. If more than one death or injury occurs in a single incident, complete one CG-2692 and enter the information for one person injured or killed. Attach additional CG-2692's, filling out Blocks (1) and (2) and the "Personnel Accident Information" section (blocks 39 through 56) for each additional person to be reported on.

NOTICE: The information collected on this form is routinely available for public inspection. It is needed by the Coast Guard to carry out its responsibility to investigate marine casualties, to identify hazardous conditions or situations and to conduct statistical analysis. The information is used to determine whether new or revised safety initiatives are necessary for the protection of life or property in the marine environment.

Approved OMB No. 2115-0003

| | | | | | | | | | | | | | | | | | | | | |
|--|--|---|--|--|---|---------------------------------------|---|--|---|--|---|------------------------------|---------------------------------|------------------------------------|--|--|--|--|--|--|
| DEPARTMENT OF TRANSPORTATION U. S. COAST GUARD CG-2692 (Rev. 6-82) | | REPORT OF MARINE ACCIDENT, INJURY OR DEATH | | | RCS No. G-MMI 2115-0003 UNIT CASE NUMBER | | | | | | | | | | | | | | | |
| SECTION I. GENERAL INFORMATION | | | | | | | | | | | | | | | | | | | | |
| 1. Name of Vessel or Facility | | 2. Official No. | 3. Nationality | 4. Call Sign | 5. USCG Certificate of Inspection issued at: | | | | | | | | | | | | | | | |
| 6. Type ((Towing, Freight, Fish, Drill, etc.)) | | 7. Length | 8. Gross Tons | 9. Year Built | 10. Propulsion (Steam, diesel, gas, turbine...) | | | | | | | | | | | | | | | |
| 11. Hull Material (Steel, Wood...) | | 12. Draft (ft. - in.) P.W.D. A.P.T. | 13. If Vessel Classed, By Whom: (ABS, LLOYDS, DNV, BV, etc.) | 14. DATE (of occurrence) | 15. TIME (Local) | | | | | | | | | | | | | | | |
| 16. Location (See Instruction No.) | | | | 17. Estimated Loss or Damage TO: | | | | | | | | | | | | | | | | |
| 18. Name, Address & Telephone No. of Operating CO. | | | | VESSEL \$ _____ | | | | | | | | | | | | | | | | |
| | | | | CARGO \$ _____ | | | | | | | | | | | | | | | | |
| | | | | OTHER \$ _____ | | | | | | | | | | | | | | | | |
| 19. Name of Master or Person in Charge | | USCG License <input type="checkbox"/> YES <input type="checkbox"/> NO | | 20. Name of Pilot | | | | | | | | | | | | | | | | |
| | | | | USCG License State License <input type="checkbox"/> YES <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> NO | | | | | | | | | | | | | | | | |
| 19a. Street Address (City, State, Zip Code) | | 19b. Telephone Number | | 20a. Street Address (City, State, Zip Code) | | 20b. Telephone Number | | | | | | | | | | | | | | |
| 21. Casualty Elements Check as many as needed and explain in Block 44.) | | | | | | | | | | | | | | | | | | | | |
| <table style="width:100%; border: none;"> <tr> <td style="width:33%; border: none;"> NO. OF PERSONS ON BOARD _____ <input type="checkbox"/> DEATH- HOW MANY? _____ <input type="checkbox"/> MISSING- HOW MANY? _____ <input type="checkbox"/> INJURED- HOW MANY? _____ <input type="checkbox"/> HAZARDOUS MATERIAL RELEASED OR INVOLVED (Identify Substance and amount in Block 44.) <input type="checkbox"/> OIL SPILL-ESTIMATE AMOUNT: _____ <input type="checkbox"/> CARGO CONTAINER LOST/DAMAGED _____ <input type="checkbox"/> COLLISION (Identify other vessel or object in Block 44.) <input type="checkbox"/> GROUNDING _____ </td> <td style="width:33%; border: none;"> <input type="checkbox"/> FLOODING; SWAMPING WITHOUT SINKING <input type="checkbox"/> CAPSIZING (with or without sinking) <input type="checkbox"/> POUNDERING OR SINKING <input type="checkbox"/> HEAVY WEATHER DAMAGE <input type="checkbox"/> FIRE <input type="checkbox"/> EXPLOSION <input type="checkbox"/> COMMERCIAL DIVING CASUALTY <input type="checkbox"/> ICE DAMAGE <input type="checkbox"/> DAMAGE TO AIDS TO NAVIGATION <input type="checkbox"/> STEERING FAILURE <input type="checkbox"/> MACHINERY OR EQUIPMENT FAILURE <input type="checkbox"/> ELECTRICAL FAILURE <input type="checkbox"/> STRUCTURAL FAILURE </td> <td style="width:33%; border: none;"> <input type="checkbox"/> WAKE DAMAGE <input type="checkbox"/> FIREFIGHTING OR EMERGENCY EQUIPMENT FAILED OR INADEQUATE (Describe in Block 44.) <input type="checkbox"/> LIFESAVING EQUIPMENT FAILED OR INADEQUATE (Describe in Block 44.) <input type="checkbox"/> BLOW OUT (Petroleum exploration/production) <input type="checkbox"/> OTHER (Specify) _____ </td> </tr> </table> | | | | | | | NO. OF PERSONS ON BOARD _____ <input type="checkbox"/> DEATH- HOW MANY? _____ <input type="checkbox"/> MISSING- HOW MANY? _____ <input type="checkbox"/> INJURED- HOW MANY? _____ <input type="checkbox"/> HAZARDOUS MATERIAL RELEASED OR INVOLVED (Identify Substance and amount in Block 44.) <input type="checkbox"/> OIL SPILL-ESTIMATE AMOUNT: _____ <input type="checkbox"/> CARGO CONTAINER LOST/DAMAGED _____ <input type="checkbox"/> COLLISION (Identify other vessel or object in Block 44.) <input type="checkbox"/> GROUNDING _____ | <input type="checkbox"/> FLOODING; SWAMPING WITHOUT SINKING <input type="checkbox"/> CAPSIZING (with or without sinking) <input type="checkbox"/> POUNDERING OR SINKING <input type="checkbox"/> HEAVY WEATHER DAMAGE <input type="checkbox"/> FIRE <input type="checkbox"/> EXPLOSION <input type="checkbox"/> COMMERCIAL DIVING CASUALTY <input type="checkbox"/> ICE DAMAGE <input type="checkbox"/> DAMAGE TO AIDS TO NAVIGATION <input type="checkbox"/> STEERING FAILURE <input type="checkbox"/> MACHINERY OR EQUIPMENT FAILURE <input type="checkbox"/> ELECTRICAL FAILURE <input type="checkbox"/> STRUCTURAL FAILURE | <input type="checkbox"/> WAKE DAMAGE <input type="checkbox"/> FIREFIGHTING OR EMERGENCY EQUIPMENT FAILED OR INADEQUATE (Describe in Block 44.) <input type="checkbox"/> LIFESAVING EQUIPMENT FAILED OR INADEQUATE (Describe in Block 44.) <input type="checkbox"/> BLOW OUT (Petroleum exploration/production) <input type="checkbox"/> OTHER (Specify) _____ | | | | | | | | | | | |
| NO. OF PERSONS ON BOARD _____ <input type="checkbox"/> DEATH- HOW MANY? _____ <input type="checkbox"/> MISSING- HOW MANY? _____ <input type="checkbox"/> INJURED- HOW MANY? _____ <input type="checkbox"/> HAZARDOUS MATERIAL RELEASED OR INVOLVED (Identify Substance and amount in Block 44.) <input type="checkbox"/> OIL SPILL-ESTIMATE AMOUNT: _____ <input type="checkbox"/> CARGO CONTAINER LOST/DAMAGED _____ <input type="checkbox"/> COLLISION (Identify other vessel or object in Block 44.) <input type="checkbox"/> GROUNDING _____ | <input type="checkbox"/> FLOODING; SWAMPING WITHOUT SINKING <input type="checkbox"/> CAPSIZING (with or without sinking) <input type="checkbox"/> POUNDERING OR SINKING <input type="checkbox"/> HEAVY WEATHER DAMAGE <input type="checkbox"/> FIRE <input type="checkbox"/> EXPLOSION <input type="checkbox"/> COMMERCIAL DIVING CASUALTY <input type="checkbox"/> ICE DAMAGE <input type="checkbox"/> DAMAGE TO AIDS TO NAVIGATION <input type="checkbox"/> STEERING FAILURE <input type="checkbox"/> MACHINERY OR EQUIPMENT FAILURE <input type="checkbox"/> ELECTRICAL FAILURE <input type="checkbox"/> STRUCTURAL FAILURE | <input type="checkbox"/> WAKE DAMAGE <input type="checkbox"/> FIREFIGHTING OR EMERGENCY EQUIPMENT FAILED OR INADEQUATE (Describe in Block 44.) <input type="checkbox"/> LIFESAVING EQUIPMENT FAILED OR INADEQUATE (Describe in Block 44.) <input type="checkbox"/> BLOW OUT (Petroleum exploration/production) <input type="checkbox"/> OTHER (Specify) _____ | | | | | | | | | | | | | | | | | | |
| 22. Conditions | | | | | | | | | | | | | | | | | | | | |
| <table style="width:100%; border: none;"> <tr> <td style="width:15%; border: none;">A. Sea or River Conditions (wave height, river stage, etc.)</td> <td style="width:15%; border: none;">B. WEATHER <input type="checkbox"/> CLEAR <input type="checkbox"/> RAIN <input type="checkbox"/> SNOW <input type="checkbox"/> FOG <input type="checkbox"/> OTHER (Specify) _____</td> <td style="width:15%; border: none;">C. TIME <input type="checkbox"/> DAYLIGHT <input type="checkbox"/> TWILIGHT <input type="checkbox"/> NIGHT</td> <td style="width:15%; border: none;">D. VISIBILITY <input type="checkbox"/> GOOD <input type="checkbox"/> FAIR <input type="checkbox"/> POOR</td> <td style="width:15%; border: none;">E. DISTANCE (miles) (of visibility) _____</td> <td style="width:15%; border: none;">F. AIR TEMPERATURE (F) _____</td> <td style="width:15%; border: none;">G. WIND SPEED & DIRECTION _____</td> </tr> <tr> <td colspan="7">H. CURRENT SPEED & DIRECTION _____</td> </tr> </table> | | | | | | | A. Sea or River Conditions (wave height, river stage, etc.) | B. WEATHER <input type="checkbox"/> CLEAR <input type="checkbox"/> RAIN <input type="checkbox"/> SNOW <input type="checkbox"/> FOG <input type="checkbox"/> OTHER (Specify) _____ | C. TIME <input type="checkbox"/> DAYLIGHT <input type="checkbox"/> TWILIGHT <input type="checkbox"/> NIGHT | D. VISIBILITY <input type="checkbox"/> GOOD <input type="checkbox"/> FAIR <input type="checkbox"/> POOR | E. DISTANCE (miles) (of visibility) _____ | F. AIR TEMPERATURE (F) _____ | G. WIND SPEED & DIRECTION _____ | H. CURRENT SPEED & DIRECTION _____ | | | | | | |
| A. Sea or River Conditions (wave height, river stage, etc.) | B. WEATHER <input type="checkbox"/> CLEAR <input type="checkbox"/> RAIN <input type="checkbox"/> SNOW <input type="checkbox"/> FOG <input type="checkbox"/> OTHER (Specify) _____ | C. TIME <input type="checkbox"/> DAYLIGHT <input type="checkbox"/> TWILIGHT <input type="checkbox"/> NIGHT | D. VISIBILITY <input type="checkbox"/> GOOD <input type="checkbox"/> FAIR <input type="checkbox"/> POOR | E. DISTANCE (miles) (of visibility) _____ | F. AIR TEMPERATURE (F) _____ | G. WIND SPEED & DIRECTION _____ | | | | | | | | | | | | | | |
| H. CURRENT SPEED & DIRECTION _____ | | | | | | | | | | | | | | | | | | | | |
| 23. Navigation Information | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> MOORED, DOCKED OR FIXED <input type="checkbox"/> ANCHORED <input type="checkbox"/> UNDERWAY OR DRIFTING | | | SPEED AND COURSE _____ | | 24. Last Port Where Bound _____ | 24a. Time and Date of Departure _____ | | | | | | | | | | | | | | |
| 25. Towing Information | | | | | | | | | | | | | | | | | | | | |
| 25a. FOR TOWING ONLY (See Instruction No.) | 25b. NUMBER OF VESSELS TOWED | Empty Loaded Total | | 25c. TOTAL H.P. OF TOWING UNITS | 25d. MAXIMUM SIZE OF TOW WITH TOW-BOAT(S) | | | | | | | | | | | | | | | |
| | | | | | Length Width | | | | | | | | | | | | | | | |
| | | | | | 25e. (Describe in Block 44.) <input type="checkbox"/> PUSHING AHEAD <input type="checkbox"/> TOWING ASTERN <input type="checkbox"/> TOWING ALONGSIDE <input type="checkbox"/> MORE THAN ONE TOW-BOAT ON TOW | | | | | | | | | | | | | | | |
| SECTION II. FOR BARGE CAUSING OR SUSTAINING DAMAGES | | | | | | | | | | | | | | | | | | | | |
| 26. Name | | 26a. Official Number | 26b. Type | 26c. Length | 26d. Gross Tons | | | | | | | | | | | | | | | |
| 26f. Year Built | 26e. <input type="checkbox"/> SINGLE SKIN <input type="checkbox"/> DOUBLE SKIN | 26h. Draft P.W.D. | A.P.T. | 26i. Operating Company | | | | | | | | | | | | | | | | |
| 26j. Damage Amount DAMAGE TO BARGE \$ _____ CARGO \$ _____ | | | 26k. Describe Damage to Barge | | | | | | | | | | | | | | | | | |

PREVIOUS EDITIONS MAY BE USED

SN 7530-00-FOI-1730

REVERSE OF CG-2092 (REV. 4-82)

SECTION III. PERSONNEL ACCIDENT INFORMATION

| | | | |
|---|-------------------------------|--|--|
| 27. Person Involved <input type="checkbox"/> MALE or <input type="checkbox"/> FEMALE <input type="checkbox"/> DEAD <input type="checkbox"/> INJURED <input type="checkbox"/> MISSING | | 27a. Name (Last, First, Middle Name) 27b. Address (City, State, Zip Code) | 27c. Status <input type="checkbox"/> CREW <input type="checkbox"/> PASSENGER <input type="checkbox"/> OTHER (Specify) |
| 28. Birth Date | 29. Telephone No. (Area Code) | 20. Job Position | 31. (Check here if off duty) <input type="checkbox"/> |

32. Employer (If different from Block 18., fill in Name, Address, Telephone No.)

| | |
|---|---|
| 33. Person's Time A. IN THIS INDUSTRY - _____ B. WITH THIS COMPANY - _____ C. IN PRESENT JOB OR POSITION - _____ D. ON PRESENT VESSEL/FACILITY - _____ E. HOURS ON DUTY WHEN ACCIDENT OCCURRED - _____ | 34. Industry of Employer (Towing, Fishing, Shipping, Crew Supply, Drilling, etc.) 35. Was the Injured Person Incapacitated 72 Hours or More? <input type="checkbox"/> YES <input type="checkbox"/> NO 36. Date of Death |
|---|---|

37. Activity of Person at Time of Accident

38. Specific Location of Accident on Vessel/Facility

39. Type of Accident (Fall, Caught between, etc.)

40. Resulting Injury (Cut, Bruise, Fracture, Burn, etc.)

41. Part of Body Injured

42. Equipment Involved in Accident

43. Specific Object, Part of the Equipment in Block 42., or Substance (Chemical, Solvent, etc.) that directly produced the injury.

SECTION IV. DESCRIPTION OF CASUALTY

44. Describe How Accident Occurred, Damage and Recommendations for Corrective Safety Measures. (Attach Additional Sheets if necessary)

45. Witness (Name, Address, Telephone No.)

46. Witness (Name, Address, Telephone No.)

SECTION V. PERSON MAKING THIS REPORT

| | | |
|--|--------------------------------------|-------------------------------|
| 47. Name (PRINT) (Last, First, Middle) | 47b. Address (City, State, Zip Code) | 47c. Title |
| 47a. Signature | | 47d. Telephone No (Area Code) |
| | | 47e. Date |

FOR COAST GUARD USE ONLY

APPARENT CAUSE

REPORTING OFFICE:

| | | | | |
|-------------------|---------------------|------|--------------------|------|
| CASUALTY CODE ABC | INVESTIGATOR (Name) | DATE | APPROVED BY (Name) | DATE |
|-------------------|---------------------|------|--------------------|------|

In consideration of the foregoing, Title 33 Code of Federal Regulations is amended as follows.

PART 146—OPERATIONS

1. By revising § 146.35(b) to read as follows:

§ 146.35 Written report of casualty.

(b) The written report required by paragraph (a) of this section may be—

- (1) In narrative form;
- (2) On Form CG-2692 for casualties resulting in property damage, personnel injury or loss of life.

(Approved by the Office of Management and Budget under OMB Control Number 2115-0003)

Authority: Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; sec. 22 of sec. 208, Pub. L. 95-372, 92 Stat. 656 (43 U.S.C. 1348); 49 CFR 1.46(z).

Dated: August 4, 1982.

Clyde T. Lusk, Jr.,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 82-22262 Filed 8-13-82; 8:45 am]

BILLING CODE 4910-14-M

46 CFR Parts 4, 26, 35, 78, 97, 109, 167, 185, 196, and 197

[CGD 82-023]

Casualty Reporting Requirements

AGENCY: Coast Guard, DOT.

ACTION: Interim final rule.

SUMMARY: This rule amends those sections of the regulations that relate to the written reporting requirements for marine casualties, injuries and loss of life. These changes specifically provide for the use of a single new casualty reporting form which will replace the presently used Forms CG-2692 and 924E. Under present requirements both forms must be submitted for certain types of casualties. The new form also will provide certain information necessary for the evaluation and analysis of safety issues and trends that is not presently available. In addition, these changes eliminate the present requirement to report casualties in person. These changes also simplify the reporting of multiple barge casualties as a result of a single incident. The effect of these changes will be to reduce the paperwork burden on the public and improve the Coast Guard's analysis of accidents and casualties.

DATES: This interim rule becomes effective August 16, 1982. Comments on this rule and form must be received on or before January 1, 1983. Any necessary

changes made to the form will be published in the final rule.

ADDRESS: Comments should be submitted to: Commandant (G-CMC/24), U.S. Coast Guard Headquarters, 2100 2nd St. SW., Washington, DC 20593. Comments received may also be inspected at room 4402 between the hours of 7 AM and 3:30 PM. Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: LCDR T. E. Hart, Office of Merchant Marine Safety (G-MMI/24), Room 2412, U.S. Coast Guard Headquarters, 2100 2nd Street SW., Washington, DC 20593, Phone: 202-426-6251, between the hours of 7 A.M. and 3:30 P.M. Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: The Coast Guard has determined under the provisions of 5 U.S.C. 553(b)(B) that a notice of proposed rulemaking was unnecessary and contrary to the public interest for the following reasons. The Coast Guard feels that in order for the public to provide meaningful comments on the new form, a period of actual usage would be highly beneficial. The new form includes many suggestions received informally over the past several years. It is considered timely and most practical to implement this form and give the public the opportunity to use it and offer comments and suggestions rather than publishing a hypothetical version which would not get a trial period of use. During the evaluation period, the public will receive the benefit of the reduced reporting requirements. Since the use of a single form reduces the reporting burden, good cause exists for making the interim rule effective less than thirty days after publication.

The present regulations require the person in charge of the vessel to report to the Coast Guard in writing and in person the facts regarding the occurrence of marine casualties, personnel injuries or loss of life.

The specific kinds of casualties to be reported are listed in 46 CFR Part 4.05-1. Similar reporting requirements found in 33 CFR 146 are being revised in a regulatory revision [CGD 82-023a] in this edition of the Federal Register. The written report must be submitted on Form CG-2692 entitled "Report of Vessel Casualty or Accident" or Form CG-924E entitled "Report of Personal Injury or Loss of Life".

The Coast Guard has developed a new reporting form which combines the present Form CG-2692 and Form CG-924E into a single Form CG-2692 entitled "Report of Marine Accident, Injury or Death". The revised form has been changed to require only information

necessary to carry out casualty investigation, statistical gathering and identification of hazardous conditions or situations. This information is used to determine whether new or revised safety initiatives are necessary for the protection of life and property in the maritime environment.

A significant change to the format is in the personnel accident section. Specific information is needed regarding the injured or deceased's employment onboard a vessel or facility, time in the industry and hours on duty. This information will enable the Coast Guard to better evaluate such human factors as experience, training and fatigue and their effect on the accident rate in various marine occupations.

The Coast Guard has also developed a separate Form CG-2692A entitled "Barge Addendum", which contains reproductions of the barge information section found on the CG-2692. A reduction in reporting burden will occur for incidents when a single casualty results in damage to more than one barge in a tow. Vessel information regarding those additional barges may be entered in the addendum and appended to the CG-2692. This will eliminate the current practice of requiring a fully completed CG-2692 for each barge involved in the casualty. The effect of this rule will reduce the paperwork burden on the public by eliminating the need to repeat identical information on each form.

This revised form is expected to greatly simplify the present reporting requirements. The new form with addendum is reproduced following this preamble.

The Coast Guard will continue to supply accident reporting forms free of charge through its Marine Inspection and Marine Safety Offices. Only an original of the form need be completed thus eliminating the previous requirement for an original and two copies. After the effective date of this Interim final rule, the Coast Guard will provide the new form as supplies become available. The old form will continue to be accepted until 1 January 1983 to allow for convenient transition.

Drafting Information

The principal persons involved in drafting this rule are LCDR T. E. Hart, Project Manager, Office of Merchant Marine Safety, and LCDR W. B. Short, Project Attorney, Office of the Chief Counsel.

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federal register

Thursday
September 22, 1983

Department of Transportation

Coast Guard

**Casualty Reporting Requirements;
Final Rule**

FOR FURTHER INFORMATION CONTACT:

Robert W. Bloom, Jr., Chief, Bridge Branch, Ninth Coast Guard District, 1240 East Ninth Street, Cleveland, Ohio 44199. Telephone (216) 522-3993.

SUPPLEMENTARY INFORMATION: On April 7, 1983, the Coast Guard published a Proposed Rule in the *Federal Register* (FR 15165-15166) concerning this amendment and on May 16, 1983, a correction (FR 21975). The Commander, Ninth Coast Guard District, also published this proposal as a Public Notice dated 25 April 1983. Interested parties were given until May 23, 1983, and May 24, 1983, on both documents, to submit comments.

Drafting Instructions

The principal persons involved in drafting this amendment are: Robert W. Bloom, Jr., Chief, Bridge Branch, Ninth Coast Guard District, and LCDR J. A. Blocher, Assistant Legal Officer, Ninth Coast Guard District.

Discussion of Comments

Three comments were received from the Public Notice and *Federal Register*. One commenter is in total support of the proposal. One commenter requested that the 12-hour advance notice period in (a)(2) and (b)(2) be reduced to four hours or even two hours because of unpredictable departure and return trips of vessels being tested. The 12-hour advance notice does not restrict waterway users from requesting that the bridge owners man the bridges for the entire period when the testing and trials of vessels take place. Arrangements can be made with the bridge owners for any special openings that may be required. It was pointed out, by the bridge owners, that the twelve hour advance notice period is during the winter months when ice forms in the counter-weight pits and must be jackhammered out in order to open the draws. The Coast Guard has determined that the twelve-hour advance notice is reasonable and will be retained as proposed in (a)(2) and (b)(2). One commenter is concerned that the removal of bridgetenders from 10:30 p.m. to 4:30 a.m. would close the Manitowoc River to vessels seeking shelter from rough weather and vessels in distress. This commenter also suggested to have the bridges operated by a roving bridgetender. The City of Manitowoc is in the process of constructing a small boat harbor, to be completed for use in the summer of 1984, outside the three bridges, thus expanding the use of the Manitowoc River as a harbor of refuge and furnishing dockage for mariners without transiting through the draws of the

bridges. The use of a roving bridgetender would not be acceptable. Because of the close proximity of the Eighth and Tenth Street bridges, the bridgetender would be unable to see smaller boats when he is stationed at only one bridge.

It would also be difficult for large vessels to hold between bridges while the bridgetender travels from bridge to bridge.

Economic Assessment and Certification

This final regulation has previously been determined to be non-major under Executive Order 12291, and also to be nonsignificant under the Policies and Procedures for Simplification, Analysis and Review of Regulations (DOT Order 2100.5 of 5-22-80). The final regulation has previously been certified under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.), at 48 FR 15165 (April 7, 1983). No information has been received which changes those determinations and certifications. An economic evaluation has not been conducted. Since this rule will allow the owners of the bridges to only remove bridgetenders during periods of time when navigation on the river is negligible, small entities in the area will not be economically impacted.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations**PART 117—DRAWBRIDGE OPERATION REGULATIONS**

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.650 to read as follows:

§ 117.650 Manitowoc River, Wisconsin, bridges.

(a) The draws of the Eighth Street bridge, mile 0.3, and Tenth Street bridge, mile 0.5, both at Manitowoc shall open on signal except that:

(1) From April 1 through October 31, Monday through Friday, the bridges need not open from 6:50 a.m. to 7 a.m., 7:50 a.m. to 8 a.m., 11:55 a.m. to 12:10 p.m. and 12:45 p.m. to 1 p.m., except federal holidays. From 10:30 p.m. to 4:30 a.m. the draws shall open on signal if at least a 6 hour notice is given.

(2) From November 1 through March 31 the draws shall open on signal if at least a 12 hour advance is given.

(3) The opening signals for these bridges are: Eighth Street—one prolonged blast followed by one short blast. Tenth Street—two short blasts followed by one prolonged blast. When signal is given by car ferry or other large

vessel to pass either of the two bridges, the remaining bridge shall open promptly so that such vessels shall not be held between the two bridges.

(b) The draw of the Soo Line Railroad Company bridge, mile 0.9, at Manitowoc shall open on signal except that:

(1) From April 1 through October 31 between the hours of 10:30 p.m. and 4:30 a.m., the draws shall open on signal if at least a 6 hour advance notice is given.

(2) From November 1 through March 31 the draw shall open on signal if at least a 12 hour advance notice is given.

(3) Opening signal for this bridge is two short blasts followed by one prolonged blast.

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(g)(3))

Dated: September 9, 1983.

J. R. Kirkland,

Captain, U.S. Coast Guard, Commander, 9th Coast Guard District, Acting.

[FR Doc. 83-25884 Filed 9-21-83; 8:45 am]

BILLING CODE 4810-14-M

33 CFR Part 146

[CGD 82-023a]

Casualty Reporting Requirements

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This final rule amends Part 146 regarding casualty reporting requirements and adopts the interim final rule which amended the written reporting requirements for marine casualties, injuries and loss of life on Outer Continental Shelf (OCS) facilities, vessels and other units engaged in OCS activities. This rule specifically provides for the use of a single new casualty reporting form which replaces Forms CG-2692 and CG-924E. The effect of this rule will be to reduce the paperwork burden on the public and improve the Coast Guard's analysis of accidents and casualties.

EFFECTIVE DATE: September 22, 1983.

FOR FURTHER INFORMATION CONTACT: LCDR Tony E. Hart, Office of Merchant Marine Safety, (202) 426-6251, 7:00 am to 3:30 pm Monday through Friday.

SUPPLEMENTARY INFORMATION: The interim final rule was published on pages 35736-35741 of the *Federal Register* of August 16, 1982. The period for comments extended from August 16, 1982 until January 1, 1983. A total of 7 comments were received; 5 of which were from business and 2 from federal agencies.

Two commenters pointed out inaccuracies in the instruction section of

the new reporting form. These errors which referred to the wrong block numbers in the data section of the form have been corrected.

Another comment suggested that the requirement to record a person's time in the industry (Block 33A) may result only in an estimate being given. While we seek the most accurate information available, we recognize that on occasion an estimate will be the best information available.

Paragraph 2.F. of the instructions for completion of Form CG-2692 has also been revised to reflect a recent change to 46 CFR 4.05-1 which amended the vessel casualty reporting requirements. That amendment was published on pages 15125-15127 of the April 7, 1983 Federal Register. It eliminated from casualty reporting requirements the consideration of certain costs associated with the repair of a vessel sustaining damage as the result of a marine casualty.

Another commenter pointed out that when a marine casualty is reported in narrative form as allowed by 33 CFR 146.35(b)(1), the narrative should contain the information required by the Form CG-2692. We agree with this suggestion and 33 CFR 146.35(b)(1) has been amended to reflect such requirement.

Another commenter indicated that it would be desirable to request whether an "unsafe act" or "hazardous condition" were factors in the casualty. We agree that his information will be beneficial in determining the cause of the casualty and in taking action to prevent recurrences. However, we feel that the Coast Guard investigating officer, during the investigation, can develop a more objective determination as to whether either of these factors was present.

One comment expressed concern that, in instances, the reporting requirements overlap the Minerals Management Service (MMS) requirements, and would result in some dual reports of a single incident. The Coast Guard and MMS recognize this possibility and are coordinating the casualty reporting system for Outer Continental Shelf activities in order to minimize duplication of effort and to collect useful information.

One commenter suggested limiting an operator's responsibility to report accidents and provide information only for the operator's employees. Information and reports of accidents on a contractor's employees would be required to be submitted by the contractor. We do not concur with this suggestion. While we recognize that an accident involving a contract employee will necessitate some research by the

operator of an offshore facility, we also believe that the operator can provide the most complete and accurate information regarding the accident.

Since the new form has been in use since August 16, 1982, and there are no substantive changes from the interim final rule, this rule is effective upon publication. A new revision to Form CG-2692 which incorporates the changes noted above is being printed and distributed to Coast Guard field units. Until this revised form becomes available to the public, Form CG-2692 (Rev. 6-82) may still be used.

Regulatory Analysis

The Coast Guard has evaluated this amendment under Executive Order 12291 and the Department of Transportation's "Policies and Procedures for Simplification, Analysis, and Review of Regulations" (DOT Order 2100.5 dated May 22, 1980), and has determined that it is neither a major nor a significant rulemaking. This final rule continues the interim rule issued on August 16, 1982. The evaluation of that rule indicated an expected annual reduction in reports by approximately 400, and an annual savings of \$8,000. Since a report is required only when an accident occurs, the impact on individual entities is negligible. Therefore it is certified as having no significant economic impact on a substantial number of small entities. Accordingly, a full regulatory evaluation has not been prepared. In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the reporting or recordkeeping provisions of this regulation have been submitted to the Office of Management and Budget (OMB). OMB Control Number 2115-0003 has been assigned.

Environmental Impact

The Coast Guard has considered the impact of this revision upon the environment and concluded that the action represents changes in administrative matters only and has no impact upon the environment. Consequently, no environmental impact statement is required.

List of Subjects in 33 CFR Part 146

Outer Continental Shelf, Marine safety, Vessels, Reporting and recordkeeping requirements.

In consideration of the foregoing, Part 146 of Title 33 Code of Federal Regulations is amended to read as follows:

PART 146—OPERATIONS

1. By revising § 146.35(b) to read as follows:

§ 146.35 Written report of casualty.

(b) The written report required by paragraph (a) of this section may be—

- (1) In narrative form if all appropriate parts of Form CG-2692 are addressed;
- (2) On Form CG-2692 for casualties resulting in property damage, personnel injury, or loss of life.

(Approved by the Office of Management and Budget under OMB Control Number 2115-0003)

Authority: Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; sec. 22 of sec. 208, Pub. L. 95-372, 92 Stat. 656 (43 U.S.C. 1348); 49 CFR 1.46(z).

Dated: June 9, 1983.

L. N. Hein,

Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 83-25887 Filed 9-21-83; 6:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Parts 1, 2, 3, 4, 5, 6, 7, 9, 12, and 13

General and Special Regulations for Areas Administered by the National Park Service

AGENCY: National Park Service, Interior.

ACTION: Final rule; delay in effective date.

SUMMARY: On June 30, 1983, the National Park Service published two final rules containing regulations for areas administered as part of the National Park System. These rules provide guidance and controls for public use and recreation activities such as camping, fishing, boating, hunting and winter sports. This notice delays the effective date of those final regulations from October 3 to December 19, 1983, to allow for the promulgation of additional special regulations to implement certain sections of those rules.

EFFECTIVE DATE: The effective date of the regulations published June 30, 1983, is changed from October 3 to December 19, 1983.

FOR FURTHER INFORMATION CONTACT: Tom Ritter, Chief, Division of Visitor Services, National Park Service, Washington, D.C. 20240, telephone (202) 343-3227.

SUPPLEMENTARY INFORMATION: On June 30, 1983, the National Park Service published final regulations for areas

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federal register

Monday
January 9, 1984

Department of Transportation

Coast Guard

**Workplace Safety and Health
Requirements for Facilities on the
Outer Continental Shelf; *Notice of
Proposed Rulemaking***

(2) *Special rule.* If—

(i) A corporation owns, directly or indirectly, all the stock of a subsidiary and a DISC,

(ii) A transfer or transfers described in this paragraph (h)(2) of the stock or assets of the subsidiary and the DISC are for the purpose described in paragraph (h)(1)(vi) of this section, and

(iii) The transfer or transfers occur in a transaction other than one described in paragraph (h)(1)(v) of this section but which satisfies the requirements of paragraphs (h)(1) (iii) and (iv) of this section,

Then the transfer or transfers described in this paragraph (h)(2)(iii) will be a reorganization within the meaning of section 368, a transaction to which section 355 applies, an exchange of stock to which section 351 applies, or a combination of these, as the case may be, provided the transfer or transfers are consistent with the purpose and effect of these described in paragraph (h)(1)(v) of this section.

(3) *Ownership.* Stock owned, directly or indirectly, by a corporation shall be considered as owned proportionately by its shareholders.

(4) *Transfer.* The term "transfer" includes a sale, exchange, or other disposition of property.

(5) *Illustrations.* The following examples illustrate the application of this paragraph (h):

Example (1). P Corporation, which was organized on January 1, 1966, owns all the stock of X and Y Corporations, both also organized on January 1, 1966. X has been engaged in the manufacture of shoes. Y has been engaged in the manufacture of recreational equipment. On January 1, 1972, P organizes Z Corporation, a DISC. X and Y serve as the related suppliers of Z. On January 1, 1977, U Corporation offers to buy the stock of X. As part of an overall plan to section, Z transfers all the export assets that relate to the trade or business conducted by X to V Corporation in exchange for all of the stock of V. Z then distributes all the stock of V to P, which transfers all the V stock to X. Immediately after this series of transactions, P sells all of the X stock to U Corporation. Under paragraph (h)(1) of this section, the transfer and distribution by Z constitute a reorganization under section 368(a)(1)(D) to which section 355 applies, and the exchange by P constitutes an exchange to which section 351 applies. The result would be the same even if P sold less than all of the stock in X.

Example (2). The facts are the same as in example (1), except that Y organizes and owns all the stock of Z. Accordingly, after the transfer by Z, Z distributes the stock of V to Y, which in turn distributes the stock to P. P transfers all the V stock to X. Under paragraph (h)(2) of this section, the transfers by Z to Y, and Y to P constitute a reorganization described in section 368(a)(1)(D) to which section 355 applies. The

transfer by P to X constitutes an exchange to which section 351 applies.

Par. 5. Section 1.996-3 is amended by adding a new paragraph (g) as follows:

§ 1.996-3 Divisions of earnings and profits.

(g) *DISCs having corporate and noncorporate shareholders.* In the case of a DISC having one or more corporate shareholders but less than all of its shareholders subject to the special rules of section 291(a)(4), relating to certain deferred DISC income as a corporate preference item, accumulated DISC income and previously taxed income of the DISC are divided between the corporate shareholders, as a class, and the other shareholders, as a class, in proportion to amounts of DISC income not deemed distributed and amounts deemed distributed to each class. Subsequent taxation of actual and qualifying distributions shall be based upon this division. Thus, if a DISC is owned 50 percent by corporate shareholders and 50 percent by individual shareholders and has undistributed taxable income of \$2,000 for its year, the division is made as follows:

| | | |
|--|--|-------|
| Corporate shareholders: | | |
| Previously taxed income (57.5% of \$2,000 ÷ 2) | | \$575 |
| Accumulated DISC income (42.5% of \$2,000 ÷ 2) | | 425 |
| Individual shareholders: | | |
| Previously taxed income (50% of \$2,000 ÷ 2) | | 500 |
| Accumulated DISC income (50% of \$2,000 ÷ 2) | | 500 |

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

[FR Doc. 84-519 Filed 1-6-84; 8:45 am]
BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 140 and 142

[CGD 79-077]

Workplace Safety and Health Requirements for Facilities on the Outer Continental Shelf

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to issue regulations concerning personal protection equipment and general

working conditions on facilities and mobile offshore drilling units engaged in Outer Continental Shelf (OCS) activities. This proposal addresses the need identified in the OCS Lands Act Amendments of 1978 to promote safe working conditions by regulating hazards in the workplace. This proposal is part of a continuing effort by the Coast Guard to improve safety of life and property on the OCS.

DATES: Comments must be received on or before February 23, 1984.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/44) (CGD 79-077), U.S. Coast Guard, Washington, DC 20593. Comments will be available for inspection or copying from 7:30 am to 4:00 pm on Monday through Friday at the Marine Safety Council (G-CMC), Room 4402, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, D.C. 20593 (202) 426-1477.

FOR FURTHER INFORMATION CONTACT: LCDR Alan J. Cross, G-MVI-4 (202) 426-2307.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate by submitting written views, data, or arguments. Each comment should include the name and address of the person submitting the comment, reference the docket number (CG 79-077), and include sufficient detail to indicate the basis on which each comment is made. Persons desiring acknowledgment that their comment has been received should enclose a stamped self-addressed postcard or envelope.

The proposed rules may be changed in view of comments received. All comments received on or before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned but one may be held at a time and place to be set in a later notice in the Federal Register if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The principal persons involved in drafting this proposal are Lieutenant Dennis J. Cashman, G-MVI-4, Office of Merchant Marine Safety, and Mr. Stephen H. Barber, Project Counsel, Office of the Chief Counsel. Lt. Cashman has since been transferred from G-MVI-4.

Background

These proposals are part of a continuing program under authority of

the Outer Continental Shelf (OCS) Lands Act Amendments of 1978 (Pub. L. 95-372) to address hazardous working conditions on the OCS. This rulemaking is limited to personal protection equipment requirements and to certain general working conditions. Furthermore, this rulemaking is limited to OCS facilities as defined in 33 CFR 140.10. Under this definition, an "OCS facility" includes fixed and floating platforms and structures, as well as mobile offshore drilling units (MODU's) when attached to the seabed for the purpose of exploration and exploitation of subsea resources.

Existing Coast Guard regulations affecting OCS facilities are primarily concerned with design, equipment, operations, and inspections. This proposal constitutes an initial effort to address new areas, such as personal protection equipment and general working conditions. In the future, the Coast Guard will be proposing additional regulations concerning other problems of the workplace, such as training, but will do so under separate rulemaking projects.

On September 20, 1979, an Advance Notice of Proposed Rulemaking on unregulated hazardous working conditions on the OCS was published in the Federal Register (44 FR 54499). In response to the advance notice, many industry representatives stated that the Coast Guard should not develop new standards for the OCS because existing industry standards and practices are adequate. The Coast Guard recognizes that industry associations and conscientious companies have developed and implemented extensive safety standards and programs to reduce accidents and injuries occurring to personnel. However, these industry standards and programs are voluntary. The Coast Guard proposal would make the industry standards and practices addressed mandatory. This approach would provide new impetus for less conscientious companies, subcontracts, and workers to observe certain accepted workplace safety practices.

This initial proposed rulemaking attempts to focus on personal protection, a subject which benefits the worker most directly and which is covered by existing industry standards. This rulemaking is not intended to supplant existing industry safety programs. Ongoing safety efforts within industry are encouraged. Comments received to the advance notice concerning matters not addressed in this proposal will be considered under appropriate future rulemaking projects.

Discussion of the Proposed Amendments

This rulemaking would amend Part 142 of Subchapter N, Chapter I, Title 33 of the Code of Federal Regulations. Existing Part 142, entitled "Workplace Safety and Health," as published in the Federal Register on March 4, 1982 (47 FR 9366). The existing regulations in Part 142, §§ 142.1 and 142.5, specify the duties of lessees, permittees, and persons responsible for actual operations and prescribe the procedure for reporting unsafe working conditions. These sections would be incorporated into this rulemaking without change. Only the section numbers presently assigned to them would be changed for organizational purposes.

Part 140

Existing Part 140, containing general requirements applicable throughout Subchapter N (Parts 140 through 147), would be amended to include a new definition and several additions to the Incorporation by Reference section.

Section 140.7 would add five standards of the American National Standard Institute (ANSI) to the list of materials incorporated by reference. These standards specify industry accepted practices and equipment specifications concerning personal protection equipment. The Coast Guard is making an effort, where practical, to rely on existing industry standards for the purpose of brevity and uniformity.

Section 140.10 would be amended to add a definition of the term "personnel." This term would mean all persons on a unit by reason of their employment and would include not only those in the employment of the unit owner or unit lessee but also those of the oil company operator and of each of the subcontractors working on the unit.

Part 142

Subpart A

Proposed § 142.1 states the purpose for the entire Part 142, which is to promote workplace safety and health by regulating certain operations and equipment and requiring the use of specified personal protection devices.

Proposed §§ 142.4 and 142.7 are existing § 142.1 and 142.5 renumbered without further change.

Subpart B

Proposed Subpart B would apply only on OCS facilities which, by definition under § 140.10, include MODU's when in contact with the seabed for the purpose of exploration or exploitation of subsea resources.

Proposed § 142.24 would prescribe additional responsibilities for those persons listed in proposed § 142.4 (i.e. lessees, permittees, and persons responsible for actual operations). These persons would ensure that the safety equipment prescribed by this part is made available to personnel required to use the equipment.

Proposed § 142.27, eye and face protection, proposed § 142.30, head protection, and proposed § 142.33, foot protection, would establish requirements for the use of protection equipment that meets specifications established by the American National Standards Institute.

Proposed § 142.36, protective clothing, is intended to be performance oriented. Persons exposed to flying particles, molten metal, radiant energy, heavy dust, toxic chemicals, or hazardous materials would be required to wear clothing recognized within the industry as providing protection against the hazard involved. For example, workers exposed to dusts, vapors, moisture, or corrosive liquids might wear clothing made of impervious material, such as rubber, neoprene, vinyl, or polypropylene. Leather clothing might be used for protection against heat or splashes of hot metal.

Proposed § 142.39, respiratory protection, incorporates the American National Standard Practices for Respiratory Protection, ANSI Z88.2-1980, for the proper selection, use, and care of respiratory protection devices used in hazardous environments. Persons listed in proposed § 142.4 (i.e. lessees, permittees, and persons responsible for actual operations) would be given the additional responsibility of ensuring that personnel using respiratory protection devices are properly trained in the use of the equipment and made aware of the health hazards should the worker fail to use the equipment.

Proposed § 142.42 is intended to reduce the likelihood of falls greater than ten feet by requiring the use of safety belts and lifelines.

Proposed § 142.45, personal flotation devices, is intended to reduce the likelihood of personnel drowning after falling into water.

Proposed § 142.48 would require that eyewash equipment is maintained on the drill floor and in the mud rooms. These are the areas where the worker is most exposed to particulate matter in the atmosphere. The type of eyewash equipment is not specified and may include fountains, drench showers, hand-held drench hoses, portable eye/face wash units, or combination

showers. The main concern is that the equipment provides emergency relief and is immediately available. Continued treatment may be necessary elsewhere on the unit.

Subpart C

This proposed subpart concerns hazards of a general nature which may exist throughout the workplace. This proposed Subpart would apply only on OCS facilities which, by definition under § 140.10, includes MODU's when in contact with the seabed for the purpose of exploration or exploitation of subsea resources.

Proposed § 142.84, housekeeping, would prescribe requirements intended to reduce the incidence of workers slipping and tripping. Temporary padeyes, wire rope slings, air hoses, arc welding leads, and chain falls which are not removed after use and spills which are not cleaned up can become major causes of trips and falls.

Proposed § 142.87 would address the hazard of unguarded openings by requiring the installation of netting, planking, or other devices to prevent persons from falling through the openings.

Proposed § 142.90, lockout and tagout system, is intended to warn others that maintenance or repair work on machinery or equipment is being conducted.

Incorporation by Reference

This proposal would add five ANSI standards to the list of materials incorporated by reference in existing § 140.7. Approval by the Director, Office of the Federal Register, will be requested. Should this material be changed by ANSI at some later time, the changes may be considered for incorporation. However, before taking final action, the Coast Guard would publish a notice in the Federal Register for public comment.

The material incorporated by reference will be maintained on file at the Library of the Office of the Federal Register, Room 8301, 1100 T Street, NW., Washington, DC 20408 and available for inspection at Coast Guard Headquarters, Room 4407, 2100 2nd Street, SW., Washington, DC 20593. Copies of the materials may be purchased from the American National Standards Institute, Sales Department, 1430 Broadway, New York, N.Y. 10018.

Regulatory Evaluation

This proposed regulatory action is considered to be "non-major" under Executive Order 12291 (46 FR 13193; February 19, 1982) and classified as "non-significant" under the Department

of Transportation Order 2100.5, "Policies and Procedures for Simplification, Analysis, and Review of Regulations," dated May 22, 1980. Though exempt from the requirement for Regulatory Impact Analysis under E.O. 12291, a draft Regulatory Evaluation has been prepared, copies of which are available for inspection or copying at the Office of the Marine Safety Council, Room 4402, U.S. Coast Guard Headquarters, 2100 2nd Street SW., Washington, DC 20593, (202) 426-1477.

These proposed requirements should not impose substantial costs on industry. Costs per facility would vary depending upon the number of persons on board, the nature of the activities conducted, and the degree to which the facility already complies with these proposals. The total initial cost for the proposed personal protection equipment, eyewash equipment, and respiratory protection training for a mobile drilling unit with a 50 person crew would be approximately \$12,000. The total initial cost for a manned fixed facility with a 25 person crew would be \$5,000. Based upon 200 mobile drilling units and 600 manned fixed facilities, the maximum industry cost would be \$5,400,000. In actuality, these costs would most likely be substantially less. Discussions with industry representatives indicate that many offshore companies already include some personal protection equipment and training as elements of their safety program. Because of the level of compliance which already exists, industry should have minor difficulty adjusting to these proposed requirements. Additionally, compliance with these proposed requirements may reduce industry operating costs for insurance premiums and worker compensation by reducing the frequency and severity of injuries.

These rules would not impact state or local government and would have a negligible effect on costs to consumers.

Knowledgeable persons are requested to provide information on the economic impact of the proposed regulations.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 through 612), the Coast Guard must consider whether the rule it is proposing is likely to have a significant economic impact on a substantial number of "small entities". "Small entities" include independently owned and operated small businesses which are not dominant in their field and which would otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

The economic impact of the proposed regulations would fall on the owners, operators, and subcontractors furnishing the personal protection equipment required by this proposal. Oil company operators and owners of OCS units are generally major corporations or subsidiaries of major corporations. However, the degree of impact on the numerous subcontractors providing specialized services offshore is not known. It appears, however, that the impact will be roughly proportional to the number of employees and that, therefore, the small entities will incur less cost. Comments on this point are requested.

Personal protection equipment manufacturers would be affected because only equipment meeting ANSI standards would be acceptable offshore. This may require certain manufacturers to redesign their equipment in order to remain competitive in the offshore market. However, the effect on manufacturers would not be substantial because most of the personal protection equipment being purchased for offshore use already meets ANSI standards.

For the above reasons, it is certified that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. If, however, you feel that your business may qualify as a small entity and that the proposed rules would have a significant economic impact on the business, please notify the Coast Guard (see ADDRESSES) and explain why you feel your business qualifies and in what way and to what degree the proposed regulations would have an economic effect on your business.

Paperwork Reduction Act

The information collection requirements contained in this regulation have been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

Environmental Assessment

The Coast Guard has considered the environmental impact of the regulations and concluded that the preparation of an environmental impact statement is not necessary. An environmental assessment with a finding of no significant impact has been prepared and is on file in the rulemaking docket.

List of Subjects in 33 CFR Parts 140 and 142

Continental shelf, Marine safety.

In consideration of the foregoing, Parts 140 and 142 of Subchapter N,

Chapter I, Title 33, Code of Federal Regulations, are amended as follows:

PART 140—GENERAL

1. The authority citation for Part 140 reads as follows:

Authority: Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; sec. 22 of sec. 208, Pub. L. 95-372, 92 Stat. 655 (43 U.S.C. 1348); sec. 30 of sec. 208, Pub. L. 95-372, 92 Stat. 669 (43 U.S.C. 1356); 49 CFR 1.46(z).

2. In § 140.7, paragraph (b) is revised to read as follows:

§ 140.7 Incorporation by reference.

(b) The materials approved for incorporation by reference in this subchapter are:

American National Standards Institute (ANSI)

ANSI A10.14, Requirements for Safety Belts, Harnesses, Lanyards, Lifelines, and Drop Lines for Construction and Industrial Use.

ANSI Z41.1, Safety—Toe Footwear.

ANSI Z87.1, Practice for Occupational and Educational Eye and Face Protection.

ANSI Z88.2, Practices for Respiratory Protection.

ANSI Z89.1, Safety Requirements for Industrial Head Protection.

3. In § 140.10, a new term is added as follows:

§ 140.10 Definitions.

As used in this subchapter:

"Personnel" means individuals on a unit by reason of their employment.

4. By revising Part 142 to read as follows:

PART 142—WORKPLACE SAFETY AND HEALTH

Subpart A—General

Sec.

142.1 Purpose.

142.4 Duties of lessees, permittees, and persons responsible for actual operations.

142.7 Reports of unsafe working conditions.

Subpart B—Personal Protective Equipment

142.21 Purpose and applicability.

142.24 Availability of equipment.

142.27 Eye and face protection.

142.30 Head protection.

142.33 Foot protection.

142.36 Protective clothing.

142.39 Respiratory protection.

142.42 Safety belts and lifelines.

142.45 Personal flotation devices.

142.48 Eyewash equipment.

Subpart C—General Workplace Conditions

Sec.

142.81 Purpose and applicability.

142.84 Housekeeping.

142.87 Guarding of deck openings.

142.90 Lockout and tagout.

Authority: Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; sec. 21 of sec. 208, Pub. L. 95-372, 92 Stat. 654 (43 U.S.C. 1347); sec. 22 of sec. 208, Pub. L. 95-372, 92 Stat. 655 (43 U.S.C. 1348); 49 CFR 1.46(z).

Subpart A—General

§ 142.1 Purpose.

This part is intended to promote workplace safety and health by establishing requirements relating to personnel, workplace activities and conditions, and equipment on the Outer Continental Shelf.

§ 142.4 Duties of lessees, permittees, and persons responsible for actual operations.

(a) Each holder of a lease or permit under the Act shall ensure that all places of employment within the lease area or within the area covered by the permit the OCS are maintained in compliance with workplace safety and health regulations of this part and, in addition, free from recognized hazards.

(b) Persons responsible for actual operations, including owners, operators, contractors, and subcontractors, shall ensure that those operations subject to their control are conducted in compliance with workplace safety and health regulations of this part and, in addition, free from recognized hazards.

(c) "Recognized hazards", in paragraphs (a) and (b) of this section, means conditions which are—

(1) Generally known among persons in the affected industry as causing or likely to cause death or serious physical harm to persons exposed to those conditions; and

(2) Routinely controlled in the affected industry.

§ 142.7 Reports of unsafe working conditions.

(a) Any person may report a possible violation of any regulation in this subchapter or any other hazardous or unsafe working condition on any unit engaged in OCS activities to an Officer in Charge, Marine Inspection.

(b) After reviewing the report and conducting any necessary investigation, the Officer in Charge, Marine Inspection, notifies the owner or operator of any deficiency or hazard and initiates enforcement measures as the circumstances warrant.

(c) The identity of any person making a report under paragraph (a) of this section is not made available, without the permission of the reporting person, to anyone other than those officers and

employees of the Department of Transportation who have a need for the record in the performance of their official duties.

Subpart B—Personal Protective Equipment

§ 142.21 Purpose and applicability.

This subpart prescribes requirements concerning personal protection on OCS facilities.

§ 142.24 Availability of equipment.

(a) Each holder of a lease or permit under the Act shall ensure that the personal protection equipment specified by this subpart is made available to the personnel, within the lease area or the area covered by the permit, who are required under this subpart to use the equipment.

(b) Persons responsible for actual operations shall ensure that the personal protection equipment specified by this subpart is made available to the personnel engaged in the operation who are required under this subpart to use the equipment.

§ 142.27 Eye and face protection.

(a) Personnel engaged in welding, grinding, machining, chipping, handling chemicals, or acetylene burning or cutting shall wear the eye and face protector specified for the operation in Figure 8 of American National Standard Practice for Occupational and Educational Eye and Face Protection, ANSI Z87.1 and meeting the specifications of that standard.

(b) Eye and face protectors must be maintained in good condition.

(c) Each eye and face protector must be marked by the manufacturer with the information required by ANSI Z87.1 for that type of protector.

§ 142.30 Head protection.

(a) Personnel working in areas where there is a danger of falling objects or of contact with electrical conductors shall wear the head protector meeting the specifications of American National Standard Safety Requirements for Industrial Head Protection, ANSI Z89.1, for the danger involved.

(b) Each head protector must be marked by the manufacturer with the information specified by ANSI Z89.1 for that type of protector and for the danger involved.

§ 142.33 Foot protection.

(a) Except while in living quarters and offices, personnel shall wear footwear meeting the specifications of American National Standard for Safety-Toe Footwear, ANSI Z41.1.

(b) Each pair of footwear must be marked by the manufacturer with the information specified by ANSI Z41.1 for that type of footwear.

§ 14.236. Protective clothing.

Personnel in areas where there are flying particles, molten metal, radiant energy, heavy dust, or hazardous materials shall wear clothing and gloves providing protection against the danger involved.

§ 142.39 Respiratory protection.

(a) Personnel in an atmosphere specified under American National Standard Practices for Respiratory Protection, ANSI Z88.2, requiring the use of respiratory protection equipment shall wear the type of respiratory protection equipment specified in ANSI Z88.2 for that atmosphere.

(b) Before personnel enter an atmosphere specified under ANSI Z88.2 requiring the use of respiratory protection equipment, the persons listed in § 142.4 shall ensure that the personnel entering the atmosphere—

(1) Follow the procedures stated in Section 6 of ANSI Z88.2 concerning the proper selection of a respirator and individual fit testing;

(2) Are trained in the matters set forth in Section 7 of ANSI Z88.2 concerning proper use of the equipment to be used; and

(3) Are made aware, in terminology understandable to the personnel entering the atmosphere, of the short and long term harmful effects of exposure to the atmosphere involved.

(c) All respiratory protection equipment must be approved, used, and maintained in accordance with ANSI Z88.2.

§ 142.42 Safety belts and lifelines.

(a) Personnel engaged in an activity where there is a danger of falling 10 or more feet must wear a safety belt or harness secured by a lanyard to a lifeline, drop line, or fixed anchorage.

(b) Each safety belt, harness, lanyard, lifeline, and drop line must meet the specifications of American National Standard Requirements for Safety Belts, Harnesses, Lanyards, Lifelines, and Drop Lines for Construction and Industrial Use, ANSI A10.14.

§ 142.45 Personal flotation devices.

When a person is working in a location such that, if the person fell, the person would likely fall into water, the person must wear either a unicellular plastic foam workvest that meets the requirements of 46 CFR 160.053 or a life preserver that meets the requirements of 46 CFR 160.002, 160.005, or 160.055.

§ 142.48 Eyewash equipment.

Portable or fixed eyewash equipment providing emergency relief must be immediately available on the drill floor and in each mudroom.

Subpart C—General Workplace Conditions

§ 142.81 Purpose and applicability.

This subpart prescribes requirements relating to general working conditions on OCS facilities.

§ 142.84 Housekeeping.

All staging, platforms, and other working surfaces and all ramps, stairways, and other walkways must be kept clear of tools, materials, and equipment not in use and be kept free of substances which create a slipping hazard.

§ 142.87 Guarding of deck openings.

Openings in decks must be covered or guarded in order to prevent a persons foot or body from passing through the opening.

§ 142.90 Lockout and tagout.

(a) While repair or other work is being performed on equipment powered from an external source, the equipment must be disconnected from the power source or otherwise deactivated, unless the nature of the work being performed necessitates that the power be connected or the equipment activated.

(b) A sign must be placed at the point where the equipment connects to a power source and at the activation control warning—

(1) That equipment is being worked on; and

(2) If then power source is disconnected or the equipment deactivated, that the power source must not be connected or the equipment activated.

(c) The signs must not be removed without the permission of either the person who placed them or that person's immediate supervisor.

(d) If the equipment has a lockout or other device designed to prevent unintentional activation of the equipment, the lockout or other device must be engaged while the work is being performed on the equipment, unless the nature of the work being performed necessitates that the equipment be activated.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

September 9, 1983.

[FR Doc. 84-463 Filed 1-9-84; 8:45 am]

BILLING CODE 4910-14-M

LEGAL SERVICES CORPORATION

45 CFR Part 1609

Fee-Generating Cases

AGENCY: Legal Services Corporation.

ACTION: Proposed rule.

SUMMARY: This proposed rule makes slight revisions to the Corporation's regulations governing acceptance by recipients of cases expected to general an award of attorneys' fees and adds a new section of accounting for attorneys' fees which are recieved. The revisions are needed to ensure that inappropriate cases are not accepted, and the accounting rules are needed to ensure proper accounting for and use of fees received.

DATES: Comments must be received on or before February 8, 1984.

ADDRESS: Comments may be submitted to Office of General Counsel, Legal Services Corporation, 733 Fifteenth Street, NW., Room 620, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: John C. Meyer, Deputy General Counsel, (202) 272-4010.

SUPPLEMENTARY INFORMATION: In addition to a technical update of the citations in § 1609.4(d), there are three changes in this regulation. The most important of these changes is the addition of a new § 1609.6 (the old § 1609.6 is renumbered § 1609.7) concerning accounting for attorneys' fees received by a recipient. This section requires these fees to be returned to the fund from which resources to litigate the case came and requires that the fee be recorded during the accounting period in which the program receives the award. The cash basis for accounting for attorney fees is adopted because attorney fees are often not collectible until months or even years after the original award, and, consequently, an accrual basis for accounting for attorney fees could result in unrealistically considering a program to have resources that are not in fact available.

Section 1609.4(a)(3) is deleted. It allowed a recipient to accept a fee-generating case if it was the type attorneys in the area generally do not accept. This deletion establishes a requirement that an actual, specific effort be made to refer each fee-generating case, except that such a case may still be initiated without such an effort in emergency circumstances, or if it falls into certain limited categories, such as a case seeking certain social security benefits.

federal register

Monday
February 6, 1984

Department of Transportation

Coast Guard

**MODU Exposure Suit Requirements;
Final Rule**

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

Authority: This regulation is issued under the authority in 27 U.S.C. 205. Accordingly, 27 CFR Part 9 is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the heading of § 9.91 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.91 Walla Walla Valley.

Par. 2. Subpart C is amended by adding § 9.91 to read as follows:

Subpart C—Approved American Viticultural Areas**§ 9.91 Walla Walla Valley.**

(a) *Name.* The name of the viticultural area described in this section is "Walla Walla Valley."

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the Walla Walla Valley viticultural area are two U.S.G.S. maps, in the scale 1:250,000. They are entitled:

- (1) "Walla Walla," Wa.; Oregon 1953 (limited revision 1963)
- (2) "Pendleton," Or.; Wa. 1953 (revised 1973)

(c) *Boundaries.* The Walla Walla Valley viticultural area, located in the southeast portion of Washington State and the northeast portion of Oregon, consists of approximately 178,560 acres. The boundaries of the Walla Walla Valley viticultural area, using landmarks and points of reference found on the appropriate U.S.G.S. maps, are as follows: Beginning at a point just northeast of Dixie, Washington, in T8N/37E, at the intersection of Highway 3 and Mud Creek; Southwest along State Highway 3 approximately 4 miles to its intersection with the Northern Pacific Railroad in T7N/R37E; Follow the Northern Pacific in a generally westerly direction, through Walla Walla; Continue west, then northwest along the railroad line, past Pedigo Station until it intersects the secondary road in T8N/R34E; thence, southwest in a straight line approximately 12½ miles until it meets the Union Pacific Railroad at the intersection of T7N and R32E/R33E; South along R32E/R33E for 2 miles until it intersects the 1,000' contour line; Follow the 1,000' contour line in a southeast direction until it intersects the

Union Pacific Railroad at T5N/R35E; South along said track until it intersects Dry Creek in T4N/R35E; Southeast along Dry Creek until it intersects the 2,000' contour line; Continue in a northeast direction along the 2,000' contour line until it intersects Dry Creek in T7N/R38E; North along Dry Creek, approximately 3½ miles, until it intersects the Northern Pacific Railroad at T8N/R37E; Continue in a northeast direction along said track until it intersects Mud Creek; Follow Mud Creek in a northwest direction to the beginning point where it intersects State Highway 3.

Signed: December 12, 1983.

Stephen E. Higgins,
Director.

Approved: January 12, 1984.

John M. Walker, Jr.,
Assistant Secretary (Enforcement and Operations).

[FR Doc. 84-3145 Filed 2-3-84; 9:45 am]
BILLING CODE 4810-31-M

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 144**

[CGD 82-075b]

Exposure Suits; Requirements for Mobile Offshore Drilling Units

AGENCY: Coast Guard, DOT.

ACTION: Final rules.

SUMMARY: These rules require exposure suits for personnel on board mobile offshore drilling units including foreign mobile offshore drilling units engaged in activities on the Outer Continental Shelf of the United States. Units operating in waters where the water temperature does not present a severe threat of injury due to exposure would be exempted from the requirements. The need for this action arises from casualties in which some of the loss of life might have been prevented if the persons on board had been provided with exposure suits. These regulations are intended to prevent some of the loss of life when persons are forced to enter cold water after abandoning ship.

EFFECTIVE DATE: These amendments become effective on August 6, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Markle, Office of Merchant Marine Safety (202) 426-1444.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the Federal Register of February 3, 1983 (48 FR 4833). The comment period on the proposal (CGD 82-075b) ended on

May 4, 1983. A total of 167 comments were received from 40 parties.

Drafting Information

The principal persons involved in drafting these regulations are: Mr. Robert Markle, Office of Merchant Marine Safety, and Mr. Michael Mervin, Office of the Chief Counsel.

Discussion of Rules

These rules require certain mobile offshore drilling units (MODUs) operating on the Outer Continental Shelf (OCS) of the United States to carry exposure suits for all persons on board. The rules apply to any MODU that is not inspected under the regulations in 46 CFR, Subchapter I-A, including foreign registered MODUs.

These rules are similar to those for exposure suits on MODUs that are inspected under 46 CFR, Subchapter I-A. Those rules are published under a separate document (CGD-075a) which appears elsewhere in this issue of the Federal Register. Comments on the notice of proposed rule making (NPRM) applicable to both these rules and the rules under 46 CFR, Subchapter I-A are discussed in the preamble to that final rule. The following discussion concerns comments that apply only to the rules published under this notice.

Discussion of Comments

Two comments noted that the proposed rules appeared to exceed the authority of the OCS Lands Act by allowing an exemption from the rules for MODUs operating between 35°N and 35°S latitudes. The U.S. OCS does not extend to 35°S, so the reference to 35°S has been removed from the final rules.

One comment suggested that the rules be revised to require that exposure suits stowed in or near the work stations be of an appropriate size for the persons assigned to that station at any particular time. This change is not needed since the exposure suits come in one "universal" adult size. Title 46 CFR Subpart 160.071 as modified under docket CGD-075a, does provide for approval of oversize adult suits, however, very few individuals need the oversize suits, so the rules do not need to be revised to take this unusual occurrence into account.

Two comments had observations on the requirements for foreign MODUs. Both supported allowing foreign MODUs to use suits approved by their national Administration. One of them stated that the Coast Guard should urge other nations to accept U.S. approved exposure suits on U.S. MODUs in their waters. A new revision to Chapter III of

the Safety of Life at Sea Convention, 1974 (SOLAS 1974) does contain standards for exposure suits (called "immersion suits" in SOLAS) which are consistent with U.S. Coast Guard approved suits. This should lead to acceptance of Coast Guard approved suits on U.S. MODUs in foreign waters.

One comment stated that the exposure suits should be stowed in the berthing area as they would be under Title 46 CFR Subchapter I-A. This was an oversight and has been corrected by a modification to § 144.20-5(a). Section 144.20-5(b) implies that the suits not at watch or work stations should be in the berthing areas, but the rules in the NPRM did not state that.

Correction

The rules as proposed in the NPRM would have applied to MODUs contracted for before January 3, 1979. This was the effective date of the MODU rules appearing in Title 46 CFR Subchapter I-A, however, most U.S. registered MODUs, including those built before January 3, 1979 are now inspected under those rules. The rules in this notice have been revised to make them apply only to MODUs operating on the OCS which are not inspected under Title 46 CFR Subchapter I-A.

Final Evaluation

These regulations are considered to be non-major under Executive Order 12291 and non-significant under "Department of Transportation Policies and Procedures for Simplification, Analysis, and Review of Regulations", (DOT Order 2100.5 of May 22, 1980). A final evaluation has been prepared and placed in the docket and may be inspected or copied at the Office of the Marine Safety Council, Room 4402, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC 20593.

The Final Evaluation is fully discussed under docket CGD 82-075. These rules are expected to affect one foreign registered MODU. The regulations under this docket would result in an initial cost of about \$31,200 and a recurring annual cost of about \$3,400. These costs will be imposed directly on the private sector (the operators of affected MODUs). The operators are expected to pass the costs through to the ultimate consumers of affected maritime services in the form of price increases, however, increases in individual prices will be negligible. There is no effect on federal, state, and local governments except in their capacities as consumers of maritime services. Implementation and enforcement of these rules would be accomplished within the scope of

current Coast Guard marine safety activities, so there will not be any need for additional federal budget commitments.

The primary benefit identified for the rules is to improve the chances of survival for persons entering cold water as the result of a vessel casualty. As explained more fully in the discussion under Docket CGD 82-075, the Coast Guard cannot predict with any acceptable degree of confidence, the number of lives that might be saved by these regulations, but perhaps 30 persons that were near rescue vessels in the *Ocean Ranger* casualty might have survived long enough to be rescued if they had been wearing exposure suits.

Under the Regulatory Flexibility Act (Pub. L. 96-354), it is certified that this rule will not have a significant economic impact on a substantial number of small entities. There are no operators of MODUs known to be small entities.

This rulemaking contains no information collection or recordkeeping requirements.

List of Subjects in 33 CFR Part 144

Marine safety, Mobile offshore drilling units, Outer continental shelf activities.

In consideration of the foregoing, Title 33 of the Code of Federal Regulations is amended as set forth below.

SUBCHAPTER N—OUTER CONTINENTAL SHELF ACTIVITIES

1. By adding Subparts 144.20 and 144.30 to the table of contents for part 144 as follows:

PART 144—LIFESAVING APPLIANCES

* * * * *

Subpart 144.20—Requirements for U.S. and Undocumented MODU's

Sec.
144.20-1 Applicability.
144.20-5 Exposure suits.

Subpart 144.30—Requirements for Foreign MODU's

144.30-1 Applicability.
144.30-5 Exposure suits.

2. By adding a new Subpart 144.20 as follows:

Subpart 144.20—Requirements for U.S. and Undocumented MODU's

§ 144.20-1 Applicability

This subpart applies to each MODU operating on the OCS that is not inspected under 46 CFR Subchapter I-A.

§ 144.20-5 Exposure suits.

This section applies to each MODU except those operating south of 35° N latitude.

(a) Each MODU must carry an exposure suit for each person on board. The exposure suit must be stowed in a readily accessible location in or near the berthing area of the person for whom the exposure suit is provided.

(b) In addition to the exposure suits required by paragraph (a) of this section, each watch station and work station must have enough exposure suits to equal the number of persons normally on watch in, or assigned to, the station at one time. However, an exposure suit need not be provided at a watch or work station for a person whose cabin, stateroom, or berthing area (and the exposure suits stowed in that location) is readily accessible to the station.

(c) Each exposure suit on a MODU must be of a type approved under 46 CFR 160.071.

(d) Each exposure suit must have a personal flotation device light that is approved under 46 CFR 161.012. Each light must be securely attached to the front shoulder area of the exposure suit.

(e) Each exposure suit on a MODU must be provided with a whistle of the ball type or multi-tone type, of corrosion resistant construction, and in good working order. The whistle must be attached to the exposure suit by a lanyard without hooks, snaps, clips, etc., that is long enough to permit the whistle to reach the mouth of the wearer. If the lanyard allows the whistle to hang below the waist of the wearer, the whistle must be stowed in a pocket on the exposure suit, or with the lanyard coiled and stopped off.

(f) No stowage container for exposure suits may be capable of being locked.

(Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended: 49 CFR 1.46(z))

3. By adding a new Subpart 144.30 as follows:

Subpart 144.30—Requirements for Foreign MODU's

§ 144.30 Applicability.

This subpart applies to each MODU engaged in OCS activities that is documented under the laws of a foreign nation.

144.30-5 Exposure suits.

Each foreign MODU must meet the requirements of § 144.20-5 of this chapter, except as follows:

(a) Exposure suits (immersion suits, survival suits, etc.) approved by the nation under which the MODU is documented may be used in lieu of suits approved under 46 CFR 160.071, provided that they are accepted by the Commandant as providing equivalent thermal protection to the wearer.

(Requests for acceptance of such suits should be sent to Commandant, U.S. Coast Guard (G-MVI-3/24), Washington, DC 20593, along with technical data supporting the thermal performance of the suits.)

(b) Personal flotation device lights approved by the nation under which the MODU is documented may be used in lieu of lights approved under 46 CFR 161.012.

(Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; 49 CFR 1.46(z))

Dated: December 19, 1983.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 84-3160 Filed 2-3-84; 9:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[COTP, NOLA, Reg. No. 84-03]

Safety Zone Regulations; Vicinity of the Mississippi Aerial River Transit (MART) Terminals in New Orleans

AGENCY: Coast Guard, DOT.

ACTION: Final rulemaking.

SUMMARY: The Coast Guard Captain of the Port, New Orleans, is establishing a Safety Zone in the vicinity of the Mississippi Aerial River Transit (MART) terminals in New Orleans. This zone is needed to safeguard the connecting and raising of the aerial cables between MART's east bank terminal at Julia St. Wharf and its west bank terminal located in the vicinity of the ORGULF Fleet. The approximate midpoint of the cables is at LMR mile 95.4, AHOP. These operations will require the closure of the Mississippi River to all marine traffic within the Safety Zone.

DATES: The regulation becomes effective on effective on 4, 11, and 18 March 1984 for a period of 6 hours on each day, commencing at 7:00 a.m. and terminating at 1:00 p.m. Comments on this regulation must be received on or before February 29, 1984.

ADDRESSES: Comments should be mailed to Coast Guard Captain of the Port, New Orleans, Attention: Waterways Safety Office, 4640 Urquhart Street, New Orleans, LA 70117. Normal office hours are between 7:00 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand delivered to this address. Copies of all written comments received will be

available for examination and copying at the above address.

FOR FURTHER INFORMATION CONTACT: LCDR Richard E. FORD at (504) 589-7117, or ENS Peyton COLEMAN at (504) 589-7108.

SUPPLEMENTARY INFORMATION: A meeting was held at the office of the Captain of the Port, New Orleans, on 12 January 1984 between representatives of: the Captain of the Port, MART, the New Orleans Steamship Association, the Board of Commissioners for the Port of New Orleans, the Crescent River Port Pilots Association, the New Orleans-Baton Rouge Pilots Association, The Mississippi River Bridge Authority, and the USCG Vessel Traffic Service (VTS), New Orleans. The purpose of this meeting was to select tentative dates and times for the conduct of the cable raising operations so that there would be minimal disruption to marine commerce on the Mississippi River. The dates and times selected for the establishment of the Safety Zone in this regulation were an outgrowth of this meeting.

A notice of proposed rulemaking was not published for this regulation, because following normal rulemaking procedures would have been impracticable. The request for this regulation was not received until 12 January 1984, and there was not sufficient time remaining to publish a proposal in advance of the event for which this regulation is needed. Although this regulation is published as a final rule without prior notice, an opportunity for public comment is nevertheless desirable to ensure that the regulation is both reasonable and workable.

Accordingly, persons wishing to comment may do so by submitting written comments to the office listed under **ADDRESSES** in this preamble. Commenters should include their names and addresses, identify the docket number for the regulation, and give reasons for their comments. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed. Based upon comments received, the regulation may be changed.

Drafting Information

The drafters of these rules are LCDR Richard E. FORD, Project Officer, COTP, New Orleans, and LCDR R. W. BRUCE, Project Attorney, Eighth Coast Guard District Legal Office.

Discussion

The Mississippi Aerial River Transit will be a cable-supported tramway system, transporting passengers in gondolas across the Mississippi River. The system's principal structural components will consist of a passenger terminal and cable-supporting tower on the east bank of the Mississippi River, similar structures directly across the river on the west bank, and interconnecting cables between the two terminals/towers. The installation of the system's interconnecting cables will necessitate the rigging of small diameter messenger lines between the two terminals/towers by connecting one end of each of the messenger lines to the east bank terminal/tower, transporting the unconnected ends across the river on a towboat to the west bank terminal/tower, and connecting them to that terminal/tower. The messenger lines will then be raised above the surface of the river. Afterwards, the systems cables will be stretched over the river by hauling them across with the messenger lines.

Rigging these messenger lines will interfere with normal navigation on the Mississippi River for a period of time, and will require that the river be closed to navigation in order to safeguard these operations. In preliminary discussions with representatives of MART, it was their estimation that these operations would require approximately 6 hours to complete. Given optimal weather conditions and no unforeseen complications, one six hour period on March 4, 1984, beginning at 7:00 a.m. and ending promptly at 1:00 p.m., should allow for the completion of these operations. However, for planning purposes, two similar six hour periods were provided for on March 11, and March 16, 1984 to allow for their completion in case of complications or adverse weather conditions. Regardless, the actual closure of the river will only involve such time as is absolutely necessary. Those time periods and dates set aside by this regulation that are not utilized will be promptly withdrawn by the Captain of the Port, New Orleans, by the immediate cancellation of the Safety Zone.

Economic Assessment and Certification:

This regulation is considered to be nonsignificant in accordance with DOT Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5). This

federal register

Tuesday

February 28, 1984

Department of Transportation

Coast Guard

**Workplace Safety and Health
Requirements for Facilities on the
Outer Continental Shelf; *Notice of
Proposed Rulemaking Correction
and Extension of Comment Period***

description of the amendments submitted by Tennessee on January 5, 1984:

(1) Proposed modifications to the following sections of the State's blasting regulations:

Surface Section

- 0400-1-14.03 Blasting signs
- 0400-1-14.31 Use of Explosives: Pre-blasting Survey
- 0400-1-14.32 Use of Explosives: Public Notice of Blasting Schedule
- 0400-1-14.33 Use of Explosives: Surface Blasting Requirements
- 0400-1-14.35 Use of Explosives: Records of Blasting Operations

Underground Section

- 0400-1-15.03 Blasting Signs
- 0400-1-15.29 Use of Explosives: General Requirements
- 0400-1-15.30 Pre-Blasting Surveys
- 0400-1-15.31 Use of Explosives: Surface Blasting Requirements
- 0400-1-15.33 Use of Explosives: Records of Blasting Operations

(2) Proposed modifications to the following sections of the approved State program:

- Chapter VII (1) Permitting
- Chapter VII (4) Inspection and Enforcement
- Chapter VII (5) Enforcing the Administrative, Civil and Criminal Sanctions of State Laws and Regulations
- Chapter VII (7) Assessing and Collecting Civil Penalties

The proposed modifications listed under number (2) above were submitted by DSM as amendments to the program provisions DSM submitted to OSM on April 30, 1983, in satisfaction of condition (i) of the Secretary's program approval.

Condition (i) requires Tennessee to submit additional documentation for Chapters VII (1), (4), (5), (6), (7), (8), (9), (15), and (16) of the Tennessee program concerning procedures and forms for permitting, inspection, and enforcement, to provide a full description of the State's intended methods of implementing the program.

As noted previously, OSM determined that the program modifications submitted by Tennessee on April 30, 1983, did not fully satisfy condition (i) and, therefore, the Secretary extended the deadline for the State to satisfy this condition until December 30, 1983.

In determining whether Tennessee has satisfied condition (i), OSM will review the program provisions submitted by Tennessee on April 30, 1983, together with the amendments to those provisions submitted January 5, 1984.

These documents are contained in the OSM administrative record under numbers TN-667 and TN-742.

OSM is seeking comment on the following:

(1) The adequacy of the provisions submitted to OSM Tennessee on April 30, 1983, as amended with the provisions submitted January 5, 1984, in satisfaction of condition (i) of the Secretary's approval of Tennessee's program, listed at 30 CFR 942.11(i); and

(2) the adequacy of the regulatory amendments submitted to OSM by Tennessee on January 5, 1984, pertaining to the State's blasting performance standards.

Copies of all documents are available for review at the OSM administrative record offices listed above.

Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement would need to be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 942

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Authority: Pub. L. 95-87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

Dated: February 22, 1984.

J. R. Harris,
Director, Office of Surface Mining.
[FR Doc. 84-5273 Filed 2-27-84; 8:45 am]
BILLING CODE 4310-C5-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 140 and 142

[CGD 79-077]

Workplace Safety and Health Requirements for Facilities on the Outer Continental Shelf

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking; correction and extension of comment period.

SUMMARY: This document corrects certain portions of the preamble to the proposed rule concerning personal protection equipment and general working conditions on Outer Continental Shelf facilities. The Regulatory Evaluation and Paperwork Reduction Act sections of the preamble published on January 9, 1984 (49 FR 1085) were those of an earlier, incomplete draft. Because of this correction and several requests for additional time to comment on the proposed rule, the deadline for receipt of comments on the proposal is extended to April 9, 1984.

DATE: The deadline for receipt of comments on the proposal is extended to April 9, 1984.

ADDRESSES: Comments may be mailed to Commandant (G-GMC/44)(CGD 79-077), U.S. Coast Guard, Washington, DC 20593. Comments will be available for inspection or copying from 7:30 am to 4:00 pm on Monday through Fridays at the Marine Safety Council (G-GMC) Room 4402, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, D.C. 20593, (202) 426-1477.

FOR FURTHER INFORMATION CONTACT: LCDR A. J. Cross, G-MVI-4, (202) 426-2307.

In consideration of the foregoing, the preamble to the proposed rule is amended by removing the sections entitled "Regulatory Evaluation" and "Paperwork Reduction Act" at 49 FR 1085 and inserting in their place, respectively, the following:

* * * * *

Regulatory Evaluation

These proposed regulations are considered to be non-major under

Executive Order 12291 and non-significant under "Department of Transportation Policies and Procedures for Simplification, Analysis, and Review of Regulations," (DOT Order 2100.5 of May 22, 1980). A draft evaluation has been prepared and placed in the docket and may be inspected or copied at the Office of the Marine Safety Council, Room 4402, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593.

The Outer Continental Shelf Lands Act Amendments of 1978 specifically require that the Secretary of the Department in which the Coast Guard is operating "promulgate regulations or standards applying to unregulated hazardous working conditions related to activities on the Outer Continental Shelf when he determines such regulations are necessary."

These proposed regulations are an initial effort by the Coast Guard as part of a continuing program to address problems of the workplace on OCS facilities. This proposed rulemaking concerns the use of certain personal protection equipment meeting existing industry standards and the application of certain general working practices. In 1979, the Coast Guard conducted a review to assess the safety of OCS working conditions. Using a number of different sources, data for workplace injuries and fatalities was obtained for a three year period. This study showed that the fatality rates associated with offshore drilling were significantly above those associated with heavy construction. Further, it showed that the majority of deaths and injuries occurring in the Offshore Oil and Gas Industry resulted from falls, lack of suitable personal safety equipment, improper maintenance and repair procedures, and inadequate first aid equipment. Though these injuries and fatalities may, in part, be attributable to inexperience, carelessness, or equipment failure, this initial proposed rulemaking seeks only to address the need to provide and use certain personal protection equipment and to apply certain safety-oriented workplace practices in response to some of the problem areas identified in the Coast Guard study. Other causes of accidents, such as inadequate training, could be treated under separate rulemaking actions.

These proposed requirements should not impose substantial costs on industry. Costs per facility would vary depending upon the number of persons on board, the nature of the activities conducted, and the degree to which the facility already complies with these proposals.

The total initial cost for the proposed personal protection equipment, eyewash equipment, and respiratory training for a mobile drilling unit with a 50 person crew would be approximately \$12,000. The total initial cost for a manned fixed facility with a 25 person crew would be \$5,000. Based upon 200 mobile drilling units and 600 manned fixed facilities, the maximum initial industry cost would be \$5,400,000 with a maximum annual cost of \$900,000. In actuality, these costs would most likely be substantially less. Discussions with industry representatives indicate that many offshore companies already include some personal protection equipment and training as elements of their safety program. Because of the level of compliance which already exists, industry should have minor difficulty adjusting to these proposed requirements.

These proposals are intended to reduce the incidence of injury and fatality associated with failure to use personal protection equipment and training as elements of their safety program. Because of the level of compliance which already exists, industry should have minor difficulty adjusting to these proposed requirements.

These proposals are intended to reduce the incidence of injury and fatality associated with failure to use personal protection equipment and workplace practices by requiring that certain industry recommended standards be applied on all units. Furthermore, these proposals would encourage employers to actively promote the use of proper safety equipment and workplace practices by workers on board the unit. Because of numerous variables and limited data, it is difficult to determine the reduction in the number of injuries and deaths that would result if these proposals are placed into effect. However, it is believed that the estimated annual saving of four lives and \$5.9 million in costs of injuries in the draft evaluation is conservative.

Additionally, compliance with these proposed requirements may reduce industry operating costs for insurance premiums and worker compensation by reducing the frequency and severity of injuries.

The Coast Guard is specifically requesting comments on potential benefits, as well as the estimated initial and annual costs for equipment.

These rules would not affect state or local government and would have a negligible effect on costs to consumers.

* * * * *

Paperwork Reduction Act

This rulemaking contains no information collection or record keeping requirements.

* * * * *
Dated: February 21, 1984.

Clyde M. Lusk, Jr.,
Rear Admiral, Coast Guard, Chief, Office of
Merchant Marine Safety.

[FR Doc. 84-5167 Filed 2-27-84; 8:45 am]
BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-4-FRL 2516-4]

Standards of Performance for New Stationary Sources Proposed Alternative Performance Test Requirement for Alumax of South Carolina

AGENCY: Environmental Protection
Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to establish an alternative air emissions testing frequency requirement for Alumax of South Carolina's primary aluminum reduction plant in Mount Holly, South Carolina as provided in 40 CFR 60.195(b). Rather than conduct monthly fluoride emissions performance tests on the anode bake plant, this source would be allowed to test it once a year. This action is necessary based on previous fluoride emission data provided by the company through the State Air Pollution Control Agency. This action should have no effect on the National Ambient Air Quality Standards.

DATE: Written comments must be received on or before March 29, 1984.

ADDRESS: Comments should be submitted in writing to Joe Riley, Air Management Branch, Air and Waste Management Division, EPA, Region IV, 345 Courtland Street, NE, Atlanta, Georgia 30365. Background information and comments received on the proposal will be available for public inspection at the same address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Joe Riley at the above address, telephone 404/881-4901 (FTS 257-4901).

SUPPLEMENTARY INFORMATION: On January 26, 1976 (41 FR 3828), EPA promulgated Standards of Performance for New Primary Aluminum Reduction Plants as Subpart S of 40 CFR Part 60, pursuant to the provisions of section 111

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federal register

**Tuesday
January 29, 1985**

Department of Transportation

Coast Guard

**MODU Exposure Suit Requirements;
Correction**

manner differently from that prescribed herein will adversely affect the ship's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), Vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—[AMENDED]

§ 706.2 [Amended]

1. Table One of § 706.2 is amended as follows to indicate the certifications issued by the Secretary of the Navy:

| Vessel | Number | Distance in meters of forward masthead light below minimum required height. Section 2(a)(i), Annex I |
|------------------|--------|--|
| USS SIMPSON..... | FFG 56 | 1.6 |

2. Table Four of § 706.2 is amended by adding to the existing paragraph 8 the following vessel for which navigational light certification is herewith issued by the Secretary of the Navy:

On the following ship the arc of visibility of the forward masthead light required by Rule 23(a)(i) may be obstructed through 1.6° arc of visibility at the points 021° and 339° relative to the ship's head:

| Vessel | Number | Distance of side lights forward of masthead lights in meters |
|------------------|--------|--|
| USS SIMPSON..... | FFG 56 | 2.75 |

3. Table Four of § 706.2 is amended by adding to the existing paragraph 9 the following vessel for which navigational light certification is herewith issued by the Secretary of the Navy:

Side lights on the following ship do not comply with Annex I, section 3(b):

| Vessel | Number | Distance of side lights forward of masthead lights in meters |
|------------------|--------|--|
| USS SIMPSON..... | FFG 56 | 2.75 |

Authority: Executive Order 11964; 33 U.S.C. 1605.

Approved: January 10, 1985.

John Lehman,
Secretary of the Navy.

[FR Doc. 85-2147 Filed 1-28-85; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 144

[CGD 84-C90]

Exposure Suits; Requirements for Mobile Offshore Drilling Units; Correction

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This document corrects an error in the document published on December 31, 1984, 49 FR 50722, relating to areas where exposure suits are required for personnel on board mobile offshore drilling units.

FOR FURTHER INFORMATION CONTACT: LCDR William M. Riley, Office of Merchant Marine Safety, (202) 426-1444.

SUPPLEMENTARY INFORMATION: The omission of asterisks at the end of the document, as originally published, removed inadvertently paragraphs (a) through (f) from 144.20-5.

In view of the foregoing, Title 33 of the Code of Federal Regulations is amended as set forth below.

SUBCHAPTER N—OUTER CONTINENTAL SHELF ACTIVITIES

PART 144—[AMENDED]

1. On page 50723, in the first column, amendment 2 is corrected to read as follows:

"2. By revising the introductory text of section 144.20-5 to read as follows:

§ 144.20-5 Exposure suits.

This section applies to each MODU except those operating south of 32 degrees North latitude in the Atlantic Ocean or south of 35 degrees North latitude in all other waters.

* * * * *

Dated: January 23, 1985.

Clyde T. Lusk, Jr.,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 85-2084 Filed 1-28-85; 8:45 am]
BILLING CODE 4910-14-M

33 CFR Part 165

Ice Navigation Season; Northern Chesapeake Bay and Tributaries; Effectiveness

AGENCY: Coast Guard, DOT.

ACTION: Notice of Ice Navigation Season.

SUMMARY: The Ice Navigation Season Regulated Area (RNA) on the northern portion of the Chesapeake Bay and its

tributaries, including the Chesapeake and Delaware Canal will be placed in effect on January 18, 1985. The regulations for this Regulated Navigation Area, found in 33 CFR 165.503, published in the Federal Register on May 19, 1983 (48 FR 22543), state that they are placed in effect and terminated at the direction of the Captain of the Port, Baltimore, MD by notice in the Federal Register. The purpose of this Regulated Navigation Area is to enhance the safety of navigation in the affected waters. It requires operators of certain vessels to be aware, during their vessel's transit of the Regulated Navigation Area, of currently effective Ice Navigation Season Captain of the Port Orders issued by the Captain of the Port, Baltimore, Maryland.

EFFECTIVE DATE: January 18, 1985.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander W.G. Schneeweis, Port Operations Officer, USCG Marine Safety Office, Customhouse, Baltimore, MD 21202, (301) 962-5105.

Dated: January 18, 1985.

J.C. Carlton,
Captain, U.S. Coast Guard, Captain of the Port, Baltimore, Maryland.

[FR Doc. 85-2086 Filed 1-28-85; 8:45 am]

BILLING CODE 4910-14-M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1121

Regulations for Implementation of Privacy Act of 1974

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Final rule.

SUMMARY: The following regulations, drafted in accordance with section (f) of 5 U.S.C. 552a, the Privacy Act of 1974, were published for public comment on November 6, 1984, 49 FR 44310. No comments were received, and the regulations are therefore being published without change as a final rule. The purposes of these regulations are to establish procedures by which an individual can determine if the Board maintains a system of records which includes a record pertaining to that individual and also to establish procedures for individual access to the records for purposes of review, amendment and/or correction.

federal register

Thursday
March 7, 1985

Department of Transportation

Coast Guard

**Revision of the Regulations on
Outer Continental Shelf Activities;
*Advanced Notice of Proposed
Rulemaking***

the bridge owner and would not unreasonably affect navigation on the waterway.

Other than the Burlington Northern Railway Company and navigation interests, there are no known businesses, including small entities, that would be affected by the proposed change. There are only minimal economic impacts on navigation or other interests. Therefore, an economic evaluation has not been prepared for this action. Burlington Northern would benefit because it would be relieved of the burden of providing a salaried full-time operator for bridge openings and closures.

Economic Assessment and Certification

These proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these proposed regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-22-80). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with § 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is certified that these rules, if promulgated, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, by adding § 117.869(c) to read as follows:

§ 117.869 Columbia River.

(c) The draw of the Burlington Northern railroad bridge across the Columbia River, mile 201.2, between Celilo, Oregon, and Wishram, Washington, is automated and is normally maintained in the fully open to navigation position.

(1) *Lights.* All lights required for automated operation shall be visible for a distance of at least 2 miles and shall be displayed at all times, day and night.

(i) When the draw is fully open, a steady green light shall be displayed at the center of the drawspan on both upstream and downstream sides.

(ii) When the draw is not fully open, a steady red light shall be displayed at the center of the drawspan on both upstream and downstream sides.

(iii) When the draw is about to close, flashing yellow lights in the form of a down-pointing arrow shall be displayed at the center of the drawspan on both upstream and downstream sides.

(2) *Operation.* When a train approaches the bridge, the yellow lights shall start flashing. After an eight-minute delay, the green lights shall change to red, the drawspan shall lower and lock, and the yellow lights shall be extinguished. Red lights shall continue to be displayed until the train has crossed and the drawspan is again in the fully open position. At that time, the red lights shall change to green.

(3) Vessels equipped with radiotelephones may contact Burlington Northern to obtain information on the status of the bridge. Bridge status information also may be obtained by calling the commercial telephone number posted at the drawspan of the bridge.

(33 U.S.C. 499; 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3)).

Dated: February 22, 1985.

R.R. Garrett,

Acting Captain, U.S. Coast Guard
Commander, 13th Coast Guard District.

[FR Doc. 85-5504 Filed 3-6-85; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Parts 140, 141, 142, 143, 144, 145, and 146

[CGD 84-098]

Revision of the Regulations on Outer Continental Shelf Activities

AGENCY: Coast Guard, DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This notice solicits the public's comments and suggestions concerning a revision of the Coast Guard regulations on Outer Continental Shelf (OCS) Activities. A revision is needed to address new developments in the offshore industry, new legislation and interagency agreements, and numerous recommendations that have been received as a result of investigations of casualties on the OCS. This revision would align the regulations with applicable interagency agreements, fully implement legislation, and address problems identified by casualty investigations and public input.

DATE: Comments must be received on or before June 5, 1985.

ADDRESSES: Comments should be mailed to Commandant (G-CMC/21) (CGD 84-098), U.S. Coast Guard, 2100 Second St. SW, Washington, D.C. 20593. Comments will be available for inspection or copying from 8:00 AM to 4:00 PM, Monday through Friday, except holidays, at the Office of the Marine Safety Council (G-CMC/21), Room 2110, at the address above. The telephone number is 202-426-1477.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Alan J. Cross, Office of Merchant Marine Safety, 202-426-2307.

SUPPLEMENTARY INFORMATION:

Interested persons are invited to participate in this preliminary rulemaking proceedings by submitting written comments, data, or arguments. Each comment should include the name and address of the person submitting the comment, reference the docket number (CGD 84-098), and include sufficient detail to indicate the basis on which each comment is made.

All comments received will be considered before further rulemaking action is taken. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The principal persons involved in drafting this proposal are Lieutenant Commander Alan J. Cross, Office of Merchant Marine Safety, and Mr. Stephen H. Barber, Project Counsel, Office of the Chief Counsel.

Discussion

This project is the second major phase of an ongoing effort by the Coast Guard to implement the provisions of the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372; "the 1978 Act") and to update 33 CFR Chapter I, Subchapter N, on Outer Continental Shelf (OCS) activities. The first phase of rulemaking (47 FR 9366; March 4, 1982) implemented the mandatory provisions of the 1978 Act, such as domestic manning, and reorganized Subchapter N to provide a framework for the inclusion of more specific regulations to be developed in the future. Since 1978, the Coast Guard has initiated a number of smaller OCS rulemaking projects, including "Unregulated Hazardous Working Conditions" (CGD 79-073), "Workplace Safety and Health Requirements for Facilities on the OCS" (CGD 79-077), "Revision of Material Standards for Fixed Facilities on the OCS" (CGD 83-

035), and "Offshore Cranes" (CGD 79-059). The first of these projects has been closed and combined with the second. The third (CGD 83-035) has been closed and combined with the present rulemaking. The workplace safety (CGD 79-077) and the offshore cranes (CGD 79-059) projects will continue separately.

This project, the second major phase of rulemaking, addresses the broad subjects of OCS vessels, fixed facility inspection, workplace safety, fire protection, evacuation standards, lifesaving appliances, personnel training, and casualty data collection. Each subject is discussed below.

Vessels Used for OCS Activities

The OCS Lands Act Amendments of 1978 direct the Coast Guard to issue regulations which require that any vessel used for activities pursuant to the Act complies with "such minimum standards of design, construction, alteration, and repair" as the Coast Guard establishes. With regard to vessels, the Coast Guard has concentrated most of its regulatory efforts to date on Mobile Offshore Drilling Units (MODUs), offshore supply vessels, and crew boats. With the expansion of activities on the OCS, many specialized vessels have been developed for such jobs as well servicing, diving support, towing, construction, painting, sand blasting, and standby. Under this rulemaking project, the Coast Guard will conduct a comprehensive study of the operations and safety records of these vessels to determine whether there is a need for further regulation. This study will focus on defining vessel types and determining what regulations, if any, should be applied, what means would be available for ensuring compliance, and to what extent foreign flag vessels should be regulated.

In addition, the Coast Guard is considering amending its Subchapter N regulations on U.S. uninspected MODUs and on foreign MODUs because these regulations are often confusing and out of date. New types of units are being developed for service in the Arctic and for the exploration and exploitation of hard mineral resources. The safety needs of these units must be assessed.

Specific comments are requested regarding appropriate standards that should be applied to the various types of vessels used for OCS activities.

Fixed Facility Inspection

The Outer Continental Shelf Lands Act Amendments of 1978 state that the Coast Guard shall promulgate regulations to provide for—

(1) scheduled onsite inspection, at least once a year, of each facility on the Outer Continental Shelf which is subject to any environmental or safety regulation promulgated pursuant to this Act, which inspection shall include all safety equipment designed to prevent or ameliorate blowouts, fires, spillages, or other major accidents; and

(2) periodic onsite inspection without advance notice to the operator of such facility to assure compliance with such environmental or safety regulations" (43 U.S.C. 1348 (c)).

The act does not require the Coast Guard to perform these inspections itself but only to "provide for" them by means of regulation. Due to the magnitude of the task of conducting both annual and periodic inspections of all fixed facilities on the OCS, the Coast Guard is considering requiring that annual inspections of fixed facilities be conducted by the facility owner's personnel or by a third party employed by the owner. Under this program, the owner would certify to the Coast Guard that the inspection was performed, that all discrepancies were corrected, and that the facility was in compliance with the regulations. The efforts of Coast Guard inspectors could then be focused on periodic unannounced inspections of the fixed facilities, particularly on those which are manned or which have a poor safety record. These periodic inspections by the Coast Guard could, in turn, provide a means for monitoring the application and effectiveness of the "self-certification" program.

Comments regarding the implementation of a "self-certification" program are solicited, particularly with regard to who should be permitted to conduct the annual inspection, qualifications or minimum experience level of the person performing the inspection, when should the inspection be performed, what specific items the inspection should cover, and necessary Coast Guard oversight.

Workplace Safety and Health

A major concern of the Coast Guard is in the area of workplace safety and health on the OCS. The current regulations found in 33 CFR Part 142 basically implement certain provisions of the 1978 Act relating to the leaseholders responsibilities and reports of unsafe working conditions. The Coast Guard published a notice of proposed rulemaking (49 FR 1083; January 9, 1984) under a separate docket number (CGD 79-077) concerning specific requirements for personal protective equipment, guarding of openings, lock-out and tag-out procedures, and general housekeeping. At this time, CGD 79-077 will continue as a separate project, as the comment period for that project has

already closed. The present project (CGD 84-098) will cover workplace safety and health matters other than those addressed in CGD 79-077, such as the need for first aid equipment or hospital spaces on OCS facilities.

Comments are requested regarding the adequacy of existing and proposed workplace safety and health requirements for all units used for OCS activities.

Fire Protection

An area that may require significant modification is that of fire protection standards for fixed facilities. The current regulations in 33 CFR Part 145 are essentially unchanged from the original regulations published in 1956.

Review of Coast Guard and Minerals Management Service (MMS) accident and casualty data reveal that fires remain a major safety hazard on offshore facilities. From 1970 to 1979, there were 270 fires and explosions involving units located on the Gulf of Mexico Outer Continental Shelf; 261 of these were associated with fixed platforms and 231 occurred during production operations where natural gas was being processed from flowing wells. From 1980 to 1983, MMS records show 20 explosions and 164 fires occurring on the U.S. Outer Continental Shelf. The current Coast Guard regulations for offshore platforms require only hand-portable or semi-portable fire extinguishers. These fire extinguishers are limited to use on small fires and are not meant to extinguish large oil or gas fires or to protect the facility and personnel from the extreme heat generated by fires. Many of today's large platforms house production facilities capable of handling thousands of barrels of oil and millions of cubic feet of gas daily, making the hazard similar to that encountered on a tank vessel. However, the Coast Guard standards for OCS facilities are far below the standards applied to tank vessels. There are no provisions for structural fire protection to allow escape or to protect living areas, no required control measures, and no required personnel protection equipment.

Comments are requested regarding the adequacy of current Coast Guard regulations relative to fire detection, fire fighting, and structural fire protection on fixed facilities.

Evacuation and Lifesaving

The current regulations for evacuation in 33 CFR Part 143 and for lifesaving appliances in 33 CFR Part 144 are essentially unchanged from the original regulations published in 1956.

Significant advances in technology have made possible the movement of operations farther from shore and into more hostile environments. Facilities have grown more sophisticated. As a result, the regulations lag far behind today's best available and safest technologies, a criteria to be considered under the 1978 Act (43 U.S.C. 1347(b)).

Safe evacuation is a major area of concern. From 1976 to 1983, there were thirty-one blowouts (losses of well control) in which platforms had to be evacuated. The present regulations require only two primary means of escape from a manned platform, either by ladder or stairway. Many companies have responded to the obvious need for additional means of escape on their own initiatives.

Similarly with lifesaving appliances, the existing regulations require only life preservers and life floats (33 CFR 144.01-1 and 144.01-20). Life floats, for example, are intended for use as temporary means of flotation, not as a means of protection from burning oil or heavy seas. Abandonment technology now includes devices such as enclosed lifeboats, survival capsules and free fall lifeboats. Many companies have already installed these or other.

In many instances, standby vessels anchored close to the platforms have been used to augment the evacuation and lifesaving equipment on board the unit. The Coast Guard's Marine Board of Investigation's report on the loss of the MODU OCEAN RANGER and National Transportation Safety Board's reports on the losses of the MODUs OCEAN RANGER and JAVA SEA recommend that the Coast Guard require standby vessels for all MODUs drilling on the OCS. On October 4, 1984, the House Subcommittee on the Panama Canal and the Outer Continental Shelf held a hearing on a proposed bill which would require the Coast Guard to issue regulations requiring standby vessels. Therefore, the Coast Guard is studying the relationship between standby vessels and the facility's primary lifesaving equipment to determine whether, and to what degree, standby vessels would enhance safety on the OCS.

The Coast Guard is interested in receiving comments regarding lifesaving equipment requirements for fixed facilities and on the use of standby vessels in an overall evacuation plan for both MODUs and fixed platforms.

In particular these comments should address such issues as:

- a. Under what conditions should a standby vessel be mandatory?
- b. How close should a standby vessel be to a platform or MODU in order to

render effective assistance in an emergency?

c. What design criteria should a standby vessel meet?

d. What special equipment should be aboard a standby vessel to enable it to effectively handle emergencies?

e. How should a standby vessel be named?

f. What special training should be required of a standby vessel's crew?

Training

Personnel training is particularly critical on the OCS because of the operational and environmental dangers inherent in offshore work. A number of recent casualties caused by misuse of emergency equipment and improperly executed evacuations strongly suggest the need to improve evacuation and survival training. Safety equipment itself is becoming so sophisticated that training is required for its proper use and maintenance. Some degree of entry level safety training is necessary for personnel new to offshore operations. Training in the use of fire fighting equipment and in the handling of medical emergencies are growing areas of concern. Recognizing these needs, many companies have developed and applied various levels of training. The Coast Guard is interested in your comments in this area, particularly with regard to training needs in the areas of survivability, fire fighting, workplace safety, and medical emergencies.

Casualty Data

The Coast Guard has in place a system for collecting data on deaths and injuries occurring on the OCS. Under the Coast Guard system, owners, operators, and persons in charge of OCS facilities must report injuries causing incapacitation for more than 72 hours and all deaths. The problem with this system is that it does not provide information on the size of the worker population, or injuries causing less than 72 hours incapacitation, or on the total time lost for each injury. Without such information, the Coast Guard has difficulty in assessing the relative degree of hazard imposed by a particular operation and the need to control the operation by regulation. Accordingly, the Coast Guard is considering requiring the leaseholder to make an annual report to the Coast Guard giving the total number of man-hours worked on each location.

In addition, the Coast Guard is also considering requiring that injuries on platforms be reported on Form CG-2692, *Report of Marine Accident, Injury or Death*. While injuries on platforms are presently required to be reported, Form

CG-2692 is not required to be used, thus making computerization of this data difficult. These reports are required only for injuries which result in incapacitation for 72 hours or more. However, the Occupational Safety and Health Administration (OSHA) now requires industries to post at the workplace a log of work related fatalities, illnesses, and injuries requiring medical treatment other than first aid. There are two items on this log that would benefit the Coast Guard if the employer were required to submit them to the Coast Guard, as well as post them at the workplace. They are the number of cases involving a worktime loss of 24 hours or more and the number of days lost for each case. The Coast Guard could require that this information be submitted to the Coast Guard without imposing an additional information gathering burden on the employer.

Comments are requested regarding the least burdensome way for population data to be compiled and reported to the Coast Guard and on difficulties which may be encountered in compiling information for an injury and illness log.

This advance notice is issued under the Coast Guard's policy for early public participation in rulemaking proceedings. Your comments on the subjects discussed above, or on any other sections of the Outer Continental Shelf Activities regulations not covered by the Notice of Proposed Rulemaking on Workplace Safety (CGD 79-077), are solicited.

Dated: March 4, 1985.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 85-5503 Filed 3-6-85; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[Gen. Docket No. 84-1234; RM-4247]

Allocating Spectrum for, and Establishing In Other Rules and Policies Pertaining to, the Use of Radio Frequencies in a Land Mobile Satellite Service for the Provision of Various Common Carrier Service, Correction

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects the Reply Comment Period for the proposed

federal register

**Thursday
April 11, 1985**

Department of Transportation

Coast Guard

**Casualty Reporting Requirements;
Final Rule**

(b) *Special Local Regulations:* Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. The rules contained in the above two sentences shall not apply to participants in the event or vessels of the patrol, while they are operating in the performance of their assigned duties.

(1) The Patrol Commander may be reached on Channel 16 (156.8 MHz) when necessary, by the call sign "Coast Guard Patrol Commander".

(c) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels so signalled shall stop and shall comply with the orders of the Patrol Vessel. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(d) The Patrol Commander may establish vessel size and speed limitations and operating conditions.

(e) The Patrol Commander may restrict vessel operation within the regatta area to vessels having particular operating characteristics.

(f) The Patrol Commander may terminate the marine event or the operation of any vessel at any time it is deemed necessary for the protection of life and property.

(g) This § 100.35-0201 will be effective on May 11, 1985, between the hours of 9:00 a.m. and 12:00 noon local time.

Authority: 33 U.S.C. 1233; 49 U.S.C. 108; 33 CFR 100.35; 49 CFR 1.46(b).

Dated: April 4, 1985.

B.F. Hollingsworth,

Rear Admiral, U.S. Coast Guard Commander, Second Coast Guard District.

[FR Doc. 85-8722 Filed 4-10-85; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 100

[CGD11 85-02]

Marine Event; San Diego Crew Classic

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: Special local regulations for the San Diego Crew Classic were issued by Commander, Eleventh Coast Guard District on 22 March 1985 and published in the *Federal Register* on April 1, 1985 (50 FR 12799). Due to a sewage spillage in the original regulated area, this event

will take place in a new location in Mission Bay, California. All other information in the promulgated regulations shall remain the same.

FOR FURTHER INFORMATION CONTACT: LTJG Jorge Arroyo, Eleventh Coast Guard District Boating Affairs Office, 400 Ocean Gate Boulevard, Long Beach, California 90822, Tel: (213) 590-2331.

SUPPLEMENTARY INFORMATION:

In consideration of the foregoing Part 100 of Title 33, Code of Federal Regulations, is corrected by revising § 100.35 11-85.02(a) to read as follows:

§ 100.35 11-85-02 San Diego Crew Classic, Mission Bay, CA

(a) *Regulated Area:* The following area may be closed intermittently to all vessel traffic. The portion of Mission Bay, California bounded by Enchanted Cove, Fiesta Island, Pacific Passage and DeAnza Point.

* * * * *

(33 U.S.C. 1233; 33 U.S.C. 1236; 49 CFR 1.46(b); 33 CFR 100.35)

Dated: April 5, 1985.

F.P. Schubert,

Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 85-8716 Filed 4-10-85; 8:45 am]

BILLING CODE 4910-14-M

33 CFR PARTS 146 and 150

[CGD 82-069a]

Casualty Reporting Requirements

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule eliminates the costs of salvage, cleaning, gas freeing and drydocking from the marine casualty reporting requirements contained in Title 33, Code of Federal Regulations (CFR). Since the costs of salvage, cleaning, gas freeing and drydocking can vary widely depending on the nature of the casualty, they tend to distort the basis for using a monetary criteria to establish a reporting threshold. This Final Rule will have a negligible effect on the number of reports submitted by the marine industry by reducing the cost of marine casualties for reporting purposes.

EFFECTIVE DATE: This regulation becomes effective on May 13, 1985.

FOR FURTHER INFORMATION CONTACT: Lt. W.F. Diaduk, Office of Merchant Marine Safety (G-MMI-1/14), Room 1405, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593; 426-1455, 7:00 to 3:30, Monday through Friday.

SUPPLEMENTARY INFORMATION: On October 19, 1983 (48 FR 48475), the Coast Guard published a Notice of Proposed Rulemaking (NPRM) (CGD-82-069a) concerning eliminating the costs of salvage, cleaning, gas freeing and drydocking from the casualty reporting requirements contained in Title 33, Code of Federal Regulations. No comments were received.

Since the costs of salvage, cleaning, gas freeing and drydocking can vary widely depending on the nature of the casualty, they tend to distort the basis for using a monetary criteria to establish a reporting threshold. Based on this fact, the casualty reporting requirements for vessels contained in Title 46, Code of Federal Regulations, were amended by eliminating these costs. This rulemaking will amend the Outer Continental Shelf Activities and Deepwater Port regulations (33 CFR 146.30 and 150.711 respectively) in the same manner and provide for uniform reporting requirements throughout the marine industry. Statistics for 1981 indicate that only one per one thousand casualties (approximately 0.10% of the casualty population) involved instances where this amendment could have eliminated the need for reporting. Consequently, this proposal will have a negligible effect on the number of reports submitted.

Drafting Information

The principal persons involved in drafting this proposal are: Lt. W.F. Diaduk, Project Manager, Office of Merchant Marine Safety and Lt. S.R. Sylvester, Project Attorney, Office of the Chief Counsel.

Regulatory Evaluation

This revision is considered to be nonmajor under Executive Order 12291 and nonsignificant under the DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this final rule has been found to be so minimal that further evaluation is unnecessary. This proposal will have a negligible effect on the number of reports submitted, as discussed in the Supplementary Information section.

Regulatory Flexibility Act Certification

Since the impact of the final rule is to be minimal, the agency certifies that it will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

Information collection requirements contained in these regulations (33 CFR

146.30(d) and 33 CFR 150.711(a)(1)) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB control number 2115.0003.

List of Subjects

33 CFR Part 146

Coast Guard, Continental shelf, Marine safety, and Reporting and recordkeeping requirements.

33 CFR Part 150

Coast Guard, Deepwater ports, Oil imports, Environmental protection, Water pollution control and Reporting and recordkeeping requirements.

In consideration of the foregoing, Parts 146 and 150 of Title 33, Code of Federal Regulations, are amended as follows:

PART 146—OUTER CONTINENTAL SHELF ACTIVITIES

1. The authority citation for Part 146 reads as follows:

Authority: Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; sec. 22 of sec. 208, Pub. L. 95-372, 92 Stat. 656 (43 U.S.C. 1348); 49 CFR 1.46(z).

2. In § 146.30 paragraph (d) is revised to read as follows:

§ 146.30 Notice of casualties.

(d) Damage costs referred to in paragraphs (b)(3) and (b)(4) of this section include the cost of labor and material to restore the facility to the service condition which existed prior to the casualty, but does not include the cost of salvage, cleaning, gas freeing, drydocking or demurrage of the facility.

PART 150—DEEPWATER PORTS

3. The authority citation for Part 150 reads as follows:

Authority: Secs. 10(a), 10(b), Pub. L. 93-627, 88 Stat. 2137-18 (33 U.S.C. 1509 (a) and (b)); 49 CFR 1.46(a).

4. In § 150.711 paragraph (a)(1) is revised to read as follows:

§ 150.711 Casualty or accident.

(a) * * *

(1) Any component of a deepwater port which is hit by a vessel and total damage to all property is in excess of \$25,000. Damage cost includes the cost of labor and material to restore the property to the service condition which existed prior to the casualty, but does not include the cost of salvage, cleaning, gas freeing, drydocking or demurrage.

* * * * *

Dated: April 8, 1985.

B.G. Burns,

Captain, U.S. Coast Guard, Acting Chief,
Office of Merchant Marine Safety.

[FR Doc. 85-8718 Filed 4-10-85; 8:45 am]

BILLING CODE 4910-14-M

POSTAL SERVICE

39 CFR Part 111

Merchandise Return Service; Correction

AGENCY: Postal Service.

ACTION: Final rule; correction.

SUMMARY: In FR Doc. 85-4270, in the issue of Monday, March 11, 1985, the Postal Service published a final rule on Merchandise Return Service. The rule contained, at two places, erroneous instructions on the proper location for class of mail endorsements to be printed or rubber stamped on the merchandise return label by permit holders. This final rule corrects those instructions.

EFFECTIVE DATE: June 30, 1985.

FOR FURTHER INFORMATION CONTACT: F.E. Gardner, (202) 245-5756.

SUPPLEMENTARY INFORMATION: In the final rule published on March 11, 1985, newly revised DMM 919.442 and 919.443 provided, among other things, that the class of mail endorsements must be printed or rubber stamped "to the left of the merchandise return legend and above the address. . . ." This is incorrect. The endorsements must be printed or rubber stamped in the open space to the right and above the *Merchandise Return Label* legend. This is consistent with Exhibit 919.4, published on page 9627 as a part of the rule. For additional clarity, we are adding a "see" reference to this Exhibit.

For the above reasons, the Postal Service hereby makes the following corrections to FR Doc. 85-4270 beginning on page 9622 in the issue of Monday, March 11, 1985:

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

On page 9624, first column, paragraphs .442 and .443 are corrected to read as follows:

.442 Parcels will be returned as First-Class Mail if the permit holder endorses the label "First-Class." The endorsements must be in letters at least ¼ of an inch high and must be printed or rubber stamped in the open space to the right and above the *Merchandise Return Label* legend. See Exhibit 919.4.

Note.—First-Class Mail cannot be insured unless the contents contain third- and fourth-class matter and are so labeled.

.443 Parcels qualifying for special rate fourth-class or library rate will be returned at those rates provided the appropriate identifying endorsement prescribed in 725.1, 764.11 or 767.1 is preprinted or rubber stamped in letters at least ¼ of an inch high in the open space to the right and above the *Merchandise Return Label* legend. See Exhibit 919.4.

(39 U.S.C. 401, 404(a)(1))

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 85-8701 Filed 4-10-85; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260, 261, and 266

[SWH-FRL-2815-6]

Hazardous Waste Management System; Definition of Solid Waste; Corrections

AGENCY: Environmental Protection Agency.

ACTION: Technical Corrections to the Definition of Solid Waste Final Rulemaking.

SUMMARY: On January 4, 1985, EPA promulgated a final rule which dealt with the question of which materials are solid and hazardous wastes. This rule also provided general and specific standards for various types of hazardous waste recycling activities. In reviewing this rulemaking and as a result of questions and comments received, the Agency has identified a number of typographical and technical errors requiring correction. This notice makes these changes and modifies the previous publication accordingly.

EFFECTIVE DATE: These corrections become effective on April 11, 1985.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free, at (800) 424-9346 or at (202) 382-3000. For technical information contact Matthew A. Straus, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 475-8551.

SUPPLEMENTARY INFORMATION: On January 4, 1985, EPA amended its existing definition of solid waste. See 50 FR 614. This rulemaking defined which materials are solid wastes when

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federal register

**Tuesday
February 4, 1986**

Department of Transportation

Coast Guard

**Hybrid PFD Carriage Requirements;
Final Rule**

Service shall make the determination for purposes of the Code as to whether there is a collective bargaining agreement between employee representatives and one or more employers.

Q-2: If an organization does not fail to be an employee representative under the 50 percent or less test of section 7701(a)(46), is a plan maintained pursuant to an agreement between such organization and one or more employers necessarily treated, under the Code, as a plan maintained pursuant to a collective bargaining agreement between an employee representative and one or more employers?

A-2: (a) No.

(b) Specific Code provisions generally require other conditions than that in section 7701(a)(46) to be satisfied in order for a plan to be considered to be collectively-bargained. For example, in order for a plan to be described in section 413(a), the Secretary of Labor must find that the plan is maintained pursuant to a collective bargaining agreement between employee representatives and one or more employers.

(c) Even if (1) the finding in the example in the preceding paragraph (b) is made by the Secretary of Labor, (2) the union has been recognized as exempt under section 501(c)(5), and (3) the percentage condition in section 7701(a)(46) is satisfied, the Internal Revenue Service has the authority, pursuant to section 7701(a)(46), to determine whether there is a collective bargaining agreement under the Code.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 24. The authority citation for Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805

§ 602.101 [Amended]

Par. 25. Section 602.101(c) is amended by inserting the following items in the appropriate places in the table:

| | |
|--------------------|-----------|
| § 1.463-1T..... | 1545-0916 |
| § 1.505(c)-1T..... | 1545-0916 |
| § 1.1042-1T..... | 1545-0916 |

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective

date limitation of subsection (d) of that section.

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved: December 20, 1985.

Ronald A. Pearlman,
Assistant Secretary of the Treasury.
[FR Doc. 86-2172 Filed 1-29-86; 4:04 pm]
BILLING CODE 4830-01-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 4, 5, and 7

[T.D. ATF-210; Correction]

Disclosure of Saccharin in the Labeling of Wine, Distilled Spirits, and Malt Beverages

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Treasury decision, final rule; correction.

SUMMARY: This document corrects errors made in FR Doc 85-29707, published in the Federal Register on December 20, 1985, at 50 FR 51851.

FOR FURTHER INFORMATION CONTACT: James P. Ficaretta, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, DC 20226. (202) 566-7626.

SUPPLEMENTARY INFORMATION:

Paragraph 1. The Treasury decision number should read "T.D. ATF-220."

Para. 2. In the left column under "Summary" in the fifth line the word "continuing" should read "containing."

Para. 3. In the right column in the second and third lines remove the words", or on the basis of petitions."

Para. 4. On page 51852 in the right column the name "David D. Green" should read "David D. Queen."

Signed: January 27, 1986.

Stephen E. Higgins,
Director.

[FR Doc. 86-2416 Filed 2-3-86; 8:45 am]
BILLING CODE 4010-31-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 146, 175, and 181

[CGD 78-174A]

Hybrid PFD Carriage Requirements

AGENCY: Coast Guard, DOT.

ACTION: Final rules.

SUMMARY: These rules authorize carriage of hybrid inflatable personal flotation devices (hybrid PFD's) on recreational boats and on Outer Continental Shelf facilities and establish conditions for their use. Use of approved hybrid PFD's is optional but, if carried, certain limitations apply. Compared to most other approved PFD's, hybrid PFD's are more comfortable to wear, because they contain less flotation material, yet they provide greater buoyancy when fully inflated. This comfort feature should lead to increased wearing of PFD's and result in a corresponding reduction in the number of drownings in boating accidents.

EFFECTIVE DATE: These rules become effective on August 4, 1986.

ADDRESSES: A final regulatory evaluation has been included in the public docket for this rulemaking and may be inspected and copied at the Marine Safety Council (G-CMC/21), Room 2110, U.S. Coast Guard, 2100 Second Street SW., Washington, DC between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Samuel Wehr, Office of Merchant Marine Safety, Attn: G-MVI-3/14, 2100 Second Street SW., Washington, DC 20593, (202)-426-1444.

SUPPLEMENTARY INFORMATION:

1. *Notice of Proposed Rulemaking.* A Notice of Proposed Rulemaking (NPRM) was published in the Federal Register of May 29, 1985 (50 FR 21862 and 21878). Comments were received from 19 parties in response to the NPRM.

2. *Equipment Approval Requirements.* An interim final rule for approving hybrid PFD's was published in the Federal Register of August 22, 1985 (50 FR 33923). That document contains a detailed discussion of comments concerning the carriage of hybrid PFD's on recreational boats as well as comments on the approval requirements for hybrid PFD's. The two remaining comments that relate to hybrid PFD's are discussed in this document. For a detailed explanation of the costs and benefits associated with the approval and carriage of hybrid PFD's please refer to the discussion accompanying the hybrid PFD regulation published on August 22, 1985.

3. *Carriage Requirements For Commercial Vessels.* Final regulations for carriage of hybrid PFD's on certain commercial vessels are published elsewhere in this issue of the Federal Register.

4. *Potential For Significant Benefits.* A principal benefit in using hybrid PFD's results from having reduced bulk and a

corresponding increase in wearability and comfort. Coast Guard accident statistics show that most drownings in recreational boating accidents could possibly have been prevented if the victims had been wearing a PFD instead of just having one available for use. Hybrid PFD's are constructed using less flotation material than other approved devices, making them less bulky and significantly more comfortable to wear than other types of PFD's. Because of this comfort feature, the Coast Guard anticipates that there will be appreciable boater interest in purchasing the devices. If enough boaters begin to wear them, a substantial reduction in the total number of drownings from boating accidents can be expected.

Hybrid PFD's that meet the requirements in this rule have another significant benefit that distinguishes them from other types of currently approved PFD's. These devices, when inflated, provide more buoyancy and better flotation attitude than most other PFD's.

5. Acceptance Prior to Effective Date. As required by 46 U.S.C. 4302, these rules are being made effective 180 days after publication. However, the Coast Guard, as a matter of policy to allow early realization of the benefits discussed in paragraph (4), will allow use of approved hybrid PFD's as substitutes for other approved PFD's or work vests if carried under the conditions prescribed in §§ 146.20 and 175.17 of these rules, as applicable. The various state agencies which enforce boating safety laws and regulations will also be encouraged to adopt this policy.

6. Suitability of Hybrids for Guests. One commenter on the NPRM expressed the opinion that hybrids are not suitable for use by guests on recreational boats because (1) it is unrealistic to expect a guest to try the device in the water, (2) it is unreasonable to expect the owner to buy other devices for the guest to use, and (3) the owner may be liable if he does not require a person to try the hybrid in the water and that person subsequently drowns.

The Coast Guard recommends that persons try the hybrid device before using it. If a guest is not familiar with the hybrid device or has not been given the opportunity to try the device in the water, the Coast Guard recommends that the guest be provided with an inherently buoyant device.

If a boat owner wishes to carry guests, PFD's must be provided for them. Hybrid PFD's are only an optional type of flotation device to comply with this requirement. In view of the increased cost of hybrid PFD's, it is most likely

that extra PFD's will be selected from other available approved types. While the Coast Guard strongly recommends trying out hybrid PFD's and, if necessary, customizing the device to the wearer's needs by partial inflation, it is speculative to assume liability if some lesser level of instruction or familiarization is employed.

7. Need for Annual Servicing. The same commenter recommended that the servicing requirements for hybrid PFD's be the same as those proposed in 46 CFR 160.076 for inflatable life jackets; i.e. that, like inflatable life jackets, they should be required to be serviced annually at an authorized servicing facility. This comment has not been adopted.

The owner's manual required for a hybrid PFD includes instructions for owner maintenance which call for periodic checks of the device, principally its inflation chamber and oral inflator which is the primary means of inflation, to determine whether it remains serviceable. These instructions are straightforward and include provisions for conducting a leak test on the inflation chamber and oral inflator. This test is designed so that it can easily be performed by the owner of the device. Accordingly, there is no justifiable need for requiring professional servicing of hybrid devices in lieu of owner servicing.

Professional servicing of inflatable life jackets, on the other hand, is essential. These devices have automatic and manual inflation mechanisms as the primary means of inflation, and oral inflators are provided only as a back-up feature. Annual professional servicing is necessary for these devices: (1) Because of the impracticality of performing necessary checks and tests of inflation mechanisms on board ship, (2) because of the impracticality of having wearers be responsible for servicing, and (3), most importantly, because of the absence of inherent buoyancy in these devices to aid users in floating if the inflators are expended due to use or become defective as a result of improper servicing.

The regulations for hybrid PFD's provide for manual and automatic inflation mechanisms as optional, back-up features for recreational devices and as required features for commercial devices. However, these inflators are not critical features because of the inherent buoyancy required for hybrid devices.

8. Minor changes. The carriage requirements, as proposed in the NPRM, were not presented in a regulatory format. Nonsubstantive editorial changes have been made in the final

rules, as necessary, to provide full regulatory text.

Drafting Information

The principal persons involved in drafting this document were: Mr. Samuel Wehr, Office of Merchant Marine Safety, and Mr. William Register, Office of the Chief Counsel.

Final Regulatory Evaluation

These regulations are considered to be non-major under Executive Order 12291 and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034, February 26, 1979). A final regulatory evaluation has been prepared and placed in the rulemaking docket. It may be inspected and copied at the address listed above under **ADDRESSES**. Copies may also be obtained by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

This evaluation was discussed in more detail in the final rule for approving hybrid PFD's published on August 22, 1985. All costs for vessel owners will be optional and will be incurred only by those persons electing to take advantage of the improved wearability and flotation provided by hybrid PFD's. If hybrid PFD's are widely used, as many as 200 lives per year could be saved.

Based upon the information in the final evaluation, the Coast Guard certifies that these regulations will not have significant economic impact on a substantial number of small entities.

List of Subjects

33 CFR Part 146

Marine safety, Outer Continental Shelf activities.

33 CFR Parts 175 and 181

Marine safety, Boating safety.

Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Parts 146, 175, and 181 of Title 33 of the Code of Federal Regulations as follows:

PART 146—[AMENDED]

1. The authority for Part 146 is revised to read as follows:

Authority: 43 U.S.C. 1333 and 1348; 49 CFR 1.48.

2. In Part 146, by revising paragraph (a) and adding a new paragraph (e) to § 146.20 to read as follows:

§ 146.20 Work vests.

(a) *Types of approved work vests.* Each buoyant work vest carried under

the permissive authority of this section must be approved under—

- (1) 46 CFR 160.053; or
- (2) 46 CFR 160.077 as a commercial hybrid PFD.

* * * * *

(e) *Additional requirements for hybrid work vests.* Commercial hybrid PFD's must, in addition to the other requirements in this section, be—

- (1) Used, stowed, and maintained in accordance with—
 - (i) The procedures set out in the manual required for these devices by 46 CFR 160.077-29; and
 - (ii) Any limitation(s) marked on them; and
- (2) Of the same or similar design and have the same method of operation as each other hybrid PFD carried on board.

PART 175—[AMENDED]

3. By revising the authority citation for Part 175 to read as follows and removing all other authority citations which appear throughout Part 175:

Authority: 46 U.S.C. 4302; 49 CFR 1.46.

4. By adding a new paragraph (c) to § 175.17 to read as follows:

§ 175.17 Exceptions.

* * * * *

(c) A recreational hybrid PFD may be carried in lieu of another approved PFD. For persons not within an enclosed space, a hybrid PFD will be accepted as meeting Coast Guard carriage requirements only if worn when the boat is underway. It must also be used in accordance with the conditions marked on the PFD and in the owner's manual. The hybrid PFD must be approved and labeled for use on recreational boats.

PART 181—[AMENDED]

5. By revising the authority citation for Part 181 to read as follows and removing all other authority citations which appear throughout Part 181:

Authority: 46 U.S.C. 4302, 4310; 49 CFR 1.46.

6. By adding a new § 181.702 to Subpart G of Part 181 to read as follows:

§ 181.702 Recreational Hybrid PFD Information Pamphlet.

(a) Notwithstanding the requirements in §§ 181.703 and 181.705, each manufacturer of recreational hybrid PFD's must furnish with each of these PFD's a pamphlet meeting 46 CFR 160.077-27.

(b) The requirements for PFD pamphlets in §§ 181.703 and 181.705 do not apply to recreational hybrid PFD's.

Dated: January 21, 1986.
 J.W. Kime,
Rear Admiral (Lower Half), U.S. Coast Guard,
Chief, Office of Merchant Marine Safety.
 [FR Doc. 86-2286 Filed 2-3-86; 8:45 am]
 BILLING CODE 4910-14-M

Saint Lawrence Seaway Development Corporation

33 CFR Part 401

Assessment, Mitigation or Remission of Penalties

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Final rule.

SUMMARY: The Saint Lawrence Seaway Development Corporation is revising its rules on assessment, mitigation or remission of civil penalties to reflect a change in the Corporation official authorized to administer the procedures set forth in Subpart C of Part 401, 33 CFR.

EFFECTIVE DATE: This revision is effective February 4, 1986.

FOR FURTHER INFORMATION CONTACT: Frederick A. Bush, Chief Counsel, Saint Lawrence Seaway Development Corporation, 400 Seventh Street, SW., Washington, DC 20590, (202) 426-3325.

SUPPLEMENTARY INFORMATION: This rulemaking reflects the Administrator's decisions to change the Corporation official authorized to administer the procedures governing the assessment, mitigation or remission of civil penalties. Under the present procedures, the Corporation's Chief Engineer is this official. As a result of a realignment of duties, the responsibilities of the Chief Engineer under Subpart C of Part 401 have been assigned to the Corporation's Associate Administrator and accordingly, Subpart C is revised by changing "Chief Engineer" to "Associate Administrator."

This rule is not a major rule under Executive Order 12291 or a significant rule under the Department of Transportation's Regulatory Policies and Procedures. The Corporation certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule is a technical change that will have no economic impact. Consequently, no Regulatory Impact Analysis, Regulatory Evaluation, or Regulatory Flexibility Analysis has been prepared in connection with this rule.

Because this rule merely changes the Corporation's procedures, notice and an

opportunity for comment are not required. The Corporation also finds good cause to make this rule effective upon publication in the **Federal Register**.

List of Subjects in 33 CFR Part 401

Hazardous materials transportation, Navigation (water), Penalties, Radio Reporting and record keeping requirements, Vessels, Waterways.

PART 401—[AMENDED]

For the reasons stated above, Subpart C—Assessment, Mitigation or Remission of Penalties of 33 CFR Part 401, Seaway Regulations, is amended as follows:

1. The authority citation for 33 CFR Part 401 continues to read as follows:

Authority: 68 Stat. 93-98, 33 U.S.C. 981-990, as amended; secs. 12 and 13 of Sec. 2 of Pub. L. 95-474, 92 Stat. 1471; and 49 CFR 1.52.

2. Section 401.201(b) is revised by substituting "Associate Administrator" for "Chief Engineer" to read as follows:

§ 401.201 Delegation of authority.

* * * * *

(b) The Administrator hereby authorizes the Corporation's Associate Administrator to administer this statute in accordance with the procedures set forth in this subpart.

3. In § 401.203, paragraphs (a), (b), (c), (d) and (f) (1), (3) and (4) are revised by substituting "Associate Administrator" for "Chief Engineer" so that they read as follows:

§ 401.203 Reports of violations of Seaway Regulations and instituting and conducting civil penalty proceedings.

(a) Violations of Seaway Regulations, Subpart A of this Part, will be brought to the attention of the alleged violator at the time of detection whenever possible. When appropriate, there will be a written notification of the fact of the violation. This notification will set forth the time and nature of the violation and advise the alleged violator relative to the administrative procedure employed in processing civil penalty cases. The alleged violator will be advised that he or she has 15 days in which to appear before the Associate Administrator or submit a written statement for consideration. The Associate Administrator shall, upon expiration of the 15-day period, determine whether there has been a violation of the Seaway Regulations.

(b) If the Associate Administrator decides that a violation of Seaway Regulations has occurred, a determination will be made as to whether to invoke no penalty at all and close the case or whether to invoke a part or full statutory penalty. In either

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Tuesday
February 18, 1986

Department of
Transportation

Coast Guard

Station Bills; Final Rule

qualified registered land surveyors to prepare and certify maps, plans and cross-sections. This amendment is no less stringent than section 507(b)(14), as amended, and no less effective than the provisions found at 30 CFR Chapter VII.

North Dakota amended NDCC 38-14.1-10, 38-14.1-14, 38-14.1-21 and 38-14.1-30 concerning the cultural resources permitting requirements. North Dakota has, through the revised provision, consolidated all statutory and regulatory requirements of the cultural resources components of the approved program into the North Dakota Century Code. The revised provisions shift the authority for all cultural resources actions and decisions from the Public Service Commission to the Superintendent of the State Historical Board. These revised provisions are not inconsistent with SMCRA and are no less effective than the requirements of 30 CFR Chapter VII.

IV. Public Comments

Pursuant to section 503 of SMCRA and 30 CFR 732.17(a)(10)(i), comments were solicited from various Federal agencies on the proposed State program amendment. Of those agencies invited to comment, the U.S. Department of Labor, Mine Safety and Health Administration, the U.S. Department of Agriculture, Soil Conservation Service, the National Park Service, the U.S. Fish and Wildlife Service, and the U.S. Army Corps of Engineers responded, all with non-substantive comments.

V. Secretary's Decision

Based on the findings, the Secretary is removing the remaining three conditions (e), (m) and (n) of his approval of the North Dakota program. The Secretary is also approving the proposed amendments to the North Dakota program, as submitted to OSM on June 18, 1985. The Federal rules at 30 CFR Part 934 are being amended to reflect his decision.

VI. Procedural Requirements

1. *Compliance with the National Environmental Policy Act.* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act.* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is

exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act.* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 934

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: February 7, 1986.

James E. Cason,
Deputy Assistant Secretary, Land and Minerals Management.

PART 934—NORTH DAKOTA

30 CFR Part 934 is amended as follows:

1. The authority citation for Part 934 continues to read as follows:

Authority: Sec. 503, Pub. L. 95-87 (30 U.S.C. 1253).

§ 934.11 [Removed]

2. 30 CFR Part 934 is amended by removing § 934.11.

3. 30 CFR 934.15 is amended by adding a new paragraph (f) as follows:

§ 934.15 Approval of amendments to State regulatory program.

* * * * *

(f) The following amendments to the North Dakota permanent regulatory program submitted to OSMRE on June 18, 1985, are approved effective February 18, 1986.

(1) Modifications to NDCC 38-14.1-04.2 and .3 concerning cultural resources;

(2) Modifications to NDCC 38-14.1-7 concerning valid existing rights;

(3) Modifications to NDCC 38-14.1-10 concerning cultural resources;

(4) Modifications to NDCC 38-14.1-14 concerning permit application requirements;

(5) Modifications to NDCC 38-14.1-21 concerning permit approvals;

(6) Modifications to NDCC 38-14.1-30 concerning administrative review of decisions made by the State Historical Board;

(7) Modifications to NDCC 38-14.1-33 concerning permit revocation;

(8) Modifications to NDAC 69-05.2-10-03 concerning criteria for permit approval;

(9) Modifications to NDAC 69-05.2-06-02 concerning compliance information required of permit applicants;

(10) Modifications to NDAC 69-05.2-06-02 and NDAC 69-05.2-04-01 concerning the date for valid existing rights determinations;

(11) Modifications to NDAC 69-05.2-13-12 concerning performance standards for auger mining operations;

(12) Repeal of NDAC 69-05.2-08-03 concerning cultural resources;

(13) Modifications to NDAC 69-05.2-09-08 concerning operations plans;

(14) Modifications to NDAC 69-05.2-09-02 and NDAC 69-05.2-09-09 concerning the responsibilities of registered land surveyors; and

(15) Modifications to NDAC 69-05.2-16-09 concerning sedimentation ponds.

[FR Doc. 86-3412 Filed 2-14-86; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 4 and 146

[CGD 86-011]

Station Bills; OMB Paperwork Control Numbers

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule amends the existing provision concerning station bills (muster lists) on manned Outer Continental Shelf facilities other than mobile offshore drilling units. Though this provision appears in the Code of Federal Regulations, it has not been in effect because it had not been assigned an information collection control number by the Office of Management and Budget. Now that the information collection has been approved and a control number assigned, this rule adds the control number at the end of the provision and makes the station bill requirements effective. This rule also adds the number, as well as several other previously omitted numbers, to the list of numbers assigned to provisions throughout that volume of the Code of Federal Regulations.

EFFECTIVE DATE: This rule becomes effective on February 18, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Allen W. Penn, Office of Merchant Marine Safety (202) 426-2307.

SUPPLEMENTARY INFORMATION: When subchapter N of 33 CFR Chapter I on Outer Continental Shelf Activities was revised on March 4, 1982 (47 FR 9366), the preamble to the rule indicated that 33 CFR 146.130 (Station bill) has information collection requirements not yet approved by the Office of Management and Budget (OMB). Under 44 U.S.C. 3507(f), an agency shall not engage in a collection of information without obtaining an OMB control number to be displayed on the information collection request. Upon application by the Coast Guard, OMB has since approved the information collection requirements in § 146.30 and assigned OMB Control Number 2115-0542.

This rulemaking makes § 146.130 effective and amends that section and 33 CFR 4.02 to display the assigned OMB control number. This rule also adds several previously omitted OMB control numbers to § 4.02 which relate to various parts and sections throughout 33 CFR Chapter I.

This final rule was not preceded by a notice of proposed rulemaking and is being made effective in less than 30 days after publication in the Federal Register. This rule merely displays existing OMB control numbers pertaining to specific Coast Guard regulations for the public's information. Therefore, the Coast Guard has determined that notice and public procedure thereon are unnecessary under 5 U.S.C. 553(b)(3)(B). Since this rule has no substantive effect, good cause exists for making it effective in less than 30 days after publication, under 5 U.S.C. 553(d).

Drafting Information

The principal persons involved in drafting this rule are Mr. Allen W. Penn, Office of Merchant Marine Safety, and Mr. Stephen H. Barber, Office of Chief Counsel.

This regulation is considered to be non-major under Executive Order 12291 and non-significant under DOT Regulatory Policies and Procedures (44 FR 11304; February 26, 1979). The economic impact of this final rule has been found to be so minimal that further evaluation is unnecessary. This rule merely displays existing OMB Control Numbers for the public's information and imposes no new substantive requirement. Since the impact of his rule is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects

33 CFR Part 4

Reporting requirements.

33 CFR Part 146

Continental shelf, Marine safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, Parts 4 and 146 of Chapter I, Title 33, Code of Federal Regulations, are amended as follows:

PART 4—OMB CONTROL NUMBERS ASSIGNED PURSUANT TO THE PAPERWORK REDUCTION ACT

1. The authority citation for Part 4 is revised to read as follows:

Authority: 44 U.S.C. 3507; 49 CFR 1.45(a).

2. The table in § 4.02 is amended by deleting the entries for § 153.303 and § 154.740 and adding new entries to read as follows:

§ 4.02 Display.

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|-----------------------------|------------|
| * * * * * | |
| Part 115..... | 2115-0050. |
| * * * * * | |
| Section 126.15(o)(1)..... | 2115-0105. |
| * * * * * | |
| Section 146.130..... | 2115-0542. |
| * * * * * | |
| Section 153.203..... | 2115-0137. |
| * * * * * | |
| Section 154.740(a)-(e)..... | 2115-0096. |
| Section 154.740(f)..... | 2115-0506. |
| Section 155.107..... | 2115-0097. |
| Section 155.740..... | 2115-0120. |
| Section 155.820(a)-(c)..... | 2115-0096. |
| Section 155.820(d)..... | 2115-0506. |
| Section 156.107..... | 2115-0097. |
| Section 156.150..... | 2115-0506. |
| Part 156, Subpart B..... | 2115-0539. |
| * * * * * | |
| Section 165.15..... | 2115-0076. |
| Section 165.25..... | 2115-0076. |
| Section 165.803(i)..... | 2115-0092. |
| * * * * * | |

PART 146—OPERATIONS

3. The authority citation for Part 146 is revised to read as follows:

Authority: 43 U.S.C. 1333(d)(1), 1347, 1348; 49 CFR 1.46(z).

4. Section 146.130 is amended by removing the Effective Date Note at the end of the section and by adding an OMB control number in its place as follows:

§ 146.130 Station bill.

* * * * *

(Approved by the Office of Management and Budget under OMB Control Number 211-0542)

Dated: February 12, 1986.

W. J. Ecker,
Captain, U.S. Coast Guard, Acting Chief,
Office of Merchant Marine Safety.

[FR Doc. 86-3429 Filed 2-14-86; 8:45 am]

BILLING CODE 4910-14-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1130

[Docket No. 37130; Sub-3]

Special Docket Proceedings; Exemption From Letter of Intent Requirement Involving Amounts of \$10,000 or Less

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final rules.

SUMMARY: In response to a request by the association of American Railroads, the Commission is adopting revised rules (as set forth in the appendix) that would eliminate the letter of intent requirement in special docket cases involving amounts of \$10,000 or less. The AAR suggests that adoption of a \$10,000 threshold would eliminate costly paperwork and enable refunds and waivers of undercharge to be made more quickly.

DATES: The rules will become effective March 20, 1986. Comments of those opposed to the revision are due March 10, 1986. If adverse comments are received, the effectiveness of the decision will be automatically postponed pending a further decision.

ADDRESS: An original and, if possible, ten copies of negative comments should be sent to: Room 4310, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Donald W. Simmons, (202) 275-7358.

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (D.C. metropolitan area) or toll free (800) 424-5403.

The Commission certifies that the rules will not have a significant economic impact on a substantial number of small entities. These final rules will allow carriers to save clerical costs and allow for speedier waiver of undercharges and reparations.

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federal register

**Thursday
July 10, 1986**

Department of Transportation

Coast Guard

**Workplace Safety and Health
Requirements for Facilities on the
Outer Continental Shelf; Final Rule**

Discussion of Comments

Twelve letters and one telegram were received in response to the proposal. Ten respondents supported it, citing the severe traffic congestion and the difficulty of vehicular access, especially for emergency vehicles. Three commenters opposed the change. Two felt that waterway users should not be required to wait for up to one hour for a bridge opening. Another commenter cited the difficulty of waiting for an opening in an area of swift currents. The approach to the bridge from the northeast is long and straight, while Charleston Harbor is close by to the southwest. An on-site inspection did not reveal any unusual current conditions. Vessels should be able to time their approach to the area and avoid lengthy delays near the Ben Sawyer bridge.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of these regulations is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the regulations exempt tugs with tows. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46 and 33 CFR 1.05-1(g).

2. Section 117.911 is amended by revising paragraph (c) to read as follows:

§ 117.911 Atlantic Intracoastal Waterway, Little River to Savannah River.

(c) *Ben Sawyer (SR 703) bridge across Sullivan's Island Narrows, mile 462.2 between Sullivan's Island and Mount Pleasant.* The draw shall open on signal; except that, the draw need not open

from 7 a.m. to 9 a.m. and from 4 p.m. to 6 p.m. Monday through Friday except federal holidays. On Saturdays, Sundays, and federal holidays from 9 a.m. to 7 p.m. the draw need open only on the hour.

* * * * *
Dated: June 27, 1986.

G.S. Duca,

Captain, U.S. Coast Guard, Acting Commander, Seventh Coast Guard District.

[FR Doc. 86-15564 Filed 7-9-86; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Parts 140 and 142

[CGD 79-077]

Workplace Safety and Health Requirements for Facilities on the Outer Continental Shelf

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is issuing regulations concerning personal protective equipment and general working conditions on Outer Continental Shelf (OCS) facilities. These regulations address the need identified in the OCS Lands Act Amendments of 1978 to promote safe working conditions by regulating hazards in the workplace. This rule is part of a continuing effort by the Coast Guard to improve safety of life and property on the OCS.

EFFECTIVE DATE: This rule is effective on January 12, 1987. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 12, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Allen W. Penn, Office of Merchant Marine Safety, (202) 426-2307.

SUPPLEMENTARY INFORMATION: On September 20, 1979, the Coast Guard published an Advance Notice of Proposed Rulemaking (ANPRM) on unregulated hazardous working conditions on the Outer Continental Shelf (OCS) (44 FR 54499). Drawing upon the information generated by this ANPRM, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) focusing on personal protective equipment and general working conditions on facilities and mobile offshore drilling units (MODUs) engaged in OCS activities (49 FR 1083; January 9, 1984). On February 28, 1984, a document was published to correct the regulatory evaluation and paperwork reduction sections of the NPRM and to extend its comment period (49 FR 7253). The present document is a final rule based on this NPRM.

Thirty-two written comments were received in response to the NPRM and are discussed in this document. Comments were received from private individuals, public officials, commercial enterprises, and industry associations. None of the comments requested a public hearing. The Coast Guard agreed that a public hearing was not necessary to provide additional beneficial information; therefore, no public hearing was scheduled.

Drafting Information

The principal persons involved in drafting this rule are Mr. Allen W. Penn, G-MVI-4, Office of Merchant Marine Safety, and Mr. Stephen H. Barber, Project Counsel, Office of Chief Counsel.

Background

The regulations contained in this rulemaking apply to Outer Continental Shelf (OCS) facilities as defined in 33 CFR 140.10. "OCS facility" means:

any artificial island, installation, or other device permanently or temporarily attached to the subsoil or seabed of the Outer Continental Shelf, erected for the purpose of exploring for, developing, or producing resources therefrom, or any such installation or other device (other than a ship or vessel) for the purpose of transporting such resources. The term includes mobile offshore drilling units when in contact with the seabed of the OCS for exploration or exploitation of subsea resources. The term does not include any pipeline or deepwater port (as the term "deepwater port" is defined in section 3(10) of the Deepwater Ports Act of 1974 (33 U.S.C. 1502)).

All mobile offshore drilling units (MODUs), including U.S. and foreign documented or undocumented units, are covered by this definition.

Under the authority of 43 U.S.C. 1333 and 1348 and in accordance with the Memorandum of Understanding (MOU) between the Coast Guard and the Occupational Safety and Health Administration of December 18, 1980 (45 FR 9142), these regulations supersede a portion of OSHA's General Industry Standards as they may apply to OCS activities, in particular 29 CFR Part 1910, Subpart 1, Personal Protective Equipment. This rulemaking has been coordinated with OSHA in accordance with the above mentioned MOU. In addition, under section 21(f) of the OCS Lands Act, this rule has been coordinated with the Department of the Interior to avoid inconsistent or duplicative requirements.

The Coast Guard is continuing to evaluate the need and the desirability of promulgating other regulations applicable to the workplace on the OCS. The next phase of Coast Guard

rulemaking in the area of OCS workplace safety and health will be accomplished under Coast Guard docket number CGD 84-098. An advance notice of proposed rulemaking, "Revision of the Regulations on Outer Continental Shelf Activities", was published in the *Federal Register* on March 7, 1985 (50 FR 9290).

This final rule is being made effective six months after publication in order to give operators and offshore personnel sufficient time to purchase and install required equipment, if it is not already in use on their units.

Discussion of Major Comments

General Comments

1. Three comments suggest the need for grandfathering due to the expense and remaining usefulness of personal protective equipment already in use on many facilities engaged in OCS activities. In light of the fact that equipment conforming to these regulations is already in wide use offshore, that a six month period is provided before these requirements become effective, and that the cost of the equipment is not sufficiently burdensome, it is not clear that grandfathering is justifiable under the circumstances. The ANSI standards incorporated by these regulations provide for the continued use of equipment tested and marked under earlier ANSI editions. Therefore, grandfathering provisions have not been included.

2. Several respondents object to the necessity for this rulemaking, because they felt their companies met the standards specified in these requirements. If these respondents meet the standards in these rules, the rules will have no impact on them. Unfortunately, not every offshore oil and gas operation meets these standards. Despite the efforts made by responsible companies, the offshore oil and gas industry still maintains a high incidence of injury as compared to the rest of heavy industry in the United States. A search of Coast Guard accident records from January 1981 to September 1984 for MODUs and platforms yielded the following: 59 eye injuries, 157 foot injuries, and 104 head injuries (resulting in 13 deaths). Therefore, as mandated by Section 21(c) of the OCS Lands Act, Coast Guard regulation is needed to address these unregulated hazardous working conditions on the OCS.

3. Two respondents felt the term "ensure" throughout this rulemaking was too restrictive on the operator and leaseholder and the use of "assure" would best suit the purpose in the

regulations. Under standard dictionary definitions and customary usage, these terms are often used interchangeably. To avoid confusion, "ensure" is retained to provide consistency with other Coast Guard regulations.

4. One comment states that the leaseholder should not be held responsible for MODUs that are "stacked" or idle in the leased area. As these regulations apply only to "OCS facilities", MODUs must be "in contact with the seabed of the OCS for exploration or exploitation of subsea resources" to qualify as an "OCS facility" (see definition under the Background section in this preamble). Idle MODUs in storage would not qualify under this definition as an "OCS facility".

Specific Comments

1. Section 140.7—(a) Because the ANSI standards are subject to periodic revision, one respondent was concerned that the standards appeared to be incorporated without reference to a specific publication date. The dates of the editions incorporated are listed in the "Incorporated by Reference" section of this preamble and will be included in the "Material Approved for Incorporation by Reference" table at the end of Title 33 of the Code of Federal Regulations.

(b) One comment states that the requirements of the Administrative Procedures Act were not met by incorporating the ANSI standards because the public was not given an opportunity to comment on these standards. The notice of proposed rulemaking provides the public with an opportunity to comment on whether the Coast Guard should incorporate these standards. Incorporation in the regulations of future changes by ANSI would require separate notice and opportunity for comment.

(c) One comment suggests the incorporation of two additional ANSI standards, Z308.1-1978, "Minimum Requirements for Industrial Unit—Type First Aid Kits" and Z358.1-1981, "Emergency Eyewash and Shower Equipment". These standards were not initially considered for incorporation when the notice of proposed rulemaking was published. Including them at this time would not afford the public an opportunity to comment on their inclusion, in accordance with the Administrative Procedures Act. However, they will be considered in future rulemakings concerning workplace safety and health standards under this subchapter.

(d) Another respondent prefers the use of his equipment instead of the

equipment specified by ANSI A10.14. Though the equipment mentioned may have merit, the Coast Guard does not have the resources to review, test, and approve nonstandard equipment. One major reason for adopting ANSI standards is to alleviate the burden of separately approving equipment of a type already carefully considered by industrial standards organizations in preparing their standards.

2. Section 140.10—Two comments suggest that the definition of "personnel" be changed to include visitors and government officials with respect to the use of protective footwear. These regulations concern the safety of the worker while in the workplace. Visitors to the workplace can be controlled by the supervisor, though they are usually excluded altogether from entry into the workplace. Government officials on board the unit to perform their official functions are routinely equipped with personal protective gear and are familiar with the hazards of the workplace. To clarify what persons constitute "personnel" under these regulations, the examples stated in the preamble to the Notice of Proposed Rulemaking under § 140.10 have been incorporated in the text of this rulemaking. "Personnel" are employees of the lease/permit holder, the operator (if other than the lease/permit holder), the contractor, the unit owner (if other than any of the above), and the subcontractors.

3. Sections 142.4 and 142.7—A number of comments recommend substantive changes to these sections, which are old §§ 142.1 and 142.5 renumbered without further change. The substance of these sections is not a part of this rulemaking. As stated in the preamble to the NPRM, they were included only because they had to be renumbered to allow for the insertion of new § 142.1, Purpose. The comments, however, will be retained by the Coast Guard for consideration in future rulemakings.

4. Section 142.21—Two comments suggest that Mobile Offshore Drilling Units (MODUs) be exempted from the requirements of this section, because they felt existing regulations for MODUs in Title 46 of the Code of Federal Regulations already covered the same subjects as this rulemaking. Presently, there are no corresponding provisions in Title 46; however, the Coast Guard is considering similar requirements in a future rulemaking under Title 46 to cover MODUs not in use on the OCS.

5. Section 142.24—(a) Several comments discuss the financial burden placed upon the leaseholders and

operators by requiring them to provide certain personal protective equipment that has traditionally been provided by the employee. Paragraphs (a) and (b) have been reworded so as not to require leaseholders and operators to furnish the equipment under this subpart.

(b) Section 142.24 assigns responsibility for ensuring that personnel properly wear or use the equipment to the lease/permit holder and to persons in charge of actual operations. Several comments object to imposing such responsibility on the lease/permit holder for two main reasons. First, the persons in charge of actual operations are in a better position to control the workplace. Second, third party claims against the lease/permit holder would be improper and unenforceable because of the confusion that would result if the lease/permit holder was in fact several companies with differing percentages of ownership.

The decision to assign responsibility to the lease/permit holder was not a Coast Guard decision but is a mandate under section 22 of the OCS Lands Act. This statutory provision is addressed in old § 142.1, now § 142.4 under this rulemaking. Under this rulemaking, the wearing or use of required personal protective equipment is a responsibility shared by the lease/permit holder and persons responsible for actual operations, as well as the individual worker.

6. Section 142.27—(a) One comment suggests the need for flexibility in selecting the required eye and face protection. As Figure 8 of ANSI Z87.1 (incorporated in this section) already provides this flexibility, no change was deemed necessary.

(b) The words "or observing" were added to align the provision with ANSI Z87.1.

7. Section 142.33—(a) Several comments suggest that the use of protective footwear be limited to areas where foot injuries might occur. Unfortunately, these injuries are not location specific. Therefore, the broad scope of the provision was left unchanged.

(b) Several comments suggest that specific personnel, such as visitors and government officials, be exempt from the requirements of this section. See the response to comments under § 140.10 in this preamble.

(c) One comment suggests that this requirement could be more of a hazard in the Arctic, because there is no protective footwear meeting ANSI standard Z41 that would also protect feet from the severe cold. A specific exemption to the wearing of protective footwear meeting ANSI Z41 has been

added to address instances where harsh environmental conditions present a greater hazard than those against which safety-toed footwear is designed to protect.

(d) One comment remarks that the ANSI standard itself already specifies the use of the ANSI label. If protective footwear is required to meet ANSI, why is there a need to also state that it be labeled under ANSI? Strictly speaking this respondent is correct; but, from a practical standpoint, the main thing personnel need to know is that a label is required by the standard. This helps to avoid the purchase and use of improper footwear. The Coast Guard believes this additional information is justified under the circumstances and has retained the labeling provision appearing in the NPRM.

8. Section 142.36—(a) Two comments state that this requirement is too stringent and that only personnel whose jobs required them to work in areas where these hazards exist should wear protective clothing. The hazard is present to all personnel in the area, whether they are actually working or not. Therefore, all personnel in the area are required to wear protective clothing.

(b) One comment suggests that areas which have even a potential for exposure to hazardous materials should be included in this requirement. The intent of the provision is to protect against an actual hazard. The use of "potential hazard" could broaden the area of hazard to include virtually the entire OCS facility. Such an extension would be an economic burden and of questionable benefit.

(c) One comment questions whether the use of PVC coated protective clothing, as mentioned in the preamble of the notice of proposed rulemaking, was specifically required. As stated in the preamble, this was only an example. The specific type of protective clothing used is performance oriented and left to the judgment of the holder of the lease or permit and/or the persons responsible for actual operations.

9. Section 142.39—(a) Two comments suggest that the word "known" be inserted before the phrase "short and long term harmful effects" of paragraph (b)(3), in order to specifically limit the information required to the data shown on the label of the substance to which the atmosphere has been exposed. The Coast Guard believes that any effort to limit information to that on a label would be too restrictive in scope, because other harmful effects due to exposure to these hazardous materials may be published in material safety data sheets, safety notices, or similar dispatches that may update information

listed on the manufacturer's label. Sources of information on "generally recognized" hazards of products introduced to the atmosphere are readily accessible from the manufacturers of these products by one of the aforementioned means.

The main purpose of the provision is to impress upon the worker the actual hazard involved in hopes that this knowledge will encourage the worker to use proper equipment and observe proper procedures. In view of this, the Coast Guard has decided that an appropriate alternative to "known" would be "generally recognized" and the wording in this part has been changed to reflect this.

(b) One comment received felt it was an oversight in referencing § 142.4 in lieu of § 142.4(b) for assigning responsibility for the use of respiratory protection. The Coast Guard fully intended that everyone assigned responsibility under § 142.4 be held accountable, including the lease/permit holder. The duties of these persons relative to the maintenance of the workplace, the conduct of operations, and the use of personal protective equipment extends to workplace procedures and personnel training, as fundamental elements of workplace safety. The provision is, therefore, unchanged.

(c) One comment requests that the word "approved" be deleted from paragraph (c) of this section, because ANSI does not have standards for the approval of respiratory protection equipment. ANSI Z88.2-1980 does not have standards of approval for respiratory equipment; it does, however, provide for National Institute for Occupational Safety and Health (NIOSH) and the Mine Safety and Health Administration (MSHA) acceptance as the approval criteria in section 6.1 and Appendix A3 of the standard. Therefore, the provision is not changed.

10. Section 142.42—(a) Several comments suggest that the need for safety belts, harnesses, and lifelines appears to be unnecessary in cases where personnel are only transiting areas or during the use of personnel transfer devices. As long as the activity entails moving from one location to another, there is no need for personnel to be outfitted with safety belt and harnesses. Therefore, a change has been made to provide for this exception.

(b) One comment questions whether it is the Coast Guard's intent to require personnel to wear safety belts and lifelines while in a caged ladder or on a guarded scaffold. A safety belt and

lifeline would still be required because the cage on a ladder does not prevent a vertical fall and guard rails on scaffolds are frequently not designed to provide adequate restraint for a falling body or to prevent a person from falling under the rail. Therefore, no change has been made.

(c) One comment suggests that the use of a lanyard on safety belts or harnesses may impede the employee's ability to release himself in the event of an emergency. Though some equipment specified by ANSI would impede rapid release, other devices referred to in the standard are designed for quick release. This standard provides a choice depending on the particular operation. No change to the regulation is necessary.

(d) One comment suggests the use of nets as an alternative to safety belts and harnesses. Nets may be used, but not instead of safety belts and harnesses. Presently, there are no Coast Guard standards for nets used for this purpose. Nets are used to catch a variety of falling objects; but lanyards and safety belts are used only by people and are discarded once used to stop a fall. Though it is questionable whether standards for nets could be devised to make nets a reliable substitute for lanyards and safety belts, the Coast Guard will consider the use of nets in a future rulemaking.

(e) Another comment suggests the use of a retracting lifeline along with the approved devices in ANSI A10.14. This device was not evaluated for inclusion in this regulation. However, it will be considered in a future rulemaking addressing this section.

11. Section 142.45—(a) One comment states that wearing a personal flotation device while working over or near water may impair the employee, and possibly endanger him, while working. The Coast Guard does not believe this to be the case. There are numerous styles and sizes of Coast Guard approved work vests and life preservers that provide adequate protection from drowning and cause minimal hindrance while working.

(b) One comment suggests that the use of a personal flotation device was unnecessary when the wearing of a safety belt or harness was required. The proper use of a safety belt or harness with lanyard is an acceptable alternative to wearing a personal flotation device required by this section. This section has been changed to permit this option.

(c) One comment questions what constitutes a location where a person may likely fall into the water. The question is not where such a location is but whether a falling person at that

location would likely fall into water. For example, if a person falls on deck that is properly guarded, that person could, though it is unlikely, roll through the rails and fall into water. At such a location, a personal flotation device would not be required. As a result, no change is needed.

(d) One comment suggests the inclusion of exposure suits with the approved work vests and life preservers for use in harsher environments. The performance of any routine work while wearing an exposure suit is untenable because these suits were not designed for that use. However, there are approved work vests designed as coveralls that could provide some protection from cold water hazards. The best solution is to use a safety belt or harness with the appropriate clothing.

12. Section 142.48—One comment concerns the possibility of contamination of eyewash equipment by requiring it to be located on the drill floor and in the mudroom. This section has been changed to allow eyewash equipment to be placed near, rather than in or on, the location where the hazard exists.

13. Section 142.81—Two comments state that Subpart C conflicts with existing provisions for MODU's under Title 46 in the Code of Federal Regulations. Sections 142.84 and 142.87 are the only sections that are similar to requirements in the MODU regulations in Title 46 (§§ 109.575 and 108.217). Sections 142.84 and 142.87 are more general than Title 46 in addressing which surfaces must be kept free, what substances may create a slipping hazard, and how deck openings must be guarded. No conflict will result.

14. Section 142.84—(a) Three comments suggest that the requirement for surfaces to be kept free of slipping hazards be made more flexible to accommodate the pulling of wet strings of drill pipe. Because the spillage of drilling fluid is inevitable in such an operation, this section has been changed to make it more performance oriented during certain operations on the drill floor. When engaged in an activity in which the spillage of substances creating a slipping hazard is inevitable, footwear or flooring designed to substantially reduce slipping can be used as an alternative to keeping the floor clear, however the work area must be kept as clean as practicable and the spillage cleaned up when the activity is completed or suspended.

(b) Three comments suggest that the term "reasonably" be inserted before "clear of tools" and "free of substances." The Coast Guard feels the burden imposed by the section as

drafted is justifiable. Working surfaces and walkways simply should be kept clear of equipment when not in use and free of slipping hazards. Therefore, no change is made.

15. Section 142.87—(a) One comment suggests that this requirement was too stringent in that it failed to allow personnel to work over or through unguarded openings. The intent of this requirement was to allow the use of these openings when necessary and to guard or cover them when not in use. Therefore, a change has been made to clarify this.

(b) Another comment suggests that some openings were not accessible because of their location and should not be required to have guards or covers. This section has been changed because there is no need for guards or covers if access to openings are already effectively blocked due to their location.

16. Section 142.90—(a) Three comments suggest that an exception should be made when equipment power requirements are so low as not to pose a hazard. This would allow any of the company's designated electricians, technicians, mechanics, or their supervisors to determine whether equipment power sources present a potential hazard to others, whether they are qualified or not to make such a determination. The potential hazard of any electrical shock to an unsuspecting person far outweighs the minimal inconvenience imposed by this provision. No change has been made.

(b) Five commentors remarked on the inability of relief workers to reactivate equipment, because only personnel actually deactivating the equipment subject to this section or their supervisor are allowed to reactivate the equipment. The Coast Guard recognizes this problem and has revised paragraph (c) (new paragraph (d)) of this section to allow respective reliefs to reactivate the equipment.

(c) One comment suggests that the Coast Guard incorporate ANSI Z244.1, Lockout/Tagout of Energy Sources, instead of applying this section when deactivating power sources. Though the ANSI standard is much more comprehensive than the provisions of this rulemaking, the Coast Guard believes the requirements in this rule are adequate. However, the Coast Guard will consider it for incorporation in a future rulemaking addressing this section, when additional comments may be obtained.

One point noticed in reviewing ANSI Z244.1 is that the Coast Guard's provision is unclear as to where the tags under new paragraph (c) should be

placed. We have revised the paragraph to be more explicit as to the placement of these tags.

(d) Two comments suggest that "tag" and "tags" be used instead of "sign" and "signs", so that the terminology is consistent with the title of this section. The terms "tag" and "tags" have been substituted throughout § 142.90.

(e) Three comments suggest changing this section to indicate the priority to be attached to the locking out requirement over those requiring just the disconnection and tagging out of power sources. A new paragraph (b) has been added to reflect the importance attached to locking out power sources instead of just disconnecting and tagging out of these sources. Proposed paragraph (d) has been included in new paragraph (a).

(f) One comment suggests that the tagout requirement should be clarified so that it is understood not to be required when lockout procedures are used. Tagout requirements apply whenever it is necessary to disable the power source to any equipment, whether or not the lockout provision exists. Therefore, no change is made.

(g) One comment requests that the Coast Guard wait until OSHA issues its Lockout/Tagout regulations to avoid conflict and confusion. OSHA already has general industry standards in Title 29 CFR 1910.145(f) which give examples of wording and placement of tags. The Coast Guard's regulation is more specific as to where these tags are to be placed and when they are to be used.

Incorporation by Reference

The following material has been approved for incorporation by reference by the Director of the Federal Register under 5 U.S.C. 522 and 1 CFR Part 51:

ANSI 10.14-1975—Requirements for Safety Belts, Harnesses, Lanyards, Lifelines, and Drop Lines for Construction and Industrial Use.

ANSI Z41-1983—American National Standard for Personal Protection—Protective Footwear.

ANSI Z87.1-1979—Practice for Occupational and Educational Eye and Face Protection.

ANSI Z88.2-1980—Practices for Respiratory Protection.

ANSI Z89.1-1981—Safety Requirements for Industrial Head Protection.

The material incorporated by reference is on file at the Library of the Office of the Federal Register, Room 8301, 1100 T Street, NW., Washington, DC 20408 and is available for inspection or copying at Coast Guard Headquarters, Room 2210, 2100 Second Street, SW., Washington, DC 20593. Copies of the material may be

purchased from the American National Standards Institute, Sales Department, 1430 Broadway, New York, NY 10018.

If substantive changes are made by ANSI to the material incorporated, those changes may be considered for incorporation. However, before taking final action, the Coast Guard will publish a separate notice in the *Federal Register* for public comment.

E.O. 12291 and DOT Regulatory Policies and Procedures

This final rule is considered to be non-major under Executive Order 12291 and is significant under DOT policies and procedures (44 FR 11034; February 26, 1979). A final regulatory evaluation has been prepared and placed in the rulemaking docket. It may be inspected or copied at the Office of the Marine Safety Council, Room 2110, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593, (202) 426-1477, from 7:30 a.m. to 4:00 p.m.

As discussed in the evaluation, these rules will not impose substantial costs on industry. The costs imposed will be more than offset by the estimated annual saving of lives and the cost of injuries. Additionally, the reduction in frequency and severity of injuries should produce a corresponding reduction in the amounts paid in insurance premiums and worker compensation.

One comment states that the OCS fatality rates in the draft regulatory evaluation were substantially higher than those published by the Minerals Management Service for the same period ("Safety Information and Management on the OCS", National Research Council, 1984). The Coast Guard, however, obtains more complete information on fatalities because of its statutory mandate to investigate each death or serious injury occurring as a result of OCS operations. This factor is noted in a footnote of page 16 of the NRC report.

An additional point brought up by the respondent was that his cost estimates for acquiring the required personal protective equipment were fifty per cent higher than the Coast Guard's estimates. The higher estimates result from the fact that certain items listed by the respondent exceeded Coast Guard minimums and were substantially more expensive (approximately \$7,000 more per unit for initial cost).

The total initial cost for the required personal protective equipment, eyewash equipment, and respiratory protection training for a mobile drilling unit with a 50 person crew was estimated to be \$10,000 and the cost for a manned fixed facility with a 25 person crew was

\$5,000 when the NPRM was published. Based on 200 mobile drilling units and 600 manned fixed facilities operating on the OCS, the maximum initial industry cost would have been \$5,600,000 with a maximum annual cost of \$1,120,000. These costs were based on the actual 1983 prices of a major safety equipment supply firm; their 1984 catalog shows no substantial price increases. The only notable increase in updating these costs is the increase in the number of manned facilities. The Coast Guard estimates that there now are approximately 230 mobile offshore drilling units and 660 manned fixed facilities that are subject to these regulations. This would bring the maximum initial industry cost to \$8,250,000 with a maximum annual cost of \$1,250,000. In actuality, these costs would most likely be substantially less because of the high level of usage of safety equipment, meeting or exceeding these requirements, which already exists on the OCS.

Regulatory Flexibility Act

The economic impact of the regulations will fall on the owners, operators, and subcontractors furnishing the personal protective equipment required by this rule. Oil company operators and owners of OCS units are generally major corporations or subsidiaries of major corporations. The degree of impact on the numerous subcontractors providing specialized services offshore will be roughly proportional to the number of employees. Therefore, the small entities will incur proportionally less cost.

Personal protective equipment manufacturers will be affected because only equipment meeting ANSI standards is acceptable offshore. This may require certain manufacturers to redesign their equipment in order to only equipment meeting ANSI standards is acceptable offshore. This may require certain manufacturers to redesign their equipment in order to remain competitive in the offshore market. However, the effect on manufacturers will not be substantial because most of the personal protective equipment being purchased for offshore use already meets ANSI standards.

Comments were specifically requested in the notice of proposed rulemaking from small entities which might be significantly affected by the rules. No comments were received on this subject.

For the above reasons, the Coast Guard certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rulemaking contains no information collection or recordkeeping requirements.

The existing provisions allowing for approval of equipment providing equivalent levels of safety in 33 CFR 140.15 has been approved under OMB control number 2115-0555.

Environmental Assessment

The Coast Guard has considered the environmental impact of the regulations and concluded that the preparation of an environmental impact statement is not necessary. An environmental assessment with a finding of no significant impact has been prepared and is on file in the rulemaking docket.

List of Subjects

33 CFR Part 140

Administrative practice and procedure, Authority delegation, Continental Shelf, Incorporation by reference, Law Enforcement, Marine safety.

33 CFR Part 142

Continental Shelf, Incorporation by reference, Marine safety.

Parts 140 and 142 of Subchapter N, Chapter I, Title 33 of the Code of Federal Regulations are amended as follows:

PART 140—GENERAL

1. The authority citation for Part 140 is revised to read as follows:

Authority: 43 U.S.C. 1333(d)(1), 1348(c), 1356; 49 CFR 1.46(z).

2. Section 140.7 is revised to read as follows:

§ 140.7 Incorporation by reference.

(a) Certain materials are incorporated by reference into this subchapter with the approval of the Director of the Federal Register. The Office of the Federal Register publishes a table, "Material Approved for Incorporation by Reference", which appears in the Finding Aids section of this volume. In that table is found citations to the particular sections of this subchapter where the material is incorporated and the date of the approval by the Director of the Federal Register. To enforce any edition other than the ones listed in paragraph (b) of this section, notice of the change must be published in the **Federal Register** and the material made available. All approved material is on file at the Office of the Federal Register, Washington, DC 20408 and is available for inspection or copying at U.S. Coast Guard Headquarters, Room 2110, Transpoint Building, 2100 Second Street,

SW., Washington, DC 20593, (202) 426-1477.

(b) The materials approved for incorporation by reference in this subchapter are: American National Standards Institute (ANSI), 1430 Broadway, New York, NY 10018.

ANSI 10.14-1975—Requirements for Safety Belts, Harnesses, Lanyards, Lifelines, and Drop Lines for Construction and Industrial Use.

ANSI Z41-1983—American National Standard for Personal Protection—Protective Footwear.

ANSI Z87.1-1979—Practice for Occupational and Educational Eye and Face Protection.

ANSI Z88.2-1980—Practices for Respiratory Protection.

ANSI Z89.1-1981—Safety Requirements for Industrial Head Protection.

International Maritime Organization (IMO).

IMO Sales, New York Nautical Instrument and Service Corp., 140 W. Broadway, New York, NY 10013.

IMO Assembly Resolution A.414 (XI)—Code for Construction and Equipment of Mobile Offshore Drilling Units.

3. In § 140.10, a new term is added as follows:

§ 140.10 Definitions.

As used in this subchapter:

* * * * *

"Personnel" means individuals who are employed by leaseholders, permit holders, operators, owners, contractors, or subcontractors and who are on a unit by reason of their employment.

* * * * *

4. By revising Part 142 to read as follows:

PART 142—WORKPLACE SAFETY AND HEALTH

Subpart A—General

Sec.

- 142.1 Purpose.
- 142.4 Duties of lessees, permittees, and persons responsible for actual operations.
- 142.7 Reports of unsafe working conditions.

Subpart B—Personal Protective Equipment

- 142.21 Purpose and applicability.
- 142.24 Use of equipment.
- 142.27 Eye and face protection.
- 142.30 Head protection.
- 142.33 Foot protection.
- 142.36 Protective clothing.
- 142.39 Respiratory protection.
- 142.42 Safety belts and lifelines.
- 142.45 Personal flotation devices.
- 142.48 Eyewash equipment.

Subpart C—General Workplace Conditions

- 142.81 Purpose and applicability.
- 142.84 Housekeeping.
- 142.87 Guarding of deck openings.
- 142.90 Lockout and tagout.

Authority: 43 U.S.C 1333(d)(1), 1347(c), 1348(c); 49 CFR 1.46(z).

Subpart A—General

§ 142.1 Purpose.

This part is intended to promote workplace safety and health by establishing requirements relating to personnel, workplace activities and conditions, and equipment on the Outer Continental Shelf (OCS).

§ 142.4 Duties of lessees, permittees, and persons responsible for actual operations.

(a) Each holder of a lease or permit under the Act shall ensure that all places of employment within the lease area or within the area covered by the permit on the OCS are maintained in compliance with workplace safety and health regulations of this part and, in addition, free from recognized hazards.

(b) Persons responsible for actual operations, including owners, operators, contractors, and subcontractors, shall ensure that those operations subject to their control are conducted in compliance with workplace safety and health regulations of this part and, in addition, free from recognized hazards.

(c) "Recognized hazards", in paragraph (a) and (b) of this section, means conditions which are—

(1) Generally known among persons in the affected industry as causing or likely to cause death or serious physical harm to persons exposed to those conditions; and

(2) Routinely controlled in the affected industry.

§ 142.7 Reports of unsafe working conditions.

(a) Any person may report a possible violation of any regulation in this subchapter or any other hazardous or unsafe working condition on any unit engaged in OCS activities to an Officer in Charge, Marine Inspection.

(b) After reviewing the report and conducting any necessary investigation, the Officer in Charge, Marine Inspection, notifies the owner or operator of any deficiency or hazard and initiates enforcement measures as the circumstances warrant.

(c) The identity of any person making a report under paragraph (a) of this section is not made available, without the permission of the reporting person, to anyone other than those officers and

employees of the Department of Transportation who have a need for the record in the performance of their official duties.

Subpart B—Personal Protective Equipment

§ 142.21 Purpose and applicability.

This subpart prescribes requirements concerning personal protection on OCS facilities.

§ 142.24 Use of equipment.

(a) Each holder of a lease or permit issued under the Act shall ensure that all personnel who are required by this subpart to use or wear personal protective equipment do so when within the lease area or the area covered by the permit

(b) Persons responsible for actual operations shall ensure that all personnel engaged in the operation properly use or wear the personal protective equipment specified by this subpart.

§ 142.27 Eye and face protection.

(a) Personnel engaged in or observing welding, grinding, machining, chipping, handling hazardous materials, or acetylene burning or cutting shall wear the eye and face protector specified for the operation in Figure 8 of ANSI Z87.1.

(b) Eye and face protectors must be maintained in good condition.

(c) Each eye and face protector must be marked with the information required by ANSI Z87.1 for that type of protector.

§ 142.30 Head protection.

(a) Personnel in areas where there is a hazard of falling objects or of contact with electrical conductors shall wear a head protector meeting the specifications of ANSI Z89.1, for the hazard involved.

(b) Each head protector must be marked with the information specified by ANSI Z89.1 for that type of protector and for the hazard involved.

§ 142.33 Foot protection.

(a) Personnel working in areas or engaged in activities in which there is a potential for foot injury shall wear footwear meeting the specifications of ANSI Z41, except when environmental conditions that present a hazard greater than that against which the footwear is designed to protect.

(b) Each pair of footwear must be marked with the information specified by ANSI Z41 for the type of footwear.

§ 142.36 Protective clothing.

Personnel in areas where there are flying particles, molten metal, radiant energy, heavy dust, or hazardous

materials shall wear clothing and gloves providing protection against the hazard involved.

§ 142.39 Respiratory protection.

(a) Personnel in an atmosphere specified under ANSI Z88.2, requiring the use of respiratory protection equipment shall wear the type of respiratory protection equipment specified in ANSI Z88.2 for that atmosphere.

(b) Before personnel enter an atmosphere specified under ANSI Z88.2 requiring the use of respiratory protection equipment, the persons listed in § 142.4 shall ensure that the personnel entering the atmosphere—

(1) Follow the procedures stated in Section 6 of ANSI Z88.2 concerning the proper selection of a respirator and individual fit testing;

(2) Are trained in the matters set forth in Section 7 of ANSI Z88.2 concerning proper use of the equipment to be used; and

(3) Are made aware, in terminology understandable to the personnel entering the atmosphere, of the generally recognized short and long term harmful effects of exposure to the atmosphere involved.

(c) All respiratory protection equipment must be approved, used, and maintained in accordance with ANSI Z88.2.

§ 142.42 Safety belts and lifelines.

(a) Except when moving from one location to another, personnel engaged in an activity where there is a hazard of falling 10 or more feet shall wear a safety belt or harness secured by a lanyard to a lifeline, drop line, or fixed anchorage.

(b) Each safety belt, harness, lanyard, lifeline, and drop line must meet the specifications of ANSI A10.14.

§ 142.45 Personal flotation devices.

Personnel, when working in a location such that, in the event of a fall, they would likely fall into water, shall wear a work vest that meets the requirements of 33 CFR 146.20 or a life preserver that meets the requirements of 46 CFR 160.002, 160.005, or 160.055, except when using the safety belts and lifelines required by § 142.42.

§ 142.48 Eyewash equipment.

Portable or fixed eyewash equipment providing emergency relief must be immediately available near the drill floor and each mudroom.

Subpart C—General Workplace Conditions

§ 142.81 Purpose and applicability.

This subpart prescribes requirements relating to general working conditions on OCS facilities.

§ 142.84 Housekeeping.

All staging, platforms, and other working surfaces and all ramps, stairways, and other walkways must be kept clear of tools, materials, and equipment not in use and be promptly cleared of substances which create a slipping hazard. When engaged in an activity on the drill floor in which the spillage of drilling fluid is inevitable, such as when pulling wet strings of drill pipe. Footwear and flooring designed to substantially reduce slipping may be used instead of keeping the drill floor free of drilling fluid during the activity.

§ 142.87 Guarding of deck openings.

Openings in decks accessible to personnel must be covered, guarded, or otherwise made inaccessible when not in use. The manner of blockage shall prevent a person's foot or body from inadvertently passing through the opening.

§ 142.90 Lockout and tagout.

(a) While repair or other work is being performed on equipment powered by an external source, that equipment must be locked out as required paragraph (b) of this section or, if a lockout provision does not exist on the equipment, must be disconnected from the power source or otherwise deactivated, unless the nature of the work being performed necessitates that the power be connected or the equipment activated.

(b) If the equipment has a lockout or other device designed to prevent unintentional activation of the equipment, the lockout or other device must be engaged while the work is being performed on the equipment, unless the nature of the work being performed necessitates that the equipment be activated.

(c) A tag must be placed at the point where the equipment connects to a power source and at the location of the control panel activating the power, warning—

(1) That equipment is being worked on; and

(2) If the power source is disconnected or the equipment deactivated, that the power source must not be connected or the equipment activated.

(d) The tags must not be removed without the permission of either the person who placed the tags, that

person's immediate supervisor, or their respective reliefs.

J.S. Gracey,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 86-15293 Filed 7-9-86; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF EDUCATION

34 CFR Part 200

Elementary and Secondary Education; Financial Assistance to Local Educational Agencies To Meet Special Educational Needs of Disadvantaged Children

AGENCY: Department of Education.

ACTION: Final regulations; OMB approval of information collection requirements.

SUMMARY: The Secretary of Education amends Part 200 to display and codify the control number assigned by the Office of Management and Budget (OMB) to information collection requirements contained in the regulations. The Department must display and codify the control number to comply with applicable statutory and regulatory requirements. Publication of this control number informs the public that OMB has approved the information collection requirements and that they take effect on the date this document is published in the *Federal Register*.

EFFECTIVE DATE: July 10, 1986.

FOR FURTHER INFORMATION CONTACT: Dr. James Spillane, Director, Division of Program Support, Compensatory Education Programs, U.S. Department of Education, 400 Maryland Avenue SW. (Room 5004, ROB-3), Washington, DC 20202. Telephone: (202) 245-9846.

SUPPLEMENTARY INFORMATION: Final regulations for Part 200 were published on May 19, 1986 at 51 FR 18024, when it was noted that § 200.53 concerning consultation with parents and teachers and § 200.54 concerning schoolwide projects contained information collection requirements under review by OMB. The Secretary promised to publish a notice giving the effective date of §§ 200.53 and 200.54 by amending the regulations to display the control number assigned by OMB.

Display and codification of OMB control numbers is required by OMB under the authority of the Paperwork Reduction Act of 1980. OMB published regulations implementing provisions of the Act concerning collection of information in 5 CFR Part 1320 on March 31, 1983 (48 FR 13666).

Information collection requirements in §§ 200.53 and 200.54 have been

approved by OMB and assigned control number 1810-0527.

It is the practice of the Department of Education to provide an opportunity for public comment on regulations. However, the Secretary has determined that public comment is unnecessary under 5 U.S.C. 553(b)(B) because this amendment is technical in nature and will not have a substantive impact.

List of Subjects in 34 CFR Part 200

Education, Education of disadvantaged, Elementary and secondary education, Grant programs—education, Juvenile delinquency, Neglected, Private schools, Reporting and recordkeeping requirements, State-administered programs.

(Catalog of Federal Domestic Assistance No. 84.010, Educationally Deprived Children—Local Educational Agencies)

Dated: July 7, 1986.

William J. Bennett,
Secretary of Education.

The Secretary amends Part 200 of Title 34 of the Code of Federal Regulations as follows:

PART 200—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES TO MEET SPECIAL EDUCATIONAL NEEDS OF DISADVANTAGED CHILDREN

§§ 200.53 and 200.54 [Amended]

Sections 200.53 and 200.54 are amended by inserting "(Approved by the Office of Management and Budget under control number 1810-0527)" after the citation of authority at the end of each section.

[FR Doc. 86-15552 Filed 7-9-86; 8:45 am]

BILLING CODE 4000-01-M

VETERANS ADMINISTRATION

38 CFR Part 17

Eligibility for Medical Benefits; Evidence of Inability to Defray Necessary Medical Expenses

AGENCY: Veterans Administration.

ACTION: Final Regulation.

SUMMARY: The Veterans Administration (VA) has amended its "Medical Series" regulations to conform with changes to several sections of Title 38, United States Code, enacted with the passage of Title XIX of Pub. L. 99-272, "The Veterans' Health Care Amendments of 1986," significantly affecting veterans eligibility for health care benefits. Pub. L. 99-272 establishes different categories of eligibility for VA care. That law directs the VA to arrange for hospital

care, and authorizes the Agency to furnish nursing home and outpatient care to one category of veterans. These include all service-connected veterans, former prisoners of war, other specially designated groups of veterans, and nonservice-connected veterans with incomes below a threshold established by the law. Other nonservice-connected veterans may be furnished hospital, nursing home, and outpatient care to the extent that resources and facilities are otherwise available. Nonservice-connected veterans with incomes in excess of the higher of the two thresholds specified in the law may obtain VA care, if they agree to pay a copayment. Nonservice-connected veterans with incomes between the lower and higher thresholds specified in the law may be furnished care by the VA without charge.

The law eliminated the previously existing eligibility of veterans 65 and over to receive cost free care regardless of their ability to pay for care.

EFFECTIVE DATE: These regulations are effective July 1, 1986. This date is the effective date specified in the statute.

FOR FURTHER INFORMATION CONTACT: Karen Walters, Chief, Policies and Procedures Division, Medical Administration Service, Department of Medicine and Surgery, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 389-2337.

SUPPLEMENTARY INFORMATION: Comments from six organizations were received concerning the proposed regulatory changes published on pages 17651-17656 of the *Federal Register* of May 14, 1986.

Five comments were received concerning the issue that the Veterans Administration "shall" provide hospital care to the veterans listed in § 17.47(a). The commentators expressed disapproval of language in proposed § 17.47(b) which sets forth with specificity, the nature of VA's obligation to provide hospital care. Several of these commentators stated that "shall" means "shall," and that 38 U.S.C. 610(a)(1) creates an entitlement to care. One of the commentators expressed the view that the congressional authorizing committees which drafted this legislation had differing interpretations of the meaning of the term "shall," and that the Agency should not implement final regulations until the committees resolve this difference.

The VA is clearly required to implement the changes in VA health care eligibility, and to do so in accordance with an effective date set

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federal register

**Thursday
August 7, 1986**

Department of Transportation

Coast Guard

**Workplace Safety and Health
Requirements for Facilities on the
Outer Continental Shelf; Correction**

bridgetender is required to be in constant attendance and the bridge shall open on signal for pleasure craft and commercial vessels if at least a one hour advance notice is given.

(b) From January 1 through March 31, the draw shall open on signal for pleasure craft and commercial vessels if at least a twelve hour advance notice is given.

(c) At all times, the draw shall open as soon as possible for public vessels of the United States, state or local government vessels used for public safety and vessels in distress.

Dated: July 25, 1986.

A.M. Danielsen,
Rear Admiral, U.S. Coast Guard, Commander,
Ninth Coast Guard District.

[FR Doc. 86-17779 Filed 8-6-86; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Parts 140 and 142

(CGD 79-077)

Workplace Safety and Health Requirements for Facilities on the Outer Continental Shelf; Correction

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: An uncorrected draft of the final rule was inadvertently submitted to the Federal Register for publication under FR Doc. 86-15293 beginning on page 25054 in the issue of Thursday, July 10, 1986. The following corrections reflect the approved draft of the final rule:

1. On Page 25054, third column, under Background, second paragraph, line 11, change "Subpart 1" to "Subpart I".

2. On page 25055, second column, section 1(d) is revised to read, "Another respondent prefers the use of his equipment instead of the equipment specified by ANSI A10.14. Existing § 140.15, Equivalents and approved equipment, already provides for the use of nonstandard equipment when it has been shown to provide a comparable or a greater level of safety than that provided by the incorporated standards."

3. On Page 25056, first column, section 7(a) is revised to read, "Several comments suggest that the use of protective footwear be limited to areas where foot injuries might occur. Unfortunately, these injuries are not location specific. The proposed rule has been amended to provide that footwear protection is required where there is a reasonable probability for foot injury."

4. On page 25057, second column, section 12 is revised to read, "One

comment concerns the possibility of contamination of eyewash equipment by requiring it to be located on the drill floor and in the mudroom. This section has been changed to allow eyewash equipment to be placed near, rather than in or on, the location where the hazard exists. The section has also been rewritten to require eyewash equipment in other locations where there is a reasonable probability that eye injuries may occur."

5. On page 25058, first column, section 16(g) is revised to read, "One comment requests that the Coast Guard wait until OSHA issues its lockout/tagout regulations to avoid conflict and confusion. OSHA already has general industry standards in 29 CFR 1910.145 (f) which give examples of wording and placement of tags. The Coast Guard will consider the adoption of OSHA lockout/tagout standards once they have been issued."

6. On page 25058, first column, in line 5 of the Incorporation by Reference section, change "ANSI 10.14-1975" to "ANSI A10.14-1975".

7. On page 25058, third column, line 5, change "\$5,600,000" to "\$5,000,000".

8. On page 25058, third column, line 6, change "\$1,120,000" to "\$1,000,000".

9. On page 25058, third column, line 19, change "\$6,250,000" to "\$5,600,000".

10. On page 25058, third column, line 20, change "\$1,250,000" to "\$1,120,000".

11. On page 25059, second column, paragraph (b) of § 140.7 is correctly revised to read as follows:

§ 140.7 Incorporation by reference.

* * * * *

(b) The materials approved for incorporation by reference in this subchapter are:

American National Standards Institute (ANSI)

1430 Broadway, New York, NY 10018

ANSI A10.14-1975—Requirements for Safety Belts, Harnesses, Lanyards, Lifelines, and Drop Lines for Construction and Industrial Use.

ANSI Z41-1983—American National Standard for Personal Protection-Protective Footwear.

ANSI Z87.1-1979—Practice for Occupational and Educational Eye and Face Protection.

ANSI Z88.2-1980—Practices for Respiratory Protection.

ANSI Z89.1-1981—Safety Requirements for Industrial Head Protection.

International Maritime Organization (IMO)

IMO Sales, New York Nautical Instrument and Service Corp., 140 W. Broadway, New York, NY 10013.

IMO Assembly Resolution A.414 (XI)—Code for Construction and Equipment of Mobile Offshore Drilling Units.

12. On page 25060, first column, paragraph (a) of § 142.33 is correctly revised to read as follows:

§ 142.33 Foot protection.

(a) Personnel working in areas or engaged in activities where there is a reasonable probability for foot injury to occur shall wear footwear meeting the specifications of ANSI Z41, except when environmental conditions exist that present a hazard greater than that against which the footwear is designed to protect.

* * * * *

13. On page 25060, second column, paragraph (b) of § 142.39 is correctly revised to read as follows:

§ 142.39 Respiratory protection.

* * * * *

(b) Before personnel enter an atmosphere specified under ANSI Z88.2 requiring the use of respiratory protection equipment, the persons listed in § 142.4 shall ensure that the personnel entering the atmosphere—

(1) Follow the procedures stated in section 6 of ANSI Z88.2 concerning the proper selection of a respirator and individual fit testing; and

(2) Are trained in the matters set forth in section 7 of ANSI Z88.2 concerning proper use of the equipment to be used and in the generally recognized short and long term harmful effects of exposure to the atmosphere involved.

* * * * *

14. On page 25060, second column, § 142.48 is correctly revised to read as follows:

§ 142.48 Eyewash equipment.

Portable or fixed eyewash equipment providing emergency relief must be immediately available near the drill floor, mudrooms, and other areas where there is a reasonable probability that eye injury may occur.

15. On page 25060, third column, § 142.84 is correctly revised to read as follows:

§ 142.84 Housekeeping.

All staging, platforms, and other working surfaces and all ramps, stairways, and other walkways must be kept clear of portable tools, materials, and equipment not in use and be promptly cleared of substances which create a tripping or slipping hazard. When engaged in an activity on the drill floor in which the spillage of drilling fluid is inevitable, such as when pulling

wet strings of drill pipe, footwear and flooring designed to reduce slipping substantially may be used instead of keeping the drill floor free of drilling fluid during the activity.

§ 142.90 [Corrected]

16. On page 25060, third column, in line 4 of § 142.90(a), change "required paragraph (b)" to "required in paragraph (b)".

Dated: August 4, 1986.

J.W. Kime,
Rear Admiral, U.S. Coast Guard, Chief, Office
of Merchant Marine Safety.

[FR Doc. 86-17776 Filed 8-6-86; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[CGD 7-85-32]

Safety Zone; Tampa Bay, Hillsborough Bay and Approaches

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing regulations governing the movement of vessels carrying anhydrous ammonia within Tampa Bay and Hillsborough Bay, FL and their approaches, and while the vessels are moored at receiving facilities. In view of the hazards associated with vessel transport of anhydrous ammonia through heavily populated areas, the Coast Guard deems it necessary to control the movement of these vessels and establish marine safety zones surrounding these vessels in certain prescribed areas under certain conditions. The purpose of this action is to establish regulations governing vessel movement procedures that were previously implemented on a case by case basis with Captain of the Port Orders. By establishing a permanent rule the Coast Guard will enhance its ability to provide the public with the widest dissemination of the rule.

EFFECTIVE DATE: September 8, 1986.

FOR FURTHER INFORMATION CONTACT:

Lieutenant (j.g.) Harry D. Craig,
Telephone (305) 536-5651.

SUPPLEMENTARY INFORMATION: On November 13, 1985, the Coast Guard published a notice of proposed rulemaking in the *Federal Register* for these regulations (50 FR 46781). Interested persons were requested to submit comments and two comments were received.

Drafting Information

The drafters of these regulations are Lieutenant (j.g.) Harry D. Craig, project

officer, Seventh Coast Guard District Marine Safety Division, and LCDR Kenneth E. Gray, project attorney, Seventh Coast Guard District Legal Office.

Discussion of Comments

The Hillsborough County, FL Fire Department supported the proposed regulations and commented that "an accidental release of a large amount of anhydrous ammonia such as that normally carried aboard a ship, in a populated area presents a serious threat to the well-being of the community. We as a public safety agency are committed to supporting any and all feasible safeguards through which such a mishap may be prevented." The National Oceanic and Atmospheric Administration (NOAA) expressed an interest in using Tampa Bay as a prototype for developing a computer program to model hazardous materials spill trajectories. The model was not complete at the time the Final Rule was drafted, but the results will be made available at a later date. Minor typographical errors were noted in the proposed rule, but did not affect the substance or intent of the regulations.

Economic Assessment and Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. The conditions outlined herein for moving anhydrous ammonia vessels in Tampa Bay have been followed for at least five (5) years and for each of these anhydrous ammonia vessel movements, the Captain of the Port Tampa has exercised his authority on a case by case basis and established a temporary floating safety zone in the form of Captain of the Port Orders. These Orders prescribed conditions for operations similar to those contained in this Rule. Small and large companies are aware of the scheduled anhydrous ammonia transits and adjust their movements accordingly with minimal impact.

Since the impact of these regulations is expected to be minimal the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Vessels, Waterways.

Final Regulations

PART 165—[AMENDED]

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations is amended as follows:

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46; and 33 CFR 1.05-1(g), 6.04-1, 6.04-8 and 160.5.

2. A new § 165.703 is added to read as follows:

§ 165.703 Tampa Bay, Florida—Safety Zone.

(a) A floating safety zone is established consisting of an area 1000 yards fore and aft of a loaded anhydrous ammonia vessel and the width of the channel in the following areas:

(1) For inbound tank vessels loaded with anhydrous ammonia, Tampa Bay Cut "F" Channel from Lighted Buoys "3F" and "4F" north through and including Gadsden Point Cut Lighted Buoy "3" and commencing at Gadsden Point Cut Lighted Buoys "7" and "8" north and including Hillsborough Cut "C" Channel.

(i) For vessels bound for R. E. Knight Pier at Hookers Point the safety zone includes, in addition to the area in paragraph (a)(1) of this section, Hillsborough Cut "D" Channel to the southern tip of Harbor Island.

(ii) For vessels bound for the anhydrous ammonia receiving terminals to Port Sutton the safety zone includes, in addition to the area in paragraph (a)(1) of this section, Port Sutton Channel.

(2) For outbound tank vessels loaded with anhydrous ammonia the safety zone is established when the vessel departs the receiving terminal and continues through the area described in paragraph (a)(1) of this section.

(3) The floating safety zone is disestablished when the anhydrous ammonia carrier is safely moored at the anhydrous ammonia receiving facility.

(b) A safety zone is established which extends 150 feet waterside from an anhydrous ammonia vessel while it is moored at the receiving facilities at R. E. Knight on Hookers Point and W. R. Grace and International Metals and Chemicals at Port Sutton. Any vessels desiring to enter the safety zone must obtain authorization from the Captain of the Port Tampa. Vessels transiting in the vicinity of the safety zone should do so with as slow a speed as conditions permit.

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federal register

**Tuesday
September 8, 1987**

Department of Transportation

Coast Guard

**Identification of the Horizontal
Datum Referenced in the Coast
Guard Regulations; Final Rule**

(OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. The requirements have been approved by OMB under control number 1545-0257. This number has already been incorporated into the table in 26 CFR 602.101(c).

Drafting Information

The principal author of this regulatory amendment is John A. Tolleris of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR 1.6302-1—1.6302-2

Income taxes, Administration and procedure, Tax depositaries.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 is amended as follows:

PART 1—[AMENDED]

Paragraph 1. The authority for Part 1 is amended by removing the citation for § 1.6302-1T, and adding the following citation:

Authority: 26 U.S.C. 7805. * * * Section 1.6302-1 (a) also issued under 26 U.S.C. 8302 (c). * * *

Par 2. The heading and paragraph (a) of § 1.6302-1 are hereby revised to read as follows:

§ 1.6302-1 Use of Government depositaries in connection with corporation income and estimated income taxes and certain taxes of tax-exempt organizations.

(a) *Requirement.* A corporation (and, for taxable years beginning after December 31, 1986, any organization subject to the tax imposed by section 511, and any private foundation subject to the tax imposed by section 4940) shall deposit with an authorized depository of Federal taxes all payments of tax imposed by Chapter 1 of the Code (or treated as so imposed by section 6154 (h)), including any payments of estimated tax, on or before the date otherwise prescribed for paying such tax. This paragraph does not apply to a foreign corporation or entity which has no office or place of business in the United States.

* * * * *

§ 1.6302-1T [Removed]

Par. 3. Section 1.6302-1T is hereby removed.

Lawrence B. Gibbs,
Commissioner of Internal Revenue.

Approved: August 19, 1987.

O. Donaldson Chapoton,
Acting Assistant Secretary of the Treasury.
[FR Doc. 87-20457 Filed 9-4-87; 8:45 am]
BILLING CODE 483-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1625

Exemption from Coverage of Apprenticeship Programs Under the Age Discrimination in Employment Act (ADEA)

AGENCY: Equal Employment Opportunity Commission.

ACTION: Reaffirmation of final rule.

SUMMARY: In June of 1984 the Equal Employment Opportunity Commission voted to undertake a review of the Commission's Interpretative Regulation set forth at 29 CFR 1625.13: Apprenticeship Programs Under the Age Discrimination in Employment Act of 1967, as amended (ADEA). The Commission has determined, after careful reassessment of the statutory language of the ADEA, the Act's legislative history, related statutes and case law, and a thorough examination of the history of apprenticeship programs, that Congress when enacting the ADEA did not intend to subject *bona fide* apprenticeship programs to the prohibitions of the Act. Accordingly, it is the Commission's view that § 1625.13 clearly embodies the intent of Congress and therefore should remain in full force and effect.

EFFECTIVE DATE: July 30, 1987.

FOR FURTHER INFORMATION CONTACT: James E. Cooks, Attorney-Advisor, ADEA Division, Coordination and Guidance Services, Office of Legal Counsel, Equal Employment Opportunity Commission, 2401 E Street NW., Washington, DC 20507, (202) 634-6423.

Signed this 1st Day of September, 1987 at Washington, DC.

For the Commission,
Clarence Thomas,
Chairman, Equal Employment Opportunity Commission.
[FR Doc. 87-20552 Filed 9-4-87; 8:45 am]
BILLING CODE 6570-06-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 3, 67, 80, 100, 110, 147, 150, 161, 162, 165, 166, 167, and 177

[CGD 86-082]

Identification of the Horizontal Datum Referenced In the Coast Guard Regulations

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to inform the public that due to the ability to establish global reference systems that provide more accurate geographic positions (latitude and longitude), the horizontal datums referenced on maps and charts are being revised and during the interim, various horizontal datums may be encountered. The geographic positions listed in the regulations in Title 33, Parts 1-999 are referenced to various horizontal datums such as the North American Datum of 1927, U.S. Standard Datum, Old Hawaiian Datum, Puerto Rican Datum, Local Astronomic Datum, and others; however, the datum is not identified. The National Oceanic and Atmospheric Administration (NOAA) has identified the North American Datum of 1983 (NAD 83) to replace the various horizontal datums currently in use. The rulemaking inserts cautionary reminders that during the conversion there may be discrepancies between the positions described in the existing regulations and the charted positions.

EFFECTIVE DATE: September 8, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Parker, (202) 267-0357.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking has not been published for this regulation; and it is being made effective in less than 30 days. This rulemaking is not changing any of the information contained in the regulations, but is merely providing a means of identifying when the geographic positions are referenced to NAD 83. Therefore, the Coast Guard finds that an opportunity for notice and comment is unnecessary under 5 U.S.C. 553(b)(B). Because of the different datums referenced on the many maps and charts that are produced, and in view of the necessity for individuals to be able to identify the horizontal datum referenced in the published geographic positions, it has been determined that good cause exists under 5 U.S.C. 553(d)(3) to make this rule effective in less than 30 days.

Drafting Information

The principle persons involved in drafting this rulemaking are Mr. Frank Parker, Project Manager, and Lieutenant S.R. Sylvester, Project Attorney, Office of the Chief Counsel.

Discussion of the Regulation

Through the use of satellites and other modern surveying techniques, it is now possible to establish global reference systems which provide more accurate geographic positions. Currently, several datums such as the North American Datum of 1927, U.S. Standard Datum, Old Hawaiian Datum, Puerto Rican Datum, Local Astronomic Datum, and others are in use. The National Oceanic and Atmospheric Administration (NOAA) has identified the North American Datum of 1983 (NAD 83) to replace the various datums used in the past on maps and charts. NOAA has begun converting geographic positions to NAD 83. Over time, all maps and charts will reference NAD 83, except for nautical charts of the Pacific Territory Islands, which will be compiled on World Geodetic Systems 1984 (WGS 84). For the accuracy required for charting purposes, geographic positions referenced to WGS 84 are essentially equivalent to the geographic positions referenced to NAD 83. The entire conversion is expected to be accomplished over a ten-year period.

During the period of conversion, some maps and charts will be referenced to the new NAD 83, while others will still be referenced to the former datums, such as the North American Datum of 1927, U.S. Standard Datum, Old Hawaiian Datum, Puerto Rican Datum, Local Astronomic Datum, and others. Corrections must be made to the geographic positions from the previous referenced datum to NAD 83. As a result of applying these corrections the geographic positions will change; however, the location of objects in relation to surrounding land does not change.

The regulations in Title 33, Parts 3, 67, 80, 100, 110, 147, 150, 161, 162, 165, 166, 167, and 177 are being amended to include a notice that indicates when the datums of the geographic positions in these regulations are referenced to NAD 83.

Evaluation

This final rule is considered to be non-major under Executive Order 12291 and non-significant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this final rule has been found to be so minimal that further evaluation is

unnecessary. This rule is merely adding information to clarify the existing regulations. This final rule will not have a quantifiable cost impact. Since the impact of this final rule is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects**33 CFR Part 3**

Coast Guard areas, Districts, Marine inspection zones, Captain of the Port zones.

33 CFR Part 67

Aids to navigation on artificial islands and fixed structures.

33 CFR Part 80

COLREGS demarcation lines.

33 CFR Part 100

Safety of life on navigable waters.

33 CFR Part 110

Anchorage regulations.

33 CFR Part 147

Safety zones.

33 CFR Part 150

Operations.

33 CFR Part 161

Vessel traffic management.

33 CFR Part 162

Inland waterways navigation regulations.

33 CFR Part 165

Regulated navigation areas and limited access areas.

33 CFR Part 166

Shipping safety fairways.

33 CFR Part 167

Offshore traffic separation schemes.

33 CFR Part 177

Correction of especially hazardous conditions.

For reasons set out in the preamble, Title 33, Chapter 1, Parts 3, 67, 80, 100, 110, 147, 150, 161, 162, 165, 166, 167, and 177 of the Code of Federal Regulations, are amended as set forth below.

PART 3—[AMENDED]

1. The authority citation for Part 3 continues to read as follows:

Authority: 14 U.S.C. 633; 49 CFR 1.45, 1.46.

2. Section 3.01-1(h) is revised and redesignated as paragraph (g) to read as follows:

§ 3.01-1 General description.

(g) Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts whose referenced horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts referenced to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used.

PART 67—[AMENDED]

3. The authority citation for Part 67 is revised to read as follows:

Authority: 14 U.S.C. 85, 633; 43 U.S.C. 1333; 49 CFR 1.46.

All other authority citations are deleted.

4. Section 67.50-1 is revised to read as follows:

§ 67.50-1 Scope.

(a) The regulations in this subpart shall apply to the structures which are located within the boundaries of the Coast Guard districts hereinafter defined.

(b) Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts whose referenced horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts referenced to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used.

PART 80—[AMENDED]

5. The authority citation for Part 80 is revised to read as follows:

Authority: 14 U.S.C. 633; 49 CFR 1.46.

6. Section 80.01(c) is added to read as follows:

§ 80.01 General basis and purpose for demarcation lines.

(c) Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts whose referenced horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on

maps or charts referenced to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used.

PART 100—[AMENDED]

7. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46; 33 CFR 100.35.

8. Section 100.01(b) is added to read as follows:

§ 100.01 Purpose and Intent.

(b) Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts whose referenced horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts referenced to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used.

PART 110—[AMENDED]

9. The authority citation for Part 110 is revised to read as follows:

Authority: 33 U.S.C. 471, 2071; 49 CFR 1.46, 33 CFR 1.05-1(g).

10. Section 110.1(d) is added to read as follows:

§ 110.1 General.

(d) Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts whose reference horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts referenced to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used.

PART 147—[AMENDED]

11. The authority citation for Part 147 is revised to read as follows:

Authority: 14 U.S.C. 85; 33 U.S.C. 2071; 49 CFR 1.46.

12. Section 147.10(d) is added to read as follows:

§ 147.10 Establishment of safety zones.

(d) Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts whose referenced horizontal

datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts reference to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used.

PART 150—[AMENDED]

13. The authority citation for Part 150 is revised to read as follows:

Authority: 33 U.S.C. 1231, 1509; 49 CFR 1.46.

14. Appendix A to Part 150 is amended by adding a new paragraph V to read as follows:

Appendix A—Deepwater Port Safety Zone Boundaries

V. Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts whose referenced horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts referenced to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used.

PART 161—[AMENDED]

15. The authority citation for Part 161 continues to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

16. Section 161.101(d) is added to read as follows:

§ 161.101 Purpose and applicability.

(d) Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts whose reference horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts referenced to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used.

PART 162—[AMENDED]

17. The authority citation for Part 162 is revised to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

18. Section 162.1 is added to read as follows:

§ 162.1 General.

Geographic coordinates expressed in terms of latitude or longitude, or both,

are not intended for plotting on maps or charts whose referenced horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts referenced to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used.

PART 165—[AMENDED]

19. The authority citation for Part 165 is revised to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5, 49 CFR 1.46.

20. Section 165.8 is added to read as follows:

§ 165.8 Geographic coordinates.

Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts whose referenced horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts referenced to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used.

PART 166—[AMENDED]

21. The authority citation for Part 166 is revised to read as follows:

Authority: 33 U.S.C. 1223; 49 CFR 1.46.

22. Section 166.103 is added to read as follows:

§ 166.103 Geographic coordinates.

Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts whose referenced horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts referenced to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used.

PART 167—[AMENDED]

23. The authority citation for Part 167 is revised to read as follows:

Authority: 33 U.S.C. 1223; 49 CFR 1.46.

24. Section 167.3 is added to read as follows:

federal register

Monday
December 14, 1987

Department of Transportation

Coast Guard

**Operating a Vessel While
Intoxicated; Final Rule**

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Parts 95, 146, 150, 173, and 177****46 CFR Parts 4, 5, 26, 35, 78, 97, 109, 167, 185, 196, and 197**

[CGD 84-099]

Operating a Vessel While Intoxicated**AGENCY:** Coast Guard, DOT.**ACTION:** Final rule.

SUMMARY: The Coast Guard is setting standards and establishing rules designed to monitor, control, and reduce alcohol and drug use in both recreational vessel operation and commercial marine operations including operations on the Outer Continental Shelf and at deepwater ports. This final rule sets forth those standards for both recreational and commercial vessels, as well as delineating who is considered to be operating a vessel. In addition, the rule: (1) Prescribes several operating requirements for vessels subject to inspection under Chapter 33 of Title 46, United States Code; (2) provides for personnel licensed, registered, or documented by the Coast Guard to seek rehabilitation prior to being subject to a proceeding to suspend or revoke their license, certificate of registry, or merchant mariners' document for alcohol or drug related incompetence; (3) allows Coast Guard personnel to terminate use of certain vessels when the operator appears to be under the influence of an intoxicant to the extent that further operation of the vessel creates an unsafe condition; and (4) amends the regulations requiring reports of all marine casualties to include specific information on the role of alcohol or drug use in the casualty. The rule also makes miscellaneous amendments to several subparts.

EFFECTIVE DATE: January 13, 1988.**FOR FURTHER INFORMATION CONTACT:**

Mr. Sean T. Connaughton, Office of Marine Safety, Security and Environmental Protection (G-MVP), Phone (202) 267-0214, for information on commercial vessel operating requirements.

Mr. Carlton Perry, Office of Boating, Public, and Consumer Affairs (G-BBS), Phone (202) 267-0979, for information on recreational boating intoxication standards, casualty reporting and the terminations for unsafe use.

LCDR David Wallace, Office of Marine Safety, Security and Environmental Protection (G-MMI), Phone (202) 267-1420, for information on

commercial vessel casualty reporting and the rehabilitation program.

The above persons can be contacted at U.S. Coast Guard Headquarters 2100 Second Street SW., Washington, DC 20593, between 9 a.m. and 4 p.m. Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: The Coast Guard is required by provisions of the Coast Guard Authorization Act of 1984 (Pub. L. 98-557) to establish appropriate standards for determining whether an individual is intoxicated while operating a vessel. This Act amended Title 46 United States Code (U.S.C.) 2302(c) to provide that "An individual who is intoxicated when operating a vessel, as determined under standards prescribed by the Secretary by regulation, shall be—(1) liable to the United States Government for a civil penalty of not more than \$1,000; or (2) fined not more than \$5,000, imprisoned for not more than one year, or both." The Act also amended 46 U.S.C. 6101 and 6102 to require that marine casualty reports include information as to whether the use of alcohol or drugs contributed to the casualty.

On May 23, 1986, the Coast Guard published concurrently an Advance Notice of Proposed Rulemaking (CGD 84-099A; 51 FR 18900) and a Notice of Proposed Rulemaking (CGD 84-099; 51 FR 18902) on Operating a Vessel While Intoxicated. The Advance Notice posed several questions and issues relating to the operation of recreational vessels while intoxicated, while the Notice proposed rules and standards for individuals operating a commercial vessel while intoxicated, most of which would be incorporated into a new Part 95 of Title 33, Code of Federal Regulations. The comment period for both Notices ended on August 21, 1986.

Based on comments received on both projects, a combination Notice and Supplemental Notice of Proposed Rulemaking was published on February 9, 1987 (52 FR 4116). While intended primarily to address issues relating to recreational boating, this notice proposed several revisions to the commercial marine rulemaking. The Notice/Supplemental Notice comment period ended on May 11, 1987.

Now, based on all comments received, the Coast Guard is issuing this final rule containing the standards and rules designed to monitor, control, and reduce alcohol and drug use in both recreational vessel operations and commercial marine operations. This rule also makes miscellaneous amendments correcting statutory references, eliminating duplicate provisions, and

conforming casualty reporting requirements to the codification of Title 46 U.S.C., as proposed in the May 23, 1986 NPRM. This final rule combines the two separate dockets, 84-099 and 84-099A, into one.

Discussion of Comments*33 CFR Part 95—Recreational Vessel Operator Standards*

The Notice of Proposed Rulemaking (NPRM) solicited public comment on establishing Federal standards for intoxication which would provide for a behavioral standard and an alcohol concentration standard conforming to an enacted State standard for blood alcohol concentration (BAC). A total of 32 comments were received. Recreational and commercial organizations and national boating interests, with memberships totaling over a million boaters, submitted six of the total comments received. The National Transportation Safety Board also commented on the NPRM, based on their research into accidents and accident prevention.

The comments came from the following groups in the numbers noted:

- 4 recreational boaters.
- 9 commercial or licensed operators.
- 1 recreational boating association.
- 7 commercial boating interests.
- 1 national boating interest.
- 6 State Boating Law Administrators.
- 3 individual boating interests.
- 1 Federal agency.

Most of the comments did not address all of the proposed rule. A number of comments reiterated earlier suggestions made on the May 23, 1986, ANPRM, or commented anew on commercial aspects of the proposed rule. Although the comments on recreational issues did not clearly favor any specific approach, they overwhelmingly supported the need to take action against intoxicated operators. The following is a section by section summary of the comments received in response to the NPRM.

1. General Comments

All six State Boating Law Administrators and the American Institute of Marine Underwriters supported the proposed regulations and urged rapid issuance of the final rule. Several of the comments commended the Coast Guard for its efforts on this important issue. Conversely, several comments questioned the significance of the number of alcohol or drug related accidents and deaths compared to the number of boats in use and urged the Coast Guard to be a "service" agency instead of a "police" agency.

One comment suggested licensing the operator, since operating a vessel is a privilege, not a civil liberty, and preferred the breath test to blood test due to danger from AIDS, but objected to other aspects of the proposed rulemaking, including: lack of public hearings, danger from enforcement procedures offshore or due to inexperience, criminal penalties too vague, too much police power and potential for abuse, and local enforcement agencies driving expensive high powered "toys" at taxpayers' expense.

Saving lives is a primary Coast Guard mission. The Coast Guard believes that boating accidents and fatalities involving alcohol or drugs will be reduced by publicity and enforcement of these rules. The regulations respond to Congress' direction to set standards by regulation for determining whether an individual is intoxicated. The Coast Guard agrees that the States have the primary responsibility for law enforcement regarding recreational boats. However, the Coast Guard is a law enforcement agency and must be capable of enforcing the regulations required by Congress. Although accidents involving recreational boats are normally investigated by State or local agencies, the Coast Guard will continue to investigate accidents. These standards will be used in enforcement actions arising from those investigations and when intoxicated operators are encountered during a boarding or for other reasons. The Coast Guard plans to develop appropriate training for its boarding officers and directives to implement this rule. The rulemaking does not require any increased enforcement activity by State or local authorities.

The Coast Guard has not received any other request to hold public hearings and there is no indication that the rulemaking would be improved by holding hearings.

2. Purpose

One comment supported implementing the prohibition in 46 U.S.C. 2302 of operating a vessel while *in fact* intoxicated, but cautioned that the implementation methods and intoxication standards must be developed with an understanding of the situations and conditions to which they apply, and with respect to constitutional and other rights of boatmen.

The Coast Guard agrees and has proposed differing standards for recreational and commercial vessels. Our enforcement policies and guidance will be sensitive to the circumstances and rights of boatmen.

3. Applicability

Two comments concurred that the proposed rule should apply to the operation of *all* vessels. One comment suggested this section not use the phrase "and vessels owned in the United States on the high seas" because of problems interpreting "on the high seas" and legality of such enforcement. The comment also suggested deleting the sentence clarifying applicability to foreign vessels as unnecessary information in the section.

The Coast Guard does not foresee problems with interpreting "on the high seas" or enforcing laws with regard to applicable vessels, and has retained the phrase. The phrase is used in 46 U.S.C. 2301, which establishes the applicability of these rules. "High seas" is defined in 33 CFR 2.05. The Coast Guard has also retained the clarification of applicability to foreign vessels for the benefit of mariners on those vessels who may be unsure of their need for compliance or who may follow another country's customs.

4. Definition of Terms Used in This Part

Several comments addressed the definition of "vessel owned in the United States", suggesting clarifying an apparent omission of boats numbered under laws of a State, and adding a definition of "vessel."

No change has been made to the definition of "vessel owned in the United States" as used in § 95.005, since State numbering systems are approved under the provisions of Chapter 123 of Title 46, United States Code. A definition of "vessel" has been added in § 95.010.

5. Operating a Vessel

Two comments suggested that the regulations should clarify that "operating" a recreational vessel means the vessel is "underway", to stay within the authorization of the law.

The statute does not define the term "operate." For many purposes, a commercial vessel is considered to be "operating" while moored to a dock or at anchor. The Coast Guard recognizes that recreational vessels may be used as vacation homes, or even primary residences, and that the activities of persons on board while the vessel is at anchor or moored differ from the activities taking place on commercial vessels. Therefore, the Coast Guard has limited the applicability of the rules to recreational vessels that are underway and included a definition of "underway" in § 95.010.

6. Standard of Intoxication

A number of comments addressed use of behavioral and BAC standards. Two comments opposed each other, suggesting that one standard only be used in support of the other. Two others supported the BAC level (.10%) proposed, but objected to the behavioral standard due to a lack of boarding officer qualifications and training, the possibility that fatigue and exposure to sun and heat can produce symptoms similar to intoxication, and that behavioral standards are easily subverted for harassment purposes. One comment suggested use of portable breath testing equipment as a final determinant or preliminary to requiring the operator to travel to an appropriate place for a BAC test, and urged making some real attempt to find a method, consistent with individual rights, to test for drugs other than alcohol. The NTSB lauded the use of both the subjective behavioral standard and the objective BAC standard, suggesting using an evolving standard of .08 percent offered in the Uniform Vehicle Code (UVC) and Model Traffic Ordinance. The NTSB also suggested defining alcohol concentration in terms of both blood and breath, such as defined in the UVC.

The Coast Guard has retained both BAC and behavioral standards, including their independent usage. Although BAC testing and behavioral observation can be used in combination to support the overall determination of intoxication, it must be stressed that the BAC and behavioral standards are independent of each other. A person may be tested and may not reach the threshold level of BAC, yet be intoxicated under the behavioral standard. Either standard determines intoxication and constitutes a violation of 46 U.S.C. 2302(c). Thus, the standards take into account a person's ability to "mask" intoxication or a person's susceptibility to intoxication.

The behavioral standard is based upon the definition in Section 4-2(14), Code of Virginia. This particular definition has been upheld by both the Virginia courts and Federal courts. A behavioral standard is essential for several reasons: First, in many instances, testing for blood alcohol concentration level may not be available within an acceptable time frame or the person may refuse to consent to a chemical test. Second, intoxication may be caused by drugs, or a combination of drugs and alcohol where the BAC level is not exceeded. In addition, while the blood alcohol levels are statistically sound, there may be

individuals with a susceptibility to alcohol or drug/alcohol combinations such that they are seriously impaired at levels lower than the BAC standard. The behavioral standard may also be used as a measure of what constitutes reasonable cause to test a person for drugs or alcohol.

The Coast Guard agrees with the NTSB on defining alcohol concentration and has adopted the definition used in the UVC. The Coast Guard has retained the .10% BAC level as the common BAC level in State boating laws and has not adopted the .08% BAC level, although this is becoming more common in State highway traffic laws. Should a similar trend develop in State boating laws, the Coast Guard will consider adopting the lower standard.

The Coast Guard plans to develop appropriate training for Coast Guard boarding officers in calibrating and using breath testing equipment. The Coast Guard currently conducts training in this area at the Boating Safety Course for State law enforcement officers. Also, the Coast Guard has awarded a grant to develop a training course in behavioral observation methods. Methods of testing for drugs other than alcohol will be included in the training course, and publicized as they are developed and become available.

7. Adoption of State Standards

Two comments supported the proposed adoption of State standards, one emphasizing applying the standards to all vessels. Another comment was concerned that adopting State BAC level standards meant exclusion of the use of State breath tests and State tests for drugs other than alcohol. The NTSB urged setting a Federal BAC standard at .08 percent and adopting only those State standards which were stricter than the Federal standard.

The Coast Guard has retained these provisions as proposed. This section does not exclude or include State test methods. It adopts State BAC level standards, where enacted, as Federal BAC level standards. The Coast Guard will describe appropriate methods for determining intoxication, including breath tests and tests for drugs other than alcohol, as they are developed and become available. The most common standard of those States setting a BAC standard is .10 percent. The existence of a Federal .10 percent BAC standard, even while adopting State standards that may be less strict, will still encourage States to strengthen their laws.

8. Determination of Intoxication

The NTSB commended the Coast Guard for proposing that refusal to submit to a test is admissible and presumptive of intoxication and urged that the provision be retained. One comment suggested refusal be a rebuttable presumption of intoxication. Another comment suggested refusal be used as evidence in court, but not as a presumption of intoxication.

One comment suggested a two step process for this section: First, using behavioral observation as a reasonable basis to direct a person to submit to toxicological testing; second, using the test results to determine intoxication.

One comment objected to this section for a number of reasons including: problems with using behavioral standards, provisions for anyone making the determination, opportunity for harassment of boaters, and presumption of intoxication for refusal to submit to a test when directed.

One comment suggested defining methods of toxicological testing which will be used, the provisions for training officers to administer tests, and what qualifications they must meet. One comment suggested that the term "in a timely manner" should be defined so as not to place too much discretion in the hands of the boarding officer.

One comment suggested clarifying that this section is applicable to any vessel, including recreational vessels.

The Coast Guard has retained the presumption of intoxication for refusal to take a test when directed to do so by a law enforcement officer. The Coast Guard intends to develop proper training of, and procure proper equipment for, its boarding officers to avoid the potential for misuse of authority and improper determinations. The Coast Guard already conducts training in this area at the Boating Safety Course for State law enforcement officers. Also the Coast Guard has awarded a grant to develop a training course in behavioral observation methods. Training in the calibration and use of breath testing equipment will also be conducted. Methods of testing for drugs other than alcohol will be included, and publicized, as they are developed and become available. The rule simply establishes the standards for determining intoxication. It does not attempt to establish training standards or methods of conducting tests. To do so would impose requirements on State and local law enforcement officers. These factors are properly considered during the hearing process in evaluating the weight to be given to the testimony or evidence presented.

While the behavioral standard may be used as a reasonable basis to test a person for drugs or alcohol, the behavioral standard is also intended to be an independent basis for determining intoxication. The Coast Guard has determined that a behavioral standard independent of a BAC standard is essential. There may be individuals with a susceptibility to alcohol or drug/alcohol combinations such that they are seriously impaired at levels lower than the BAC standards. Whatever the cause, the objective is to remove dangerously impaired operators from vessels to which 46 U.S.C. 2302 applies.

The term "timely manner" is not defined to allow for distance and transportation time considerations. While seven States require chemical testing within 2 to 4 hours of an arrest, the proximity of the test to the observed operation of the vessel is a factor that the hearing officer can consider in evaluating the weight to be given to the results.

Section 95.005 clearly states the applicability of Part 95, including § 95.017 (now issued as §§ 95.030 through 95.040).

33 CFR Part 95—Commercial Vessels

There were 106 comments received on the proposed rules applicable to commercial vessels in response to the May 23, 1986, Notice of Proposed Rulemaking and the February 9, 1987, Supplemental Notice of Proposed Rulemaking. The following categories of comments were received:

23 May 1986 NPRM

| | |
|-----------------------------------|----|
| Mariners..... | 37 |
| Operating Companies..... | 14 |
| Marine Industry Associations..... | 14 |
| Pilot Association..... | 1 |
| Maritime Unions..... | 3 |
| NTSB..... | 1 |
| States and municipalities..... | 6 |
| Law Firm..... | 1 |
| Laboratory..... | 1 |
| Marine Related Firms..... | 4 |
| Training Institutions..... | 3 |
| Government Agencies..... | 3 |
| Total..... | 88 |

9 February 1987 SNPRM

| | |
|-----------------------------------|----|
| Mariners..... | 9 |
| Operating Companies..... | 2 |
| Marine Industry Associations..... | 4 |
| Pilot Association..... | 1 |
| Maritime Union..... | 1 |
| NTSB..... | 1 |
| Total..... | 18 |

Several revisions were made in developing the final rule due to the comments received, all of which are discussed below.

9. Purpose

There was some concern over the possible interference of this rule with more stringent existing employer sponsored programs. While several comments were submitted on this subject, the fundamental issue involved is discussed in Recommendation #59 of the Towing Safety Advisory Committee (TSAC). The recommendation says, in part, "Many barge operators have longstanding corporate policies which prohibit the possession or consumption of alcohol aboard vessels. While TSAC recognizes that the pending Coast Guard rule on commercial vessel intoxication only seeks to establish intoxication standards as required by 46 U.S.C. 2302(c), and does not purport to govern questions of possession or consumption, it is of overriding importance that the regulatory text of this rule clarify that the establishment of an intoxication standard does not implicitly encourage alcohol consumption aboard commercial vessels, rather the opposite."

In response to this concern, the Coast Guard included the following statement in a new paragraph 95.001(b); "Nothing in this part shall be construed as limiting the authority of a vessel's marine employer to limit or prohibit the use or possession of alcohol on board a vessel." "Marine employer" is defined as the owner, managing operator, charterer, agent, master, or person in charge of a commercial vessel. The Coast Guard encourages employers to implement comprehensive programs to prevent the misuse of alcohol on their vessels and it is believed that the final rule will not negate company programs.

10. Applicability

Several comments raised the issue of the applicability and enforcement of these rules to foreign vessels within U.S. waters. One commenter believes this rule to be an "unwarranted interference with the routine commercial operation of merchant vessels." While the Coast Guard understands the concern over the application of these rules to foreign vessels, 46 U.S.C. 2302 clearly applies to the operation of foreign vessels while they are in U.S. waters. Intoxicated foreign seamen are as much a hazard to themselves, their shipmates, their vessel, the environment, and other vessels operating on the navigable waters of the United States, as intoxicated American seamen. Therefore, the application of this rule remains the same.

One commenter specifically requested to know when the rules will apply, particularly whether the rules govern the conduct of crewmembers ashore. The

rules do not apply to a crewmember ashore, even on ships business, however, the operating rules contained in § 95.045 must be complied with. The rules will apply to a crewmember whenever that individual is operating a vessel, which, in most cases, will be whenever the individual is on board the vessel. It is the duty of all crewmembers to respond to emergencies or "call out" while on board. This is expressly recognized by 46 U.S.C. 8104.

11. Definition of Terms

There are several definitions added in the final rule; "alcohol concentration," "chemical test," "law enforcement officer," "marine employer," "recreational vessel," "underway," and "vessel." All these definitions were added to make the final rule easier to understand and to address comments questioning the meaning and application of terms used in the rule.

12. Operating a Vessel

There has been a major revision to this part due to comments received on the perceived inequality of the rule's application. In the SNPRM of February 9, 1987, it was proposed that all members of the crew of a vessel subject to any manning requirement under Part F of Subtitle II of Title 46, United States Code, would be considered to be "operating a vessel" while, for other commercial and recreational vessels, only those persons who have "an essential role" in the operation of the vessel would be subject to the rules. The final rules apply to all members of the crew of any commercial vessel, not only those vessels subject to any manning requirement under Part F. This will guarantee uniformity and simplify compliance with, and enforcement of, the rule. The final rule has been altered throughout to reflect this philosophy. It should be noted that all members of the crew of a fishing vessel will be subject to the rules.

Several comments expressed particular concerns as to whether individuals who do not appear to be directly operating or navigating a vessel, such as stewards, should be considered to be "operating a vessel." It is the position of the Coast Guard that all crewmembers on board a vessel contribute to the function of the vessel or the accomplishment of its mission. In addition to their regularly assigned duties, each crewmember has additional safety related responsibilities, including emergency duties. All of these duties are inherently associated with the vessel's operation and the effects of intoxicants upon an individual's performance of these duties could pose a threat to the

safety of the individual as well as to the vessel, its equipment, passengers, or crew. For these reasons, all crewmembers of a commercial vessel are considered to be "operating a vessel" and, as such, will be limited in their use of intoxicants.

13. Standard of Intoxication

There was overwhelming opposition to having two alcohol concentration levels for commercial vessels, depending on the category of vessel. Several comments questioned the reasoning behind the proposal, especially since commercial vessels of similar size and route would have different standards apply, and more importantly, that different standards may apply to the same vessel during different periods of operation. The final rule has a uniform alcohol concentration standard for all commercial vessels.

The issue of which alcohol concentration standard to use for the commercial marine industry was addressed by almost every comment. Several comments wanted anything over .00 alcohol concentration to be the standard of intoxication, others wanted a universal .10 alcohol concentration, still others wanted .05 or .08. The Coast Guard has decided to make the .04 standard applicable to all commercial vessels. As noted in the NPRM, there are several studies which indicate that impairment due to intoxicants begins around .04, and the Federal Aviation Administration and the Federal Railroad Administration have adopted similar standards. The Coast Guard realizes that this standard may appear low and that the commercial vessel standard will be a more stringent standard than the recreational vessel standard. However, commercial operators normally operate more frequently, and transport passengers or cargo or conduct other operations where the effect of errors can result in significant harm extending beyond the vessel and its personnel. The lower alcohol concentration level is intended to ensure that persons who receive compensation for operating commercial vessels are held to a high standard of conduct.

14. Determination of Intoxication

Comments submitted on both the NPRM and the SNPRM indicate confusion concerning the "determination of intoxication" and the role that non-law enforcement personnel have in making that "determination."

The proposed rule appeared to permit a determination of intoxication to be made, with its accompanying penalties, by a marine employer or law

enforcement officer without giving the individual suspected of intoxication the opportunity to rebut such charges. This was never intended by the Coast Guard. This section would only be utilized in administrative or judicial hearings with full opportunity to contest the charge. The comments criticized using non-law enforcement personnel in making determinations, the legality of such determinations, liability for wrongful determinations of intoxication, and the mechanics involved in actually making a determination. The number and volume of comments indicate general misunderstanding of this section.

In an effort to remove this misunderstanding, the entire section has been rewritten and restructured. None of the concepts of the original section are changed, rather they have been placed in a more understandable form. Section 95.030 now simply states that personal observation of apparent intoxicated behavior or a chemical test are acceptable as evidence of intoxication. This evidence may then be submitted at an administrative or judicial proceeding where the actual determination of intoxication would be made. The rule does not preclude the use of other evidence at a hearing, nor does it mandate the use of the specified evidence.

Section 94.035 outlines who may direct a chemical test, when reasonable cause exists to direct the taking of a chemical test, and some general testing requirements. Since marine employers are most likely to be in a position to recognize the need for testing an employee, the Coast Guard continues to permit those employers to require chemical testing for reasonable cause. The acceptability of a particular test required by a marine employer will be established during an administrative or judicial proceeding.

Section 94.050, states the effect of refusing chemical testing.

It is believed that this revised structure clearly states the process leading to a determination of whether an individual operating a vessel is intoxicated.

Several comments requested that the Coast Guard publish guidelines for making personal observations of intoxication. As stated previously, the Coast Guard is developing training materials on the subject and will distribute them to law enforcement personnel and marine employers.

15. General Operating Rules for Vessels Inspected Under Chapter 33 of Title 46 United States Code

The prohibition against assuming duties within four hours of consuming

alcohol has been retained. Several comments suggested that this paragraph be deleted entirely, while others supported its retention or suggested increasing the hours of abstinence. Although the imposed period of abstinence cannot guarantee the sobriety of an individual, it will limit the ability to assume a watch or duties after drinking, while not entirely prohibiting moderate consumption of alcohol, such as with meals. Violation of this section will not be a violation of 46 U.S.C. 2302(c), but could subject an individual to other administrative actions such as suspension or revocation proceedings against a Coast Guard issued license, certificate, or document.

The issue of whether those crewmembers not actually "operating" a commercial vessel in the traditional sense of the word should be allowed to be intoxicated has been previously discussed. For those reasons, § 95.045 remains unchanged.

The issue of prescription drug use was raised by several comments. After careful consideration, § 95.045 has been revised to read, "A crewmember (including a licensed individual), pilot, or watchstander not a regular member of the crew: * * * (d) May consume a legal non-prescription or prescription drug provided the drug does not cause the individual to be intoxicated." It is realized that any drug may have side effects possibly resulting in intoxication and that a physician may not know how a certain drug will affect a particular individual. The individual taking a drug has the knowledge of its effects, and a supervisor or others can witness the effects. Therefore, the regulation has been revised to put the responsibility for compliance primarily on the individual. While this section specifically applies to inspected vessels, persons operating uninspected vessels must ensure they are not intoxicated due to the use of legal drugs.

The paragraph dealing with crew shortages and reporting requirements has been deleted. Since only an administrative or judicial proceeding can determine if an individual is intoxicated, a marine employer would not have timely knowledge whether or not they had complied with this section. The removal of this section, however, does not diminish the responsibility of the vessel's crew or marine employer to observe crewmembers actions and take appropriate action to prevent intoxicated personnel from operating a vessel.

16. Prohibitions for vessels subject to any manning requirement under Part F of Title 46, United States Code

This section has been entirely deleted since it is redundant.

17. Penalties

The paragraph dealing with penalties for marine employers who permit intoxicated individuals to remain in their employ has been deleted. Since only an administrative or judicial hearing can determine if an individual is intoxicated, a marine employer would be subject to penalty "after the fact" if they unwittingly continued to use personnel that are later proven to have been intoxicated. Instead, § 95.050 has been revised to include a duty to prohibit an intoxicated individual from standing a watch or performing duties, but only when the marine employer has reason to believe the individual is intoxicated.

46 CFR Part 4—Marine Casualties and Investigations

18. Alcohol or Drug Use by Individuals Directly Involved in Marine Casualties

A number of commenters objected to the proposed requirement for the owner, managing operator, charterer, master, or person in charge of a vessel to "determine" when there is any alcohol or drug involvement by persons directly involved in reportable marine casualties. The commenters feel that the determination of alcohol or drug use, or of intoxication, is a function which should be conducted by qualified law enforcement personnel, not by the marine employer. The Coast Guard agrees, and further recognizes that the ultimate responsibility to determine whether an individual used alcohol or drugs, or was intoxicated, most appropriately rests with the person who is authorized to impose sanctions or penalties for such conduct (i.e., a Coast Guard administrative law judge, Coast Guard civil penalty hearing officer, or judge of a Federal District Court). For this reason, this section has been reworded to require the marine employer to determine when there is "evidence" of drug or alcohol use by individuals involved in marine casualties. The proposed requirements concerning documentation of such "evidence", through the submission of Form CG-2692 or through entries in an official log book, have also been reworded accordingly.

Another commenter noted that not all commercial vessels are legally required to carry official log books, and recommended the insertion of the words

"if carried" following the words "official log book" to highlight this distinction. The Coast Guard agrees and the recommended words have been added where appropriate.

46 CFR Part 5—Marine Investigation Regulations—Personnel Action

19. Voluntary Deposits of Licenses, Certificates, or Documents in the Event of Mental or Physical Incompetence

The several comments on this subject were equally split on whether it is or is not appropriate to withhold or reduce remedial action based on an individual's rehabilitation from substance abuse. As indicated in the NPRM of May 23, 1986, the Coast Guard firmly believes that encouraging voluntary rehabilitation efforts of seamen who abuse drugs or alcohol will result in a safer marine industry. At the same time, the Coast Guard continues to take seriously its responsibility under 46 U.S.C. 7704 to revoke a seaman's license, certificate, or document if it is shown at a hearing that the seaman has been convicted of violation of a dangerous drug law, or has been a user of, or addicted to, dangerous drugs. The Coast Guard feels that the provision to allow a seaman to voluntarily deposit his or her license, certificate, or document in lieu of a hearing, and to not return those papers except under specific circumstances, is an appropriate effort to merge these disparate purposes. Accordingly, the provisions will be retained as proposed.

A number of commenters also addressed the different time periods following rehabilitation after which a license or document may be returned to a seaman (i.e., no time limit following alcohol rehabilitation, a minimum of 6 months following drug rehabilitation). Because drug-related activity is illegal, and because of the provisions of 46 U.S.C. 7704, the Coast Guard feels that a more stringent standard must be applied to the drug abuser to demonstrate that he or she is "cured." Accordingly, this provision will be retained as proposed.

Regulatory Evaluation

The Coast Guard has reviewed this final rule under Executive Order 12291 and has determined that it is not a major regulation.

The original proposal was considered a significant regulation under the Department of Transportation guidelines because it was likely to be controversial. The comments received have supported that conclusion. Although the proposal was modified in response to the comments received, some controversy may remain. Accordingly, the final rule remains

classified as a significant regulation. As modified, it is not expected to have a significant economic impact. A regulatory impact analysis is not required; however, a final evaluation has been prepared and has been included in the public docket. A copy of the final evaluation may be obtained from: Commandant (G-CMC/21), (CGD 84-099), U.S. Coast Guard, Washington, DC 20593-0001.

It is expected that this rule will reduce the risk to the lives and safety of the boating public and commercial operators that is caused by intoxicated operation of vessels. The existence of the rule should deter a person from operating a recreational vessel while intoxicated due to publicity that the law is now enforceable. Experience with seat belt laws and usage is a corollary. In 1982, only 11 percent of drivers nationwide used seat belts while 89 percent went unprotected. In 1987, after a publicity campaign directed at motorists and enactment of seatbelt laws in 29 states and the District of Columbia, the use of seat belts had risen to 42 percent nationwide (58 percent unprotected). In other words, the number of people who had previously elected to engage in unsafe behavior decreased 35 percent as a result of Federal and State action. If the Coast Guard regulations and publicity campaign achieved similar results, recreational boating accidents and commercial marine casualties involving alcohol or drugs could be reduced by 35 percent. The benefits to society of such a reduction could be \$46.1 million to \$209.9 million. Experience with educational campaigns addressing intoxicated operation of motor vehicles has also shown reductions in accidents. An extensive education campaign and State BAC laws have reduced the number of intoxicated drivers involved in fatal accidents from 30 percent to 25 percent, a 16.7 percent reduction. A comparable reduction in recreational boating accidents and commercial marine casualties involving alcohol or drugs could yield benefits to society of \$21.9 million to \$100.2 million. Although the exact number of accidents involving alcohol or drugs prevented cannot be accurately predicted, it is expected this rulemaking will reduce the number of casualties and cost to society. By either of the above cost reduction estimates, the benefit/cost ratio is very favorable. Moreover, if this regulation, as an opening wedge, can reduce alcohol related recreational boating accident and commercial marine casualty costs by just 1 percent, its benefits will have exceeded its modest costs. Compliance with these rules will not impose any

cost or burden on persons operating a recreational vessel or commercial vessel except for those operators who regard becoming intoxicated as a privilege. The Coast Guard believes the probable benefits of reasonable limits on drinking far outweigh the burden imposed. It is also hoped that the rule will encourage State legislatures to strengthen their present laws in this area.

Paperwork Reduction Act

The rules in this document revise information collection requirements in 46 CFR Part 4 and 33 CFR Part 173. The Office of Management and Budget (OMB) has approved the information collection currently required. Control number OMB-2115-0003 has been assigned for casualty reports and control number OMB-2115-0010 has been assigned for boating accident reports. Although the report forms are being changed to reflect specific alcohol or drug involvement in casualties, this is considered merely a clarification of existing reporting requirements and a minor change to the reporting burden.

This rule will not require any major expenditures by the maritime industry, consumers, Federal, State, or local governments. Additionally, the Coast Guard has reviewed this rule under the Regulatory Flexibility Act (Pub. L. 98-354) and certifies that this rule will not have a significant impact on a substantial number of small entities.

List of Subjects

33 CFR Part 95

Marine safety, Vessels, Alcohol and alcoholic beverages, Drugs.

33 CFR Part 146

Continental Shelf, Marine safety, Occupational safety and health, Reporting and recordkeeping, Alcohol and alcoholic beverages, Drugs.

33 CFR Part 150

Deepwater ports, Marine safety, Reporting and recordkeeping, Alcohol and alcoholic beverages, Drugs.

33 CFR Part 173

Marine safety, Reporting and recordkeeping, Alcohol and alcoholic beverages, Drugs.

33 CFR Part 177

Marine safety, Recreational vessels, Unsafe conditions, Alcohol and alcoholic beverages, Drugs.

46 CFR Part 4

Administrative practice and procedures, Investigations, Accidents, Marine safety, National Transportation

Safety Board, Reporting requirements, Alcohol and alcoholic beverages, Drugs.

46 CFR Part 5

Administrative practice and procedures, Investigations, Administrative law judge, Investigating officer, Seaman, License, Certificate, Document, Rehabilitation, Administrative hearings, Suspension and revocation, Alcohol and alcoholic beverages, Drugs.

46 CFR Part 26

Marine safety, Penalties, Reporting requirements, Vessels, Navigation (water), Passenger vessels, Fishing vessels, Alcohol and alcoholic beverages, Drugs.

46 CFR Part 35

Cargo vessels, Marine safety, Seaman, Occupational safety and health, Reporting and recordkeeping requirements.

46 CFR Part 78

Marine safety, Passenger vessels, Penalties, Reporting requirements, Navigation (water), Alcohol and alcoholic beverages, Drugs.

46 CFR Part 97

Cargo vessels, Marine safety, Reporting requirements, Navigation (water), Penalties, Alcohol and alcoholic beverages, Drugs.

46 CFR Part 109

Continental Shelf, Oil and gas exploration, Marine safety, Marine resources, Reporting requirements, Vessels, Alcohol and alcoholic beverages, Drugs.

46 CFR Part 167

Fire prevention, Reporting requirements, Marine safety, Alcohol and alcoholic beverages, Drugs.

46 CFR Part 185

Marine safety, Passenger vessel, Reporting requirements, Navigation (water), Alcohol and alcoholic beverages, Drugs.

46 CFR Part 196

Marine safety, Oceanographic vessel, Reporting requirements, Navigation (water), Penalties, Alcohol and alcoholic beverages, Drugs.

46 CFR Part 197

Diving, Marine safety, Occupational safety and health, Vessels, Alcohol and alcoholic beverages, Drugs.

Final Rule

In consideration of the foregoing, the Coast Guard amends Chapter 1 of Title

33, Code of Federal Regulations and Chapter 1 of Title 46, Code of Federal Regulations as set forth below:

TITLE 33—[AMENDED]

1. A new Subchapter F—Vessel Operating Regulations is added to read as follows:

SUBCHAPTER F—VESSEL OPERATING REGULATIONS

PART 95—OPERATING A VESSEL WHILE INTOXICATED

| Sec. | Purpose. |
|--------|---|
| 95.001 | Purpose. |
| 95.005 | Applicability. |
| 95.010 | Definition of terms as used in this part. |
| 95.015 | Operating a vessel. |
| 95.020 | Standard of intoxication. |
| 95.025 | Adoption of State standards. |
| 95.030 | Evidence of intoxication. |
| 95.035 | Reasonable cause for directing a chemical test. |
| 95.040 | Refusal to submit to testing. |
| 95.045 | General operating rules for vessels inspected, or subject to inspection, under Chapter 33 of Title 46 United States Code. |
| 95.050 | Responsibility for compliance. |
| 95.055 | Penalties. |

Authority: 46 U.S.C. 2302, 3306, and 7701; 49 CFR 1.46.

§ 95.001 Purpose.

(a) The purpose of this part is to establish intoxication standards under 46 U.S.C. 2302 and to prescribe restrictions and responsibilities for personnel on vessels inspected, or subject to inspection, under Chapter 33 of Title 46 United States Code. This part does not pre-empt enforcement by a State of its applicable laws and regulations concerning operating a recreational vessel while intoxicated.

(b) Nothing in this part shall be construed as limiting the authority of a vessel's marine employer to limit or prohibit the use or possession of alcohol on board a vessel.

§ 95.005 Applicability.

(a) This part is applicable to a vessel (except those excluded by 46 U.S.C. 2109) operated on waters subject to the jurisdiction of the United States, and to a vessel owned in the United States on the high seas. This includes a foreign vessel operated on waters subject to jurisdiction of the United States.

(b) This part is also applicable at all times to vessels inspected, or subject to inspection, under Chapter 33 of Title 46 United States Code.

§ 95.010 Definition of terms as used in this part.

"Alcohol" means any form or derivative of ethyl alcohol (ethanol).

"Alcohol concentration" means either grams of alcohol per 100 milliliters of blood, or grams of alcohol per 210 liters of breath.

"Chemical test" means a test which analyzes an individual's breath, blood, urine, saliva and/or other bodily fluids or tissues for evidence of drug or alcohol use.

"Controlled substance" has the same meaning assigned by 21 U.S.C. 802 and includes all substances listed on Schedules I through V as they may be revised from time to time (21 CFR 1308).

"Drug" means any substance (other than alcohol) that has known mind or function-altering effects on a person, specifically including any psychoactive substance, and including, but not limited to, controlled substances.

"Intoxicant" means any form of alcohol, drug or combination thereof.

"Law enforcement officer" means a Coast Guard commissioned, warrant, or petty officer; or any other law enforcement officer authorized to obtain a chemical test under Federal, State, or local law.

"Marine employer" means the owner, managing operator, charterer, agent, master, or person in charge of a vessel other than a recreational vessel.

"Recreational vessel" means a vessel meeting the definition in 46 U.S.C. 2101(25) that is then being used only for pleasure.

"Underway" means that a vessel is not at anchor, or made fast to the shore, or aground.

"Vessel" includes every description of watercraft of other artificial contrivance used, or capable of being used, as a means of transportation on water.

"Vessel owned in the United States" means any vessel documented or numbered under the laws of the United States; and, any vessel owned by a citizen of the United States that is not documented or numbered by any nation.

§ 95.015 Operating a vessel.

For purposes of this part, an individual is considered to be operating a vessel when:

(a) The individual has an essential role in the operation of a recreational vessel underway, including but not limited to navigation of the vessel or control of the vessel's propulsion system.

(b) The individual is a crewmember (including a licensed individual), pilot, or watchstander not a regular member of the crew, of a vessel other than a recreational vessel.

§ 95.020 Standard of intoxication.

An individual is intoxicated when:

(a) The individual is operating a recreational vessel and has an alcohol concentration of .10 percent by weight or more in their blood;

(b) The individual is operating a vessel other than a recreational vessel and has an alcohol concentration of .04 percent by weight or more in their blood; or,

(c) The individual is operating any vessel and the effect of the intoxicant(s) consumed by the individual on the person's manner, disposition, speech, muscular movement, general appearance or behavior is apparent by observation.

§ 95.025 Adoption of State standards.

(a) This section applies to recreational vessels on waters within the geographical boundaries of a State having a statute defining a percentage of alcohol in the blood for the purposes of establishing that a person operating a vessel is intoxicated or impaired due to alcohol.

(b) If the applicable State statute establishing a standard for determining impairment due to alcohol uses the terms "under the influence," "operating while impaired," or equivalent terminology and does not separately define a percentage of alcohol in the blood for the purpose of establishing "intoxication," the standard containing the highest defined percentage of alcohol in the blood applies in lieu of the standard in § 95.020(a). If the applicable State statute contains a standard specifically applicable to establishing intoxication, in addition to standards applicable to other degrees of impairment, the standard specifically applicable to establishing intoxication applies in lieu of the standard in § 95.020(a).

(c) For the purposes of this part, a standard established by State statute and adopted under this section is applicable to the operation of any recreational vessel on waters within the geographical boundaries of the State.

§ 95.030 Evidence of intoxication.

Acceptable evidence of intoxication includes, but is not limited to:

(a) Personal observation of an individual's manner, disposition, speech, muscular movement, general appearance, or behavior; and,

(b) A chemical test.

§ 95.035 Reasonable cause for directing a chemical test.

(a) Only a law enforcement officer or a marine employer may direct an individual operating a vessel to undergo a chemical test when reasonable cause exists. Reasonable cause exists when:

(1) The individual was directly involved in the occurrence of a marine casualty as defined in Chapter 61 of Title 46, United States Code, or

(2) The individual is suspected of being in violation of the standards in §§ 95.020 or 95.025.

(b) When an individual is directed to undergo a chemical test, the individual to be tested must be informed of that fact and directed to undergo a test as soon as is practicable.

(c) When practicable, a marine employer should base a determination of the existence of reasonable cause, under paragraph (a)(2) of this section, on observation by two persons.

§ 95.040 Refusal to submit to testing.

(a) If an individual refuses to submit to or cooperate in the administration of a timely chemical test when directed by a law enforcement officer based on reasonable cause, evidence of the refusal is admissible in evidence in any administrative proceeding and the individual will be presumed to be intoxicated.

(b) If an individual refuses to submit to or cooperate in the administration of a timely chemical test when directed by the marine employer based on reasonable cause, evidence of the refusal is admissible in evidence in any administrative proceeding.

§ 95.045 General operating rules for vessels inspected, or subject to inspection, under Chapter 33 of Title 46 United States Code.

While on board a vessel inspected, or subject to inspection, under Chapter 33 of Title 46 United States Code, a crewmember (including a licensed individual), pilot, or watchstander not a regular member of the crew:

(a) Shall not perform or attempt to perform any scheduled duties within four hours of consuming any alcohol;

(b) Shall not be intoxicated at any time;

(c) Shall not consume any intoxicant while on watch or duty; and

(d) May consume a legal non-prescription or prescription drug provided the drug does not cause the individual to be intoxicated.

§ 95.050 Responsibility for compliance.

(a) The marine employer shall exercise due diligence to assure compliance with the applicable provisions of this part.

(b) If the marine employer has reason to believe that an individual is intoxicated, the marine employer shall not allow that individual to stand watch or perform other duties.

§ 95.055 Penalties.

An individual who is intoxicated when operating a vessel in violation of 46 U.S.C. 2302(c), shall be:

(a) Liable to the United States Government for a civil penalty of not more than \$1,000; or,

(b) Fined not more than \$5,000, imprisoned for not more than one year, or both.

PART 146—[AMENDED]

2. The authority citation for Part 146 continues to read as follows:

Authority: 43 U.S.C 1333(d)(1), 1347, 1348; 49 CFR 1.46(z).

3. Section 146.35 is amended by adding a new paragraph (a)(7) to read as follows:

§ 146.35 Written report of casualty.

(a) * * *

(7) Includes information relating to alcohol or drug involvement as specified in the vessel casualty reporting requirements of 46 CFR 4.05-12.

* * * * *

PART 150—[AMENDED]

4. The authority citation for Part 150 continues to read as follows:

Authority: 33 U.S.C. 1231, 1509(a)(b); 49 CFR 1.46.

5. Section 150.711 is amended by adding a new paragraph (b)(9) to read as follows:

§ 150.711 Casualty or accident.

* * * * *

(b) * * *

(9) The vessel casualty reporting requirements relating to alcohol or drug involvement as specified in the vessel casualty reporting requirements of 46 CFR 4.05-12.

* * * * *

PART 173—[AMENDED]

6. The authority citation for Part 173 is revised to read as follows and all other authority citations within this part are removed:

Authority: 46 U.S.C. 6101 and 12121; 49 CFR 1.46(n)(1).

§ 173.51 Applicability.

7. In § 173.51 paragraph (b) is revised to read as follows:

* * * * *

(b) This subpart does not apply to a vessel subject to inspection under Title 46 U.S.C. Chapter 33.

8. In § 173.57 paragraph (v) is revised to read as follows:

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federal register

**Thursday
May 26, 1988**

Department of Transportation

Coast Guard

**Self-Inspection of Fixed OCS
Facilities; Final Rule**

Dated: May 12, 1988.

A.E. Henn,
*Captain, U.S. Coast Guard, Acting
 Commander, 8th Coast Guard District.*
 [FR Doc. 88-11869 Filed 5-25-88; 8:45 am]
 BILLING CODE 4910-14-M

33 CFR Part 100

[CGD1 88-026]

Special Local Regulations; Freeport Grand Prix, Long Beach, NY

AGENCY: Coast Guard; DOT.
ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the Freeport Grand Prix high performance powerboat race being sponsored by South Bay Performance Association. The regulations will be in effect on June 11, 1988 and will place operating restrictions on watercraft operating on the Atlantic coastal waters south of Long Beach, Long Island, New York.

EFFECTIVE DATE: These regulations are effective from 11:00 am to 3:00 pm on June 11, 1988.

FOR FURTHER INFORMATION CONTACT: Lieutenant Luke Brown, (617) 223-8311.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. Negotiations between the Coast Guard and the sponsor created a delay and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date. The regulations will be published in the First Coast Guard District Local Notice to Mariners.

Drafting Information

The drafters of these regulations are LT L. Brown, project officer, First Coast Guard District Boating Affairs Branch and CDR M. A. Leone, project attorney, First Coast Guard District Legal Office.

Discussion of Regulations

The Freeport Grand Prix is a high performance, Indy 500 type, powerboat race around an eight (8) mile rectangular course situated approximately one and one quarter (1 1/4) miles south of Long Beach, Long Island, New York. There will be up to 50 vessels participating. The sponsoring organization will provide eight to 12 patrol boats along with turning and finishing mark boats. The purpose of this regulation is to close

a portion of the Atlantic coastal waters south of Long Beach, Long Island, New York to all traffic except law enforcement vessels; regatta participants; and official regatta patrol vessels. No vessels other than race participants and patrol craft will be allowed to enter the regulated area which is described below. The regulated area and immediately adjacent waters will be patrolled by several Coast Guard and Coast Guard Auxiliary vessels which will be assisted by local law enforcement authorities and the sponsor provided patrol boats.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water)
 Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

PART 100—[AMENDED]

1. The authority citation continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary § 100.35-01-26 is added to read as follows:

§ 100.35-01-26 Freeport Grand Prix, Long Beach, New York.

(a) *Regulated Area.* The regulated area is a trapezoidal area on the coastal Atlantic waters of Long Island to the south of Long Beach, New York. The racing area is one and one quarter (1 1/4) miles south of Long Beach and three and one quarter (3 1/4) miles north of the northern boundary of Ambrose Channel. The regulated area will be specifically bounded as follows:

(1) Northeast Corner: approximately one and one quarter (1 1/4) miles southwest of Jones Inlet breakwater at coordinates 40-33-42 North; 073-35-42 West

(2) Southeast Corner: southwest of Jones Inlet Approach Buoy (R "2"; Light List Number 685) at coordinates 40-31-45 North; 073-36-19 West

(3) Southwest Corner: east of East Rockaway Approach Buoy (R "4"; Light List Number 690) at coordinates 40-31-31 North; 073-42-21 West

(4) Northwest Corner: 40-33-30 North; 073-40-57 West

(b) *Special Local Regulations.* Vessels not participating in, or operating as a safety/rescue patrol shall:

(1) Not operate within the regulated area

(2) Immediately follow any specific instructions given by Coast Guard patrol craft.

(3) Exercise extreme caution when operating near the regulated area.

(c) *Effective Dates.* These regulations become effective at 11:00 am on June 11, 1988 and terminate at 3:00 pm on June 11, 1988.

Dated: May 17, 1988.

R.L. Johanson,
*Rear Admiral, U.S. Coast Guard, Commander,
 First Coast Guard District.*
 [FR Doc. 88-11871 Filed 5-25-88; 8:45 am]
 BILLING CODE 4910-14-M

33 CFR Parts 140 and 143

[CGD 84-098a]

Self-Inspection of Fixed OCS Facilities

AGENCY: Coast Guard, DOT.
ACTION: Final rule.

SUMMARY: The Coast Guard is amending the regulations concerning the inspection of fixed facilities on the Outer Continental Shelf (OCS) to require the owner or operator to conduct the annual scheduled inspection rather than the Coast Guard. The owner or operator is required to report the results of that inspection to the Coast Guard. This amendment is necessary in order to provide for statutorily mandated inspection of all fixed OCS facilities. This program will improve safety by providing at least one inspection annually of all fixed OCS facilities and by allowing the Coast Guard to focus the efforts of its available marine inspectors on inspections of manned fixed facilities, particularly those which have a poor safety record. The Coast Guard will perform additional inspections of other fixed OCS facilities sufficient to provide oversight of the self-inspection program.

EFFECTIVE DATE: June 27, 1988.

FOR FURTHER INFORMATION CONTACT: LCDR Anthony Dupree, Jr., Merchant Vessel Inspection and Documentation Division, Office of Marine Safety, Security and Environmental Protection, (202) 267-2307.

SUPPLEMENTARY INFORMATION: On March 7, 1985, the Coast Guard published an Advanced Notice of Proposed Rulemaking (ANPRM) (50 FR 9290) entitled "Revision of the Regulations on Outer Continental Shelf Activities". One of several subjects discussed in the ANPRM concerned inspection of fixed OCS facilities. On July 7, 1987, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) (52 FR 25392) entitled "Self-Inspection of Fixed OCS Facilities" (CGD 84-098a). That NPRM proposed regulations that

would require the owner or operator of fixed OCS facilities to conduct annual inspections of their facilities and report the results of those inspections to the Coast Guard. The comment period for the NPRM closed on August 27, 1987. Fifteen comment letters were received. A public hearing was not requested and was not held.

Drafting Information

The principal persons involved in drafting this Final Rule were LCDR Anthony Dupree, Jr., Project Manager, and Mr. Stephen H. Barber, Project Counsel, Office of Chief Counsel.

Background and Objectives

The principal objective of this Final Rule is to produce an overall improvement in safety. The Coast Guard, by allowing industry to perform the mandated annual inspections, will be able to focus its resources on those fixed OCS facilities that are manned, have a poor safety record, or are the subject of worker complaints. Further, the Coast Guard will be conducting oversight inspections (spot-checks) of randomly selected manned and unmanned facilities. The number of facilities inspected by the Coast Guard and the number of Coast Guard inspections per facility will be adjusted from year to year to assure that safety is not jeopardized and that the effectiveness of the self-inspection program is not compromised.

Additionally, inspection reports and casualty reports will be reviewed for inconsistencies and analyzed by the Coast Guard. This will allow the Coast Guard to better evaluate the safety performance of individual operators and will provide a mechanism whereby industry trends may be identified or predicted.

Discussion of Comments and Changes to the Regulations

A total of fifteen letters were received on the NPRM. Fourteen letters generally supported the proposed regulations and one opposed them. The comments and the resulting changes are discussed below.

1. One comment letter stated that self-inspections tend to be self serving and lack objectivity and that only fully qualified Coast Guard approved inspectors who are independent of the facility's owners and operators should be allowed to conduct the inspections. Such a program was considered by the Coast Guard but was rejected because the resources required to develop and administer an approval program would reduce the Coast Guard's ability to focus its attention on specific problem

areas. The use of Coast Guard approved inspectors would not reduce the need for Coast Guard oversight inspections. Furthermore, limiting inspectors to those who are independent of the owner/operator would unnecessarily increase costs to owners/operators who prefer to use their own qualified employees.

2. One comment suggested that the self-inspection concept be extended to offshore supply vessels (OSVs) and another suggested that it be extended to mobile offshore drilling units (MODUs). The MODU inspection requirements (Subchapter I-A of 46 CFR Chapter I) and the OSV inspection requirements (Subchapter I of 46 CFR Chapter I) are based on statutes which generally would not permit the regulatory extension of self-inspection to these vessels.

3. One comment stated that "new facility" as used in §§ 140.101 and 140.103 should be defined. The Coast Guard agrees with this suggestion and has modified §§ 140.101 and 140.103 accordingly.

4. One comment questioned whether an unannounced inspection by the Coast Guard would restart the 12 month cycle prescribed in § 140.103(a). Under § 140.103(b), only the initial Coast Guard inspection of a new facility can be counted as a required annual inspection.

5. One comment suggested that § 140.103(a) be changed to permit one inspection per calendar year with the time between inspections not to exceed 18 months. The Coast Guard interprets 43 U.S.C. 1348 as requiring one scheduled on site inspection every 12 months. Therefore, this section remains unchanged in the Final Rule.

6. One comment stated that § 140.103(c) is not clear as to whether inspections by a third party contractor employed by the owner or operator are permitted. Section 140.103(c) has been reworded to avoid implications that the inspection must be performed only by employees of the owner or operator.

7. Four comments stated that the 10 day requirement in the proposed § 140.103(c) for submitting the Form CG-5432 would not allow sufficient time for the form to clear company channels. Therefore, "10 days" has been changed to "30 days."

8. Two comments suggested that Form CG-5432 be retained by the company rather than forwarded to the Coast Guard, as required in § 140.103(c). The Coast Guard needs the information contained on the forms in order to evaluate the effectiveness of the program and to verify compliance with 33 CFR Part 140. The inspection forms along with casualty reports, will be used to better evaluate the safety

performance of individual operators. Therefore, this suggestion was not adopted.

9. Five comments suggested that § 140.103(d) be revised to allow facility owners/operators, rather than the Officer in Charge, Marine Inspection, (OCMI), to develop the annual inspection schedule for their existing facilities. The comments stated that this will allow the owner to carry out the inspections in a more effective and cost efficient manner. The Coast Guard agrees and has revised the paragraph to allow owners/operators to develop their own inspection schedules. However, because the OCMI is now excluded from the process, a provision has been added to require owners/operators to submit a list of the proposed inspection dates for each of their facilities to the OCMI. This information is needed to assist the Coast Guard in timing unannounced inspections and in allocating resources to process inspection forms.

10. Two comments objected to § 140.105(a) which requires the mutilation of defective or unrepairable lifesaving or firefighting equipment. The comments stated that company or third party inspectors may not have the expertise to determine if the equipment is repairable and that, in some cases, mutilation may be difficult and hazardous. The old regulations required that defective or unrepairable lifesaving and firefighting equipment be destroyed or rendered unusable in the presence of the inspector making the determination. The Coast Guard continues to believe that this is necessary in order to prevent the inadvertent or intentional use of defective lifesaving or firefighting equipment by subsequent users, whether on or off the facility. Therefore, the requirement remains unchanged in the final rule. To assist inspectors in determining the acceptability of firefighting and lifesaving equipment, the Coast Guard publishes a series of circulars which are identified in paragraph five of "Discussion of Comments and Changes to Form CG-5432" in this preamble.

11. Five comments suggested that the regulations provide definite timeframes for correction of the deficiencies under § 140.105. One of the comments also suggested that, in order to reduce the flow of paperwork and to provide a more efficient method of establishing timeframes for correction of deficiencies, § 140.105(c) be revised to permit the owner or operator to specify on Form CG-5432 when the outstanding deficiencies are to be corrected, subject to approval by the Coast Guard. The Coast Guard believes that it is not

necessary to provide a timeframe for the correction of deficiencies in the regulations. With the expansion of the reporting period to 30 days, the vast majority of Forms CG-5432 will be submitted with no outstanding deficiencies. The owners/operators should be able to correct most deficiencies found during the inspections within the 30 day period allowed for submission of the report to the OCMI. In some instances, an acceptable time for correction of the deficiency may be less than the time it takes for the Coast Guard to process the proposed deficiency correction letter to the owner or operator. Therefore, the Final Rule now requires the owners or operators, in instances where lifesaving or firefighting equipment deficiencies cannot be corrected within the 30 day reporting period, to contact the OCMI for a determination of an appropriate timeframe for repair and to indicate the same on Form CG-5432. This contact must be made prior to submitting Form CG-5432 and in time to comply with the 30 day inspection reporting requirement contained in § 140.103(c).

Discussion of Comments and Changes to Form CG-5432

The Fixed OCS Facility Inspection Report, Form CG-5432, as published in the NPRM, has not been changed. Certain minor changes to the instructions printed with the form were made in response to comments requesting further clarification. A copy of the form with instructions will be available from OCMI's. Comments and changes are discussed below.

1. One comment stated that it could be cumbersome to identify all partners who are owners of a lease on Form CG-5432. The comment suggested that only the operating partner be required to be identified on the form. The Coast Guard agrees that in some instances the list of owners could be quite lengthy. Therefore, the instructions for the form have been changed to permit the listing of either the owners or the operating partner.

2. Two comments questioned the need to include the number of fire extinguishers in item seven of Form CG-5432 and suggested that the instructions for item seven be clarified with respect to the type of information necessary. In order to ascertain whether the amount of equipment is in compliance with the regulations, the Coast Guard needs to know the number of extinguishers on board the facility. The instructions for item seven have been revised to clarify what information is needed about the facility's portable, semi-portable, and fixed firefighting equipment.

3. One comment stated that the total number of life preservers, workvests, and ringbuoys called for on Form CG-5432 is immaterial and suggested that only the minimum number required should be reported. Under 33 CFR 146.15, all emergency equipment on a facility is required to be maintained in good condition at all times. The Coast Guard believes that an inspection of all the lifesaving equipment on board the facility is an important part of ensuring compliance with this requirement. The total number of life preservers, workvests, and ring buoys on board the facility must be included on the form in order for the Coast Guard to determine what equipment is on the facility and whether the emergency equipment complies with 33 CFR 146.15. Therefore, this suggestion was not adopted.

4. Two comments suggested that Form CG-5432 be altered to provide for the name, title, and phone number of the individual performing the inspection. For the purposes of Coast Guard recordkeeping, the identity of the individual making the inspection is not necessary and will not be required to be included on the form. However, owners or operators may enter the identity of the inspector under the comment section of the form if they so desire.

5. Two comments suggested that the Coast Guard should develop a short inspection guideline booklet to include the pertinent provisions of Parts 141, 142, 143, 144, and 146. One of the comments stated that it is not reasonable to expect the inspector to have these references available. One comment stated that Form CG-5432 is not sufficiently detailed to serve as either a guide or a checklist for the actual inspection. The Coast Guard does not believe it is necessary to provide a separate guideline booklet for the inspection of fixed OCS facilities. Parts 141 through 146 are all contained in the same volume of the Code of Federal Regulations which is readily available from the Government Printing Office (GPO) for a small cost. All the items required to be checked for a Coast Guard inspection are referenced on Form CG-5432. Inspection guidance in the form of Navigation and Vessel Inspection Circulars (NVCs) on the inspection of lifesaving equipment (NVC 2-63, 5-77, 1-80, 4-80, 9-80, 4-85, 3-86) and firefighting equipment (NCV 6-70, 7-70, 8-73, 13-86) are readily available from the Coast Guard's Marine Safety Center, 2100 Second Street SW., Washington, DC 20593-0001 for a small cost. For the other items referenced on Form CG-5432, the cited regulations contain sufficient information for

carrying out the inspection. Therefore, this suggestion was not adopted.

Regulatory Evaluation

This final rule is considered to be non-major under Executive Order 12291 and significant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). A final regulatory evaluation has been prepared and placed in the rulemaking docket. It may be inspected or copied at the Office of the Marine Safety Council, Room 2110, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC, (202) 267-2307, from 8 a.m. to 3 p.m. Copies may also be obtained by contacting that office. The economic impact of the final rule will be minimal for many fixed OCS facilities because virtually all owners and operators already conduct some degree of self-inspection on their facilities. However, some owners and operators lack in-house expertise to properly conduct a self-inspection and will have to contract with a third party to conduct all or part of the self-inspection program. We estimate that the self-inspection program will cost the industry an additional \$196,000 annually for personnel.

The primary means of transportation is expected to be by helicopter, although available vessels may be used for transportation to unmanned facilities in close proximity to other facilities equipped with helicopter decks. Transportation to and from facilities for inspections is expected to be provided by existing transportation 70% of the time. Transportation for the remaining 30% of the inspections is expected to be provided by dedicated helicopters resulting in an additional annual transportation cost of approximately \$295,000.

It will take an annual expenditure of approximately 980 man-days to conduct the inspections of 3,074 facilities and thereby collect the information necessary to complete Form CG-5432. Additionally, we estimate that it would take between 15 and 30 minutes to complete Form CG-5432. The total information collection burden is estimated to be 9,400 man-hours. The dollar cost to collect the information is included in the estimated inspection costs. The maximum additional cost to complete the form is estimated to be \$39,000 annually.

The total annual economic burden of the self-inspection program is estimated to be the total of additional transportation costs, additional personnel costs, and costs to complete the Form CG-5432. This total is \$530,000.

For the Coast Guard to conduct scheduled inspections of all OCS facilities, the annual cost would be approximately \$760,000. This is in addition to inspections of MODU's, inspections in response to worker complaints, and unannounced inspections conducted as oversight of the OCS safety program, and reflects the operational economies achieved by scheduling multiple inspections wherever practicable. Under the Final Rule, the Coast Guard will not require the \$760,000 to conduct scheduled inspections but will need to increase unannounced inspections to ensure that the self-inspection program is being carried out properly. It is estimated that \$190,000 would be required annually to achieve approximately 25% inspections. The degree of oversight may be reduced after experience is gained with the self-inspection program.

The net result of the final rule will be to shift a function that would require the expenditure by the government of approximately \$760,000 to the industry, at an estimated cost to industry of \$530,000. Increased oversight inspections to ensure program reliability will require estimated annual government expenditures of \$190,000 initially, but may be reduced in the future.

Specific comments on Coast Guard cost estimates were solicited in the NPRM from all interested and knowledgeable parties. One comment letter on the cost of the program was received. The comment stated that the Coast Guard cost figures had underestimated the average inspection time per facility. The comment also stated that the Coast Guard estimated average cost may be too low. The comment estimated the total cost to the industry to be in excess of \$4.5 million, rather than the \$530,000 estimated by the Coast Guard. The \$4.5 million estimate was based on the incorrect assumption that the Coast Guard is responsible for inspecting the entire structure. Under the 1980 Memorandum of Understanding between the Minerals Management Service (MMS) and the Coast Guard, the Coast Guard is responsible for lifesaving, firefighting, and occupational safety and health items; MMS is responsible for all items relating to drilling, production, workover, and well control including the inspection of the structure itself. The failure to take into account this division of responsibility is the principal reason for the discrepancy between the cost estimates. However, the Coast Guard also reexamined its cost estimates for inspections required by this rulemaking

and concluded that the Coast Guard estimates are reasonable.

The majority of the owners or operators are expected to combine the required annual inspection with other inspections, maintenance visits, or operational tests already being performed by the owner/operator. Further, although some platforms may require several hours to inspect, the majority of the platforms located on the U.S. OCS are unmanned and have minimal equipment that would require inspection under this rule. These rules would not affect State and local governments and would have a negligible effect on costs to consumers.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 through 612), the Coast Guard considered whether the Final Rule is likely to have significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses which are not dominant in their field and which would otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). These regulations will affect owners and operators of fixed OCS facilities. Because of the extremely high costs of these facilities, their owners and operators tend to be major corporations or subsidiaries of major corporations.

For the above reasons, the Coast Guard certifies that this Final Rule will not have a significant economic impact on a substantial number of small entities. Comments were solicited in the NPRM from those who felt that this rule would have a significant impact on their small business. No comments on this issue were received.

Paperwork Reduction Act

This rulemaking contains information collection requirements in §§ 140.103 and 140.105. These items have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These requirements have been approved and have been assigned OMB No. 2115-0569.

Categorical Exclusion Statement has been prepared and is on file in the rulemaking docket.

List of Subjects

33 CFR Part 140

Administrative practice and procedure, Authority delegation, Continental shelf, Incorporation by

reference, Law enforcement, Marine safety, Reporting and recordkeeping.

33 CFR Part 143

Continental shelf, Incorporation by reference, Marine safety.

In consideration of the foregoing, Parts 140 and 143 of Title 33 of the Code of Federal Regulations are amended as follows:

PART 140—GENERAL

1. The authority citation for Part 140 is revised to read as follows:

Authority: 43 U.S.C. 1333(d)(1), 1348(c), 1356; 49 CFR 1.46.

2. In § 140.101, the section heading and paragraph (b) are revised and new paragraphs (d) and (e) are added to read as follows:

§ 140.101 Inspection by Coast Guard marine inspectors.

* * * * *

(b) Under the direction of the Officer in Charge, Marine Inspection, marine inspectors may inspect units engaged in OCS activities to determine whether the requirements of this subchapter are met. These inspections may be conducted with or without advance notice at any time deemed necessary by the Officer in Charge, Marine Inspection.

* * * * *

(d) Coast Guard inspections of foreign units recognize valid international certificates accepted by the United States, including Safety of Life at Sea (SOLAS), Loadline, and Mobile Offshore Drilling Unit (MODU) Code certificates for matters covered by the certificates, unless there are clear grounds for believing that the condition of the unit or its equipment does not correspond substantially with the particulars of the certificate.

(e) Coast Guard marine inspectors conduct an initial inspection of each fixed OCS facility installed after June 27, 1988, to determine whether the facility is in compliance with the requirements of this subchapter.

§ 140.102. [Removed]

3. By removing § 140.102, Foreign units:

4. By revising § 140.103 to read as follows:

§ 140.103 Annual inspection of fixed OCS facilities.

(a) The owner or operator of each fixed OCS facility shall ensure that the facility is inspected, at intervals not to exceed 12 months, to determine whether the facility is in compliance with the requirements of this subchapter.

(b) Except for initial inspections under § 140.101(e), inspections by Coast Guard Marine inspectors do not meet the requirements for an inspection under paragraph (a) of this section.

(c) Except for initial inspections under § 140.101(e), the results of the inspection must be recorded on Form CG-5432. Forms CG-5432 may be obtained from the Officer in Charge, Marine Inspection. The owner or operator shall submit the completed Form CG-5432 to the Officer in Charge, Marine Inspection, within 30 days after completion of the inspection.

(d) For facilities installed on the OCS after June 27, 1988, the 12 month period under paragraph (a) of this section begins with the initial inspection under § 140.101(e). For facilities on the OCS on June 27, 1988, the 12 month period begins upon completion of the first inspection under paragraph (a) of this section, which inspection must be completed within 12 months after June 27, 1988. Before September 26, 1988, the owner or operator shall notify the Officer in Charge, Marine Inspection, of the proposed inspection date for each facility.

5. By revising § 140.105 to read as follows:

§ 140.105 Correction of deficiencies and hazards.

(a) Lifesaving and fire fighting equipment which is found defective during an inspection and which, in the opinion of the inspector, cannot be satisfactorily repaired must be so mutilated in the presence of the inspector that it cannot be used for the purpose for which it was originally intended. Lifesaving and fire fighting equipment subsequently determined to be unrepairable must be similarly mutilated in the presence of the person making that determination.

(b) Any deficiency or hazard discovered during an inspection by a Coast Guard marine inspector is reported to the unit's owner or operator, who shall have the deficiency or hazard corrected or eliminated as soon as practicable and within the period of time specified by the Coast Guard marine inspector.

(c) Deficiencies and hazards discovered during an inspection of a fixed OCS facility under § 140.103(a) must be corrected or eliminated, if practicable, before the Form CG-5432 is submitted to the Officer in Charge, Marine Inspection (OCMI). Deficiencies and hazards that are not corrected or eliminated by the time the Form is submitted must be indicated on the Form as "outstanding." For lifesaving and firefighting equipment deficiencies

that cannot be corrected before the submission of Form CG-5432, the owner or operator shall contact the OCMI to request a time period for repair of the item. The owner or operator shall include a description of the deficiency and the time period specified by the OCMI for correction of the deficiency in the comment section of Form CG-5432. Upon receipt of a Form CG-5432 indicating outstanding deficiencies or hazards, the OCMI informs, by letter, the owner or operator of the fixed OCS facility of the deficiencies or hazards and the time period specified to correct or eliminate the deficiencies or hazards.

(d) Where a deficiency or hazard remains uncorrected or uneliminated after the expiration of the time specified for correction or elimination, the Officer in Charge, Marine Inspection, initiates appropriate enforcement measures.

PART 143—DESIGN AND EQUIPMENT

6. The authority citation for Part 143 is revised to read as follows:

Authority: 43 U.S.C. 1333(d)(1), 1347(c), 1349(c), 1356(a)(2); 49 CFR 1.46.

7. By revising § 143.210 to read as follows:

§ 143.210 Letter of compliance.

(a) The Officer in Charge, Marine Inspection, determines whether a mobile offshore drilling unit which does not hold a valid Coast Guard Certificate of Inspection meets the requirements of §§ 143.205 or 143.207 relating to design and equipment standards and issues a letter of compliance for each unit which meets the requirements. Inspection of the unit may be required as part of this determination.

(b) A letter of compliance issued under paragraph (a) of this section is valid for one year or until the MODU departs the OCS for foreign operations, whichever comes first.

Dated: March 2, 1988.

J.C. Irwin,
Vice Admiral, U.S. Coast Guard, Acting Commandant.

[FR Doc. 88-11868 Filed 5-25-88; 8:45 am]
BILLING CODE 4910-14-M

33 CFR Part 165

[COTP Los Angeles/Long Beach Regulation 88-11-12]

Security Zone Regulations; Ports of Los Angeles/Long Beach, CA

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a security zone within 100

yards of the USS FLORIDA while underway or moored within the ports of Los Angeles and Long Beach. This security zone is required to safeguard the vessel from sabotage or other subversive acts, accidents, or other causes of a similar nature. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective on 19 May 1988. It terminates on 23 May 1988.

FOR FURTHER INFORMATION CONTACT: LT R. M. Miles at (213) 499-5580.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Regulation publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent potential damage to the vessel.

Drafting Information

The drafters of this regulation are LT R. M. Miles, project officer for the Captain of the Port, and LT G. R. Wheatly, project attorney, Eleventh Coast Guard District Legal Office.

Discussion of Regulation

The incident requiring this regulation will begin on 19 May 1988. This security zone is necessary to ensure the security of the U.S.S. FLORIDA while underway or moored within the ports of Los Angeles and Long Beach. This regulation is issued pursuant to 50 U.S.C. 191 as set out in the authority citation for all of Part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, Subpart C of Part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:
Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5.

2. A new § 165.T1177 is added to read as follows:

federal register

**Friday
July 1, 1988**

Department of Transportation

Coast Guard

**Editorial Changes Reflecting Recent
Coast Guard Reorganization; Final
Rule**

DEPARTMENT OF TRANSPORTATION**Coast Guard**

33 CFR Parts 1, 3, 19, 26, 54, 67, 81, 89, 114, 116, 117, 130, 131, 132, 135, 136, 137, 140, 144, 148, 149, 150, 153, 154, 156, 157, 159, 160, 164, 174, 179, 181, and 183

[CGD 88-052]

Editorial Changes Reflecting Recent Coast Guard Reorganization

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This document corrects titles, telephone numbers and addresses of various Coast Guard offices and units. This action is necessary to reflect recent restructuring of Coast Guard headquarters offices and field organizations. These changes will make it easier for those persons affected by the regulations to contact the appropriate Coast Guard officials.

EFFECTIVE DATE: July 1, 1988.

FOR FURTHER INFORMATION CONTACT: Lieutenant Sam Watkins, Office of Chief Counsel, (202) 267-1534.

SUPPLEMENTARY INFORMATION: Recently the Coast Guard undertook a major restructuring of its internal organization. This reorganization caused the disestablishment of certain Headquarters Offices, the establishment of others, and the transfer of selected responsibilities between certain offices. Additionally, the Third and Twelfth Coast Guard Districts have been disestablished and their respective responsibilities absorbed by other Districts. Because of these changes, many titles, telephone numbers and addresses in existing regulations need to be updated. The purpose of this document is to update those titles, telephone numbers and addresses.

Notice of Proposed Rulemaking

This rule merely updates Coast Guard office titles, telephone numbers and addresses contained in 33 CFR Ch. I. Therefore, under the provisions of 5 U.S.C. 553, this amendment is being issued as a final rule without publication of a notice of proposed rulemaking, which is unnecessary. Additionally, since the organizational changes have already been implemented, good cause exists for making these rules effective upon publication.

Regulatory Evaluation

This final rule is considered to be non-major under Executive Order 12291 and non-significant under the DOT

regulatory policies and procedures (44 FR 11034, February 26, 1979). The economic impact of this final rule has been found to be so minimal that further evaluation is unnecessary. This rulemaking merely updates Coast Guard office titles, telephone numbers and addresses. There is no substantive change to current Coast Guard regulations.

Drafting Information

The principal person involved in drafting this Final rule is: Lieutenant Sam Watkins, Office of Chief Counsel.

Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 and it has been determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism assessment.

Regulatory Flexibility Evaluation

Since this rulemaking merely updates Coast Guard office titles, telephone numbers and addresses, the Coast Guard certifies that there is no significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

These regulations make only title, telephone number and address changes; they do not contain any information collection or record keeping requirements.

List of Subjects**33 CFR Part 1**

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Penalties.

33 CFR Part 3

Organization and functions (Government agencies).

33 CFR Part 19

Navigation (water), Vessels.

33 CFR Part 26

Communications equipment, Marine safety, Radio telephone, Vessels.

33 CFR Part 54

Alimony, Child support, Military personnel, Wages.

33 CFR Part 67

Continental shelf, Navigation (water), Reporting and recordkeeping requirements.

33 CFR Part 81

Navigation (water), Reporting and recordkeeping requirements, Treaties.

33 CFR Part 89

Navigation (water), Reporting and recordkeeping requirements, Waterways.

33 CFR Part 114

Bridges.

33 CFR Part 116

Bridges.

33 CFR Part 117

Bridges.

33 CFR Part 130

Insurance, Maritime carriers, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 131

Alaska, Insurance, Maritime carriers, Oil pollution, Pipelines, Reporting and Recordkeeping requirements.

33 CFR Part 132

Continental shelf, Insurance, Maritime carriers, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 135

Administrative practice and procedure, Advertising, Claims.

33 CFR Part 136

Administrative practice and procedure, Claims, Continental shelf, Oil pollution.

33 CFR Part 137

Claims, Harbors, Insurance, Oil pollution, Reporting and recordkeeping requirements, Vessels.

33 CFR Part 140

Continental shelf, Investigations, Marine safety, Occupational safety and health, Penalties, Reporting and recordkeeping requirements.

33 CFR Part 144

Continental shelf, Marine safety, Occupational safety and health.

33 CFR Part 148

Administrative practice and procedure, Environmental protection, Harbors, Petroleum.

33 CFR Part 149

Fire prevention, Harbors, Marine safety, Navigation (water), Occupational safety and health, Oil pollution.

§ 137.103 [Amended]

27. In § 137.103 the words "(G-WFR-1)" are removed, and the words "(G-MER-4)" are added in their place.

§ 137.505 [Amended]

28. In § 137.505 the words "(G-WFR-1)" are removed, and the words "(G-MER-4)" are added in their place.

PART 140—GENERAL**§ 140.7 [Amended]**

29. In § 140.7(a) the telephone number "(202) 426-1477" is removed, and the telephone number "(202) 267-1477" is added in its place.

§ 140.15 [Amended]

30. In § 140.15(b) the words "Commandant (G-MMT-2), U.S. Coast Guard, Washington, DC 20593", are removed, and the words "Commandant (G-MVI), U.S. Coast Guard, Washington, DC 20593-0001" are added in their place.

PART 144—LIFESAVING APPLIANCES**§ 144.30-5 [Amended]**

31. In § 144.30-5(a) the words "(G-MVI-3/24), Washington, DC 20593" are removed, and the words "(G-MVI), Washington, DC 20593-0001" are added in their place.

PART 148—GENERAL**§§ 148.211, 148.217 [Amended]**

32. In Part 148, the words "Office of Marine Environment and Systems" are removed, and the words "Office of Marine Safety, Security and Environmental Protection" are added in their place, in the following places:

- (a) Section 148.211, introductory text; and
- (b) Section 148.217(a).

§ 148.503 [Amended]

33. In § 148.503 the words "Commandant (G-W)" are removed, and the words "Commandant (G-M)" are added in their place.

PART 149—DESIGN, CONSTRUCTION, AND EQUIPMENT

34. In Part 149, the words "Commandant (G-W)" are removed, and the words "Commandant (G-M)" are added in their place, in the following places:

- (a) Section 149.203(a) introductory text, (c), and (d) introductory text;
- (b) Section 149.205(a);
- (c) Section 149.707(c); and
- (d) Section 149.799(a).

PART 150—OPERATIONS**§§ 150.105, 150.106 [Amended]**

35. In Part 150, the words "Commandant (G-W)" are removed, and the words "Commandant (G-M)" are added in their place, in the following places:

- (a) Section 150.105(b); and
- (b) Section 150.106.

PART 153—CONTROL OF POLLUTION BY OIL AND HAZARDOUS SUBSTANCES, DISCHARGE REMOVAL**§ 153.103 [Amended]**

36. In § 153.103(d) the words "Office of Marine Environment and Systems" are removed, and the words "Office of Marine Safety, Security and Environmental Protection" are added in their place.

§ 153.105 [Amended]

37. In § 153.105(b), introductory text, the words "Office of Marine Environment and Systems" are removed, and the words "Office of Marine Safety, Security and Environmental Protection" are added in their place.

§ 153.203 [Amended]

38. In § 153.203 the telephone number "426-2675" is removed, and the telephone number "(202) 267-2675" is added in its place.

§ 153.205 [Amended]

39. Table 1 in § 153.205 is amended as follows:

- a. In Region I telephone number "617-223-7265" is removed, and telephone number "617-565-3715" is added in its place.
- b. In Region II telephone number "201-548-8730" is removed, and telephone number "212-264-2525" is added in its place.
- c. In Region III telephone number "215-597-9898" is removed, and telephone number "215-597-9800" is added in its place.
- d. In Region IV telephone number "404-347-4062" is removed, and telephone number "404-347-4727" is added in its place.
- e. In Region V telephone number "312-353-2318" is removed, and telephone number "312-353-2000" is added in its place.
- f. In Region VI "First International Building, 1201 Elm Street, Dallas, TX 75270" are removed, and the words "1445 Ross Ave., 12th Floor, Suite 1200, Dallas, TX 75202" are added in their place.
- g. In Region VI telephone number "214-767-2666" is removed, and

telephone number "214-655-6444" is added in its place.

h. In Region VII telephone number "913-236-3778" is removed, and telephone number "913-236-2800" is added in its place.

i. In Region VIII the words "One Denver Place, 999 18th Street, Suite 1300, Denver, CO 80202-2413" are removed, and the words "999 18th St., Suite 500, Denver, CO 80202-2405" are added in their place.

j. In Region VIII telephone number "303-293-1788" is removed, and telephone number "303-293-1603" is added in its place.

k. In Region IX telephone number "415-974-8131" is removed, and telephone number "415-974-8071" is added in its place.

l. In Region X telephone number "206-442-1263" is removed, and telephone number "206-442-5810" is added in its place.

m. The words "3rd . . . Governors Island, New York, NY 10004-5098, 212-668-7152" are removed from Table 1.

n. In District 7th telephone number "305-350-5276" is removed, and telephone number "305-536-5651" is added in its place.

o. In District 8th telephone number "504-589-6296" is removed, and telephone number "504-589-6901" is added in its place.

p. In District 11th telephone number "213-590-2301" is removed, and telephone number "213-499-5330" is added in its place.

q. The words "12th . . . Coast Guard Island, Alameda, CA 94501, 415-437-3465" are removed from Table 1.

r. In District 14th telephone number "808-546-7510" is removed, and telephone number "808-541-2114" is added in its place.

40. Table 2 in § 153.205 is amended as follows:

- a. In Region I, the words "Northwestern portion . . . 3rd" are removed, and the words "Northwestern portion . . . 1st" are added in their place.
- b. In Region I, the words "Connecticut . . . 3rd" are removed, and the words "Connecticut . . . 1st" are added in their place.
- c. In Region II, the words "Coastal area and Eastern portion . . . 3rd" are removed, and the words "Coastal area and Eastern portion . . . 1st" are added in their place.
- d. In Region II, the words "New Jersey . . . 3rd" are removed, and the words "New Jersey: Upper portion . . . 1st Lower portion . . . 5th" are added in their place.

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Thursday
May 18, 1989

Part III

**Department of
Transportation**

Coast Guard

**33 CFR Parts 140, 143, and 146
Emergency Evacuation Plans for Manned
OCS Facilities; Final Rule**

REGULATIONS

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Parts 140, 143, and 146****(CGD 84-098b)****RIN 2115-AC41****Emergency Evacuation Plans for Manned OCS Facilities****AGENCY:** Coast Guard, DOT.**ACTION:** Final rule.

SUMMARY: The Coast Guard is issuing regulations which will require a comprehensive, site specific contingency plan for the emergency evacuation of all personnel from manned fixed facilities and mobile offshore drilling units (MODU's) on the Outer Continental Shelf (OCS). This final rule also establishes specific standards for standby vessels if they are designated in the emergency evacuation plan (EEP) as an integral part of the evacuation procedures. This rulemaking is a culmination of Coast Guard initiatives to require contingency planning for evacuation of OCS personnel under emergency conditions. This rule is also in response to legislative mandates concerning OCS evacuation procedures.

EFFECTIVE DATE: This regulation is effective on June 19, 1989, except for the information collection requirements in §§ 146.140 and 146.210, which will become effective on a date to be published in the Federal Register. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 19, 1989.

FOR FURTHER INFORMATION CONTACT: LCDR Anthony Dupree, Jr., Merchant Vessel Inspection and Documentation Division, (202) 267-2307.

SUPPLEMENTARY INFORMATION: On March 7, 1985, the Coast Guard published an Advanced Notice of Proposed Rulemaking (ANPRM) (50 FR 9290) entitled "Revision of the Regulations on Outer Continental Shelf Activities" (CGD 84-098). One of the several subjects discussed in the ANPRM concerned the safe evacuation of personnel from manned OCS facilities under emergency conditions. On December 24, 1987, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) (52 FR 48717) entitled "Emergency Evacuation Plans for Manned OCS Facilities" (CGD 84-098b). The NPRM proposed regulations that would require a comprehensive, site specific contingency plan for the emergency evacuation of all personnel from manned OCS facilities. The NPRM

did not propose the mandatory use of standby vessels but did propose specific standards for standby vessels if they were designated in the Emergency Evacuation Plan (EEP) as an integral part of the plan.

The comment period for the NPRM originally closed on January 25, 1988, but was extended until February 25, 1988, in response to public requests (53 FR 2236; January 27, 1988). Forty two comment letters were received. A public hearing was not requested.

On March 29, 1988, the Subcommittee on the Panama Canal and Outer Continental Shelf of the U.S. House of Representatives' Committee on Merchant Marine and Fisheries held a public hearing in Washington DC to discuss the EEP NPRM. A copy of the transcript of this hearing has been placed in the regulatory docket at the Office of the Marine Safety Council, U.S. Coast Guard, Room 3600, 2100 Second Street SW., Washington, DC 20593-0001.

Drafting Information

The principal persons involved in drafting this final rule were LCDR Anthony Dupree, Jr., Project Manager, and Mr. Stephen H. Barber, Project Counsel, Office of Chief Counsel.

Background and Objectives

The principal objective of this final rule is to ensure that Outer Continental Shelf (OCS) facility and emergency assistance personnel are provided with the direction and equipment necessary for a timely and safe evacuation of an OCS facility in an emergency. The final rule establishes a performance standard which requires operators (i.e. leaseholders or other entities managing the leasehold) of all manned OCS facilities (i.e. fixed facilities, floating facilities, and mobile offshore drilling units (MODU's) engaged in OCS activities) to develop and be prepared to implement emergency evacuation procedures that address all of the recognized circumstances and conditions that would require an evacuation of the facility.

In developing the final rule, the Coast Guard considered the diversity of the environmental conditions that exist on the OCS and the varying operational characteristics of fixed OCS facilities and MODU's. The Coast Guard believes that the final rule provides sufficient flexibility for operators to develop a site specific EEP which will address the specific evacuation needs of each OCS facility. The final rule allows operators to explore and, where possible, integrate the latest technology available to ensure the safety of OCS workers.

To ensure that the EEP's adequately address all of the recognized circumstances and conditions that may result in evacuation of the facility, the Coast Guard will review and, if acceptable, approve each EEP before it is placed on the facility.

Discussion of Comments and Changes to the Regulation

A total of forty-two letters were received in response to the NPRM. Forty letters generally supported the concept of an evacuation per-performance standard but all of the letters contained suggestions for revising the proposed regulations. Two letters opposed the proposed regulations and suggested that they were not needed. The comments and the resulting changes are discussed below.

1. Three comment letters received from offshore industry associations requested extension of the original comment period because of the importance of this regulatory initiative and the difficulty their members were experiencing in providing a meaningful response within the original 30 day comment period.

The Coast Guard agreed with this request and extended the comment period for an additional 30 days until February 25, 1985. (53 FR 2236; January 26, 1988).

2. Two comments objected to the proposal because they believed that the proposed rulemaking duplicated already existing Department of Transportation regulations in 49 CFR Part 192 and that compliance with the proposed rules, therefore, would be redundant and burdensome. They suggested that the proposed rules be removed from consideration as they offer no improvement to current regulations.

This suggestion was not adopted. Part 192 of Title 49 of the Code of Federal Regulations is limited to matters relating to the transportation of gas by pipeline. Section 192.615 requires gas pipeline operators to establish written procedures to minimize the hazards resulting from a gas pipeline emergency. Only facilities engaged in gas pipeline operations are required to comply with § 192.615. The EEP regulations apply to all OCS facilities. Gas pipeline facility operators, however, may include pertinent sections of the gas pipeline emergency procedures in their EEP or submit the gas pipeline emergency procedures to the Coast Guard for review if the operator feels it complies with the EEP regulations.

3. Three comments stated that 46 U.S.C. 2304 already allows any vessel to respond to calls for assistance without

being required to meet additional regulations. One of the comments also stated that 46 U.S.C. 3501(e) already authorizes an offshore supply vessel (OSV) to carry passengers in an emergency. In view of these provisions, all three comments suggested that it is improper for the Coast Guard to require that standby vessels be certificated.

The EEP regulations would not prohibit a vessel from responding to a call for assistance under the provisions of 43 U.S.C. 2304 or prohibit OSV's from carrying passengers during an emergency. However, any vessel that is designated as a facility's standby vessel in an EEP, thus making the rescue or evacuation of OCS personnel its primary duty, will be required to be in compliance with the requirements contained in § 143.401(a). Therefore, this suggestion was not adopted.

4. Fifteen comments stated that the requirement for a standby vessel to be certificated to carry all of the persons on the most populated facility that the standby vessel is designated to assist is excessive. The comments stated that few vessels exist that could meet this requirement.

Proposed § 143.401(b) was intended to ensure that the standby vessel would be capable of providing safe shelter for all of the evacuees that the vessel is to rescue. The Coast Guard has reevaluated proposed § 143.401(b) and agrees that it may be excessive. Therefore, § 143.401(b) has been revised to require that a standby vessel must be capable of carrying and providing safe shelter for 100 per cent of the persons on the most populated facility it is serving, rather than be certificated to carry all of those persons. Most clean, dry, interior spaces on a standby vessel, including crew spaces and corridors, could be considered safe shelter for emergency transportation of evacuees. Because revised § 143.401(b) no longer requires a designated standby vessel to be certificated to carry all the persons on the most populated facility it is designated to assist, the designated standby vessel would not be required by the vessel inspection regulations to provide bunks, seats, or life preservers for the personnel on the facility it is designated to assist. Therefore, a new § 143.401(c) has been added that requires a designated standby vessel to provide bunks or aircraft type reclining seats for 10 per cent of the persons on the most populated facility the vessel is designated to assist. This requirement was added in order to ensure that the vessel will be capable of accommodating individuals who may be physically injured or suffering from

exhaustion. Crew spaces may be used to comply with this requirement. Also, a new § 143.405(a)(17) has been added that requires designated standby vessels to provide life preservers for 50 per cent of the persons on the most populated facility the vessel is designated to assist. This requirement was added to ensure that the designated standby vessel will be capable of providing life preservers for facility personnel in the event some of the personnel were unable to obtain a life preserver from the facility before evacuation to the designated standby vessel. Because standby vessels will no longer be required to be certificated to carry all the persons on the most populated facility the vessel is designated to assist, § 143.405(a)(16) has been revised to require the standby vessel to have an industrial first aid kit sized for 50 percent of the number of persons on the most populated facility the standby vessel is designated to assist. This revision was made to ensure that the designated standby vessel will have sufficient first aid supplies to treat injured evacuees.

5. One comment stated that vessels, when serving as designated standby vessels, should be prohibited from carrying hazardous materials and from carrying or storing goods or equipment on the decks of the vessel. The comment stated that such goods, equipment, and hazardous materials could inhibit the ability of the vessel to respond to emergencies.

The Coast Guard agrees with the comment and has added new § 143.401(d) and (e) which prohibit designated standby vessels from carrying or storing hazardous materials and from carrying or storing goods, supplies, or equipment on the deck of the vessel or any other location that may hinder evacuation operations.

6. Three comments stated that the term "highly maneuverable" in reference to standby vessels in proposed § 143.403 lacks precision and is open to different interpretations as to what standard is acceptable. It was suggested that proposed § 143.403 be deleted because maneuverability appears to be sufficiently covered by § 143.405(a)(1).

The Coast Guard agrees with the comments and proposed § 143.403 has been deleted from the final rule.

7. Sixteen comments were received regarding the proposed requirement for a fast rescue boat (FRB). The comments stated that an FRB is difficult to launch and retrieve, particularly during heavy seas, and that special crew training would be required for proper operation of the boat. The comments suggested that the requirement for a fast rescue

boat be deleted. Two of the comments stated that the requirement for a means of retrieving injured or helpless persons from the water contained in proposed § 143.405(a)(8) is sufficient. The comments stated that modern offshore supply vessels and crewboats often are highly maneuverable and can be equipped or modified for direct pickup of persons from the water.

The Coast Guard has reevaluated this issue and partially agrees with the comments. The Coast Guard believes that all standby vessels must be equipped with a safe and effective means of retrieving persons from the water, particularly helpless or injured persons. Although the Coast Guard believes that FRB's have been proven to be one of the best means for retrieving persons from the water, it recognizes that, in some sea states, the FRB's themselves can be difficult to launch and retrieve. The Coast Guard also agrees that OSV's and crewboats may be capable of being equipped or modified to permit direct retrieval of persons from the water onto the deck of those vessels. Therefore, the proposed requirement for an FRB has been replaced with § 143.405(a)(7), which requires that a means for retrieving persons, including helpless and injured persons, from the water be provided. The means of retrieval may be either a FRB or some other type of equipment or modification installed on the standby vessel. Under § 143.405(a)(7), the means of retrieving persons from the water must be demonstrated to the satisfaction of the Officer in Charge, Marine Inspection.

8. Four comments stated that immersion and buoyant suits are already required by Coast Guard regulations for vessels operating above 32 degrees north latitude. The comments stated that the EEP rules should not expand upon this requirement and suggested that proposed § 143.405(a)(11) be deleted.

After reevaluating the proposed requirement the Coast Guard agrees that immersion and or buoyant suits should be required only on standby vessels operating above 32 degrees north latitude in the Atlantic Ocean or north of 35 degrees north latitude in all other waters. However, current Coast Guard regulations for immersion/buoyant suits are not applicable to crewboats or other vessels certificated under Subchapters T or H of 46 CFR Chapter I. Therefore, § 143.405(a)(10) has been retained but revised to apply only to standby vessels operating in those colder waters.

9. Six comments stated that the 600 gallons per minute (gpm) fire monitor

required in proposed § 143.405(a)(13) is not of a standard size commonly found in the offshore industry. In order to permit the use of fire monitors currently found in the offshore industry, the comments suggested that the monitor size be changed to either 500 or 750 gpm.

The Coast Guard agrees with this suggestion and has revised § 143.405(a)(12) to require a fire monitor with a flow rate of at least 500 gpm.

10. One comment stated that, in addition to requiring a means of radio communication between facilities and standby vessels, the regulations should require a means of communicating with helicopters and other rescue craft that may take part in an evacuation.

The Coast Guard agrees with the comment and §§ 143.405(a)(13) and 146.140(d)(5) have been revised respectively to require standby vessels and facilities to be capable of communicating with other rescue craft.

11. Six comments stated that the standby vessel crew size should be determined by the vessel owner and that facility operator. It was suggested that proposed § 143.407 be revised to allow the vessel owner and facility operator sufficient flexibility in determining the crew size which best supports the facility's EEP.

The manning requirement in proposed § 143.407 represents the minimum crew size that the Coast Guard believes is necessary to properly crew a standby vessel. However, there will be cases in which the Officer in Charge, Marine Inspection, (OCMI) believes that the crew designated on the vessel's certificate of inspection for 24 hour operation is not sufficient to carry out the functions required of the vessel when it is operating as a standby vessel. In those cases, the OCMI is authorized under § 143.407 to require additional crewmembers as necessary. The vessel owners or the facility operator may increase the crew size above the minimum set by the OCMI if they believe additional crewmembers are needed. Therefore, this suggestion was not adopted.

12. Four comments stated that the EEP regulations should contain a requirement for periodic evacuation drills. The comments stated that periodic interactive drills that test and exercise all the key elements of the EEP are needed to verify that the plan continues to be viable.

The Coast Guard agrees that periodic drills are necessary to ensure that all personnel are familiar with the EEP. Therefore, a new § 146.125(c) has been added to require that abbreviated EEP drills be held monthly and that a comprehensive drill exercising all

elements of the EEP be conducted annually. Also, a new § 146.140(e)(3) has been added to require the operator to ensure that the drills are conducted.

13. Two comments stated that development of a separate EEP for each facility may not be necessary. The comments suggested that the regulations should allow the development of EEP's covering several facilities in a general geographic location.

The Coast Guard agrees with the comments and has revised § 146.140(b) to permit the development of an EEP covering multiple sites in the same geographic area. However, care should be exercised in the development of EEP's covering more than one facility to ensure that the specific needs of each facility are addressed and that the plan does not become overly complicated or so voluminous that its usefulness is jeopardized.

14. Four comments questioned the need to submit the EEP to the OCMI for examination. The comments suggested that, instead of submitting the prepared EEP to the OCMI, the EEP should be maintained on the facility and made available to the Coast Guard for examination during an on-site inspection or upon request of the OCMI.

The Coast Guard believes that review of the EEP before it is placed on the facility will give the the Coast Guard the opportunity to inform the facility operator of areas in the plan that the Coast Guard found to be inadequately addressed and in need of revision. Therefore, this suggestion has not been adopted.

15. Three comments stated that the Coast Guard should review and approve EEP's instead of just examining them. The comments stated that, unless the Coast Guard requires the plans to be approved, there will be no way for the Coast Guard to reject an inadequate EEP.

The Coast Guard agrees with the comments and has revised § 146.140(a) and (b) to require the plans to be submitted to the OCMI for review and approval. The OCMI will review the EEP and determine if the plan addresses all the conditions and criteria contained in the EEP regulations. Plans that are determined to be satisfactory will be stamped "APPROVED" and returned to the facility operator with a letter indicating Coast Guard approval. Plans that are determined to be deficient will be stamped "RETURNED FOR REVISION" and returned to the facility operator with a letter identifying the areas that the Coast Guard found deficient and requiring the plan to be revised and resubmitted for approval within a specified period of time. Once

the EEP is approved, a copy of the stamped plan and a copy of the accompanying Coast Guard approval letter are required to be maintained on the facility under revised § 146.140(b). Facility operators who fail to have their EEP approved by the Coast Guard will be subject to penalty under 33 CFR 140.35.

16. One comment suggested that EEP's for MODU's designate the master or person in charge of the MODU as the person who is primarily responsible for implementing the EEP under § 146.140(d)(7). The Coast Guard agrees and has added a new § 146.210(d) accordingly.

17. Three comments suggested that "other safe place," as used in proposed § 146.140(d)(10), be explained in the regulations. The Coast Guard agrees and has revised § 146.140(d)(12)(iv) to explain what are considered to be places of safety. The Coast Guard believes that places of safety may vary with the circumstances and conditions described in the EEP under § 146.140(d)(9). The EEP must provide for evacuation to land under certain situations and may provide for evacuation to a vessel, lifeboat, or another facility under other situations. For example, the EEP may provide for evacuation to a vessel, lifeboat, or another facility in the event of a localized fire on a facility. However, in the event of predictable incidents, such as ice floes, or storms exceeding the design characteristics of the facility, the EEP must provide for evacuation to land.

18. Three comments stated that, while the proposed rules require standby vessels to have a means of retrieving persons from the water, there is no similar requirement to provide for retrieving persons from the water if a standby vessel is not used. The comments suggested that the Coast Guard should include such a requirement in the regulations.

The Coast Guard agrees and has added § 146.140(d)(12)(i) to require that the EEP identify the means that will be used to retrieve persons from the water during an evacuation.

19. Two comments stated that the proposed rules did not require facility operators to identify in the EEP the means that would be used to transfer persons from the facility to a standby vessel or other craft and to retrieve those persons from the standby vessel or craft onto, for example, another facility.

The Coast Guard agrees and has added § 146.140(d)(12)(ii) and (d)(12)(iii) to require that the EEP identify the

means that will be used to transfer facility personnel to and from standby vessels, lifeboats, or other types of evacuation craft.

20. One comment stated that the requirement in proposed § 146.140(f) that a written summary of the EEP be given to each person newly reporting on the facility is a needless expense and that the EEP may be difficult to summarize.

The Coast Guard agrees that the EEP may be difficult to summarize but believes that persons newly reporting on the facility should be made aware of the contents of the EEP. Therefore, § 146.140(f) has been revised to require that either a brief written summary or an oral briefing on the EEP be given each person newly reporting on the facility.

21. Eight comments stated that standby vessels or some sort of vessel support is necessary in order to ensure the safe emergency evacuation of OCS facilities. The comments suggested that the Coast Guard require facility operators to provide standby vessels or some form of vessel support for the emergency evacuation of OCS facilities. The Coast Guard agrees that standby vessels, in some cases, could enhance the safety of some OCS facilities. However, the high cost of providing a properly equipped and manned standby vessel may not always be justified under the circumstances of each case. The Coast Guard believes that evacuation measures using equipment other than standby vessels, such as helicopters, may prove to be equally effective and more cost efficient in many emergency evacuation situations. Therefore, the suggestion that standby vessels be required in every case was not adopted.

22. Ten comments stated that OCS facility operators should be responsible for submitting EEP's only for fixed facilities on their leases and not for MODU's. (An "operator" of an OCS facility is defined in § 140.10 as meaning the leaseholder or person controlling or managing the lease area or a portion of the lease area and "OCS facility" means a fixed or floating facility, as well as a MODU in contact with seabed.) The comments stated that operators are not always familiar with the MODU's equipment and that the MODU owners are best able to determine the evacuation criteria for their units. The comments suggested that MODU owners should be required to develop and submit the EEP for their MODU's.

It is critical that EEP's be comprehensive and coordinated from a single source. The Coast Guard believes that operators will be able to develop EEP's that will allow for the easy

incorporation of MODU specific data. Operators would be responsible for developing the EEP, determining the means of transportation to a place of safety, providing the shoreside support and the weather forecasting service, and listing the duties of the persons to be contacted in event of an emergency. MODU owners should be able to readily provide the operators with the data needed to incorporate the MODU's equipment and design criteria into the EEP. Therefore, this suggestion was not adopted.

Incorporation by Reference

The material, "Standard for Marine Buoyant Devices" (ANSI/UL1123-1987), in § 147.7 has been approved for incorporation by reference by the Director of the Federal Register under 5 U.S.C. 552 and 1 CFR Part 51. The material is available as indicated in that section.

If substantive changes are made by the publisher to the materials incorporated, those changes may be considered for incorporation. However, before taking final action on the incorporation, the Coast Guard will publish a separate notice in the Federal Register for public comment.

The reference to the SOLAS Convention in § 143.405(a)(5) of the NPRM has been deleted in the final rule and, therefore, from the list of materials in § 140.7. Section 140.7 is revised to conform with a new format that lists the sections throughout Subchapter N in which the incorporated material appears.

E.O. 12291 and DOT Regulatory Policies and Procedures

These regulations are considered to be non-major under Executive Order 12291 and significant under the Department of Transportation (DOT) regulatory policies and procedures (44 FR 11034; February 26, 1979). This rule is considered significant because of the high level of public and Congressional interest in this project. A final regulatory evaluation has been prepared and placed in the rulemaking docket. It may be inspected or copied at the Office of the Marine Safety Council, Room 3600, U.S. Coast Guard Headquarters, 2100 Second St. SW., Washington, DC 20593-0001, (202) 267-1477, from 8 a.m. to 3 p.m. Copies may also be obtained by contacting that office.

The cost of preparing an EEP may vary due to the varying complexity of the manned facilities operating on the OCS and the experience of the preparer in drafting emergency evacuation plans. Much of the required information is already available and is customarily

provided to operating personnel. However, some information not previously required may need to be compiled.

The Coast Guard estimates the cost of preparing a plan which meets these regulations to be approximately \$725 per facility. The total initial cost to industry for providing an EEP for each manned facility, including MODU's, is estimated to be approximately \$785,000. The total cost to the Coast Guard to review and approve an EEP is estimated to be \$100 per plan.

Specific comments were solicited on the costs of preparing and updating EEP's for OCS facilities and several comments were received. Two comments were received on the costs of preparing and updating the EEP's. The comments estimated that the cost of preparing and updating EEP's would be at least \$2,000 per OCS facility. Neither comment provided a specific analysis of what their estimated costs included. The Coast Guard reconsidered its cost estimates for preparing and updating an EEP and concluded that they are reasonable. The Coast Guard estimated cost represents the estimated average cost for preparation and update of an EEP. The Coast Guard recognizes that the costs may be higher for some companies. However, many facility owners already have some basic evacuation procedures in effect and much of the information required by the EEP regulations is readily available. Further, many facility owners will be able to prepare one EEP that can be made applicable to numerous facilities because of their close geographic location and similar design and equipment (§ 146.140(b)). Recent regulations (52 FR 6974; March 6, 1987) require that MODU operating manuals provide information for use in emergency situations (46 CFR 109.121). EEP's may incorporate certain portions of the operating manual to avoid unnecessary duplication and cut preparation costs.

Five comments were received on the cost to the Coast Guard for the examination of each EEP. All five comments questioned whether the Coast Guard could conduct an in-depth review of an EEP for \$100 a plan. The Coast Guard based its cost estimate on its experience in the review of other documents, on its assumption that many of the plans, particularly those submitted by the same operator, will be similar, and on its estimate that it will take an average of three man hours to review each plan. Though the initial costs for reviewing and approving the first EEP's submitted for approval may

be higher, we feel our cost estimates for review of all the EEP's are reasonable.

Specific comments were solicited on the costs of equipping a certificated vessel as a standby vessel and on the anticipated use of standby vessels. For the purpose of evaluating this rule, the Coast Guard assumed that up to 30 standby vessels would be designated in EEP's. The Coast Guard estimated the cost of equipping a certificated offshore supply vessel or crew boat to comply with the standby vessel requirements contained in the EEP regulations to be between \$6,600 and \$25,400. Based on these assumptions, the total initial cost to the support vessel industry to outfit certificated vessels as standby vessels is estimated to be between \$198,000 and \$762,000. These costs are lower than the ones contained in the NPRM's draft regulatory evaluation because the cost of equipping a designated standby vessel with a fast rescue boat (FRB) has been eliminated by the removal of the FRB requirement from the final rule. The Coast Guard estimated that the day rate for vessels equipped and manned as standby vessels would increase an average of \$177 per day. Further, the total cost to the lease operators employing these 30 standby vessels is estimated to be between \$8,366,000 and \$9,057,000 per year.

Two comment letters were received on the Coast Guard's estimated increase in the day rate for vessels used as standby vessels. The comments stated that the day rate for an offshore supply vessel (OSV) or crewboat equipped to comply with the standby vessel standards contained in the regulations would increase \$200 to \$500 per day. In developing its estimate of the maximum increase in the day rate for a vessel equipped and manned as a standby vessel, the Coast Guard gathered information from offshore information services and marine suppliers. The Coast Guard's estimate of the average increase (\$177) in the day rate is believed to be reasonable.

Several comments concerning the number of standby vessels likely to be used under these regulations were received. One comment stated that the Coast Guard's estimate of the number of standby vessels likely to be employed in OCS operations (30) is too low. However, the comment did not provide an alternate figure on the contention that an accurate count could not be determined until facility operators had completed their impact assessment of the rules. Six comments on the estimated number of standby vessels stated that few, if any, standby vessels would be employed if the vessels were

required to comply with the proposed § 143.401(b). The proposed regulation would have required designated standby vessels to be certificated to carry all the persons on the most populated OCS facility that the standby vessel is designated to serve. The comments stated that few existing vessels would be able to meet the proposed requirement and the cost of modifying an existing vessel or building new ones to comply with this requirement would be prohibitive. The Coast Guard has reconsidered this requirement and has revised § 143.401(b) in the final rule to require that standby vessels be capable of carrying and sheltering 100 per cent of the personnel on the most populated facility that the vessel is designated to assist, rather than being certificated for the routine carriage of that number of persons. However, the comments provided no additional data on the number of standby vessels that would be used if the proposed § 143.401(b) was deleted.

The primary objective of this rulemaking is to address evacuation planning for OCS facilities, including MODU's, thereby enhancing the safety of life and property on the OCS. However, it is difficult, if not impossible, to quantify the benefits of the regulations because of the unpredictable occurrence and limitless variety of emergency situations in which EEP's would be of assistance. Although EEP's would not replace well trained personnel, they can be of significant benefit. Recent estimates of the value of a human life have ranged from \$1,000,000 to \$11,000,000. The saving of only a few lives each year would make the preparation of the evacuation plans and the additional requirements imposed on designated standby vessels cost beneficial.

Regulatory Flexibility Act

These regulations will affect owners and operators of manned OCS facilities and the owners, builders, and suppliers of designated standby vessels. Because of the extremely high cost of these manned facilities, their owners and operators tend to be major corporations. However, it is likely that at least some of the companies opting to enter the designated standby vessel business may be considered small entities. An estimate for outfitting a typical certificated vessel as a standby vessel is between \$6,600 and \$25,400. Because the use of designated standby vessels is voluntary, we have no basis for estimating how many standby vessels will be employed. For the purposes of evaluating this rulemaking, we have assumed that a total of 30 standby

vessels will be employed. Based on these assumptions, the total initial cost to the support vessel industry to outfit certificated vessels as standby vessels will be between \$198,000 and \$762,000. Further, we estimate that the day rate for a standby vessel outfitted according to the regulations will increase by as much as \$177 a day over the day rate for the same vessel without standby vessel equipment in order to cover the added expenses.

The Coast Guard requested that individuals who believe that their business may qualify as a small entity and felt that the proposed rules would have a significant economic impact on their business notify the Coast Guard and explain why they felt their business qualified. Such individuals were requested to explain in what way and to what degree they would be economically effected by the proposed regulations.

Six comments were received on the impact of this rulemaking on small entities. Though none of the six comments explained why they felt their businesses qualified as a small entity, they all believed that proposed § 143.401 on certification requirements for standby vessels and proposed § 143.405 on standby vessel equipment would have a significant economic impact on small boat companies. The comments stated that none of the current vessels operating on the OCS could comply with proposed § 143.401(b) and that few of the small boat owners would be able to afford to equip their vessels with all the equipment proposed in § 143.405, particularly the fast rescue boat (FRB). The comments stated that if the Coast Guard persisted in implementing these regulations that it would mean the end of the many small boat companies. The Coast Guard has reconsidered §§ 143.401 and 143.405 and deleted the requirement that a standby vessel be certificated to carry all the persons on the facility it is serving, and the requirement for a FRB, to lessen the economic impact of the regulations without decreasing the level of safety intended by this rulemaking.

Further, a concern was expressed during the Subcommittee hearing as to whether these rules would affect the continued use of those vessels commonly referred to as "field boats" (i.e., vessels, usually small, used to carry materials and personnel between OCS facilities). These regulations will not affect field boats unless they are designated as standby vessels for the purposes of the EEP.

For the above reasons, the Coast Guard certifies under section 605(b) of

the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this final rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rulemaking contains information collection requirements in §§ 146.140 and 146.210. These items have been submitted to the Office of Management and Budget (OMB) for approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). When approved, these items will become effective on a date to be published in the Federal Register.

Federalism Implications

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of the regulations and concluded that preparation of an environmental impact statement is not necessary. This rulemaking concerns the development of emergency evacuation plans and the equipping of standby vessels for emergency assistance and would have no effect on the environment.

The regulations have been thoroughly reviewed by the Coast Guard and it has been determined to be categorically excluded from further environmental documentation in accordance with sections 2.B.2.c and 2.B.2.l of Commandant Instruction (COMDTINST) M16475.1B. A Categorical Exclusion Determination statement has been prepared and is included in the regulatory docket. (See address in "E.O. 12291 and DOT Regulatory Policies and Procedures.")

List of Subjects

33 CFR Part 140

Administrative practice and procedure, Authority delegation, Continental shelf, Incorporation by reference, Law enforcement, Marine safety, Reporting and recordkeeping requirements.

33 CFR Part 143

Continental shelf, Marine safety.

33 CFR Part 146

Continental shelf, Marine safety.

Reporting and recordkeeping requirements.

For the reasons set out in the preamble, Parts 140, 143, and 146 of Title 33 of the Code of Federal Regulations are amended as follows:

PART 140—GENERAL

1. The authority citation for Part 140 is revised to read as follows:

Authority: 43 U.S.C. 1333(d)(1), 1348(c), 1356; 49 CFR 1.46.

2. Section 140.7 is revised to read as follows:

§ 140.7 Incorporation by reference.

(a) Certain materials are incorporated by reference into this subchapter with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a). To enforce any edition other than the one listed in paragraph (b) of this section, notice of the change must be published in the Federal Register and the material made available to the public. All approved material is on file at the Office of the Federal Register, 1100 L Street, NW., Washington, DC and at U.S. Coast Guard, Merchant Vessel Inspection and Documentation Division (G-MVI), 2100 Second Street, SW., Washington, DC 20593-0001 and is available from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this subchapter and the sections affected are as follows:

| | |
|---|---------|
| <i>American National Standards Institute (ANSI)</i> | |
| 1430 Broadway, New York, NY 10018 | |
| ANSI A10.14-1975—Requirements for Safety Belts, Harnesses, Lanyards, Lifelines, and Drop Lines for Construction and Industrial Use..... | 142.42 |
| ANSI/UL1123-1987—Standard for Marine Buoyant Devices..... | 143.405 |
| ANSI Z41-1983—American National Standard for Personal Protection-Protective Footwear..... | 142.33 |
| ANSI Z87.1-1979—Practice for Occupational and Educational Eye and Face Protection..... | 142.27 |
| ANSI Z88.2-1980—Practices for Respiratory Protection..... | 142.39 |
| ANSI Z89.1-1981—Safety Requirements for Industrial Head Protection..... | 142.30 |

International Maritime Organization (IMO)

IMO Sales, New York Nautical Instrument and Service Corp., 140 W. Broadway, New York, NY 10013

IMO Assembly Resolution A.414 (XI) Code for Construction and Equipment of Mobile Offshore Drilling Units.....

143.207;
146.205

3. In § 140.10, a new term is added in alphabetical order to read as follows:

§ 140.10 Definitions.

"Standby vessel" means a vessel meeting the requirements of Part 143, Subpart E, of this chapter and specifically designated in an Emergency Evacuation Plan under §§ 146.140 or 146.210 of this chapter to provide rapid evacuation assistance in the event of an emergency.

PART 143—DESIGN AND EQUIPMENT

4. The authority citation for Part 143 is revised to read as follows:

Authority: 43 U.S.C. 1333(d)(1), 1348(c), 1356; 49 CFR 1.46.

5. In Part 143, a new Subpart E is added to read as follows:

Subpart E—Standby Vessels

| | |
|---------|-------------------------------------|
| Sec. | |
| 143.400 | Applicability. |
| 143.401 | Vessel certification and operation. |
| 143.405 | Equipment. |
| 143.407 | Manning. |

Subpart E—Standby Vessels

§ 143.400 Applicability.

This subpart applies only to standby vessels meeting the requirements of this subpart and specifically designated in an Emergency Evacuation Plan (EEP) required by §§ 146.140 or 146.210 of this chapter to provide rapid evacuation assistance in the event of an emergency.

§ 143.401. Vessel certification and operation.

Standby vessels must meet the following:

(a) Have a valid certificate of inspection issued in compliance with Subchapters H, I, or T of 46 CFR Chapter I.

(b) Be capable of carrying and providing shelter for 100 per cent of the number of persons on the most populated facility that the standby

vessel is designated to assist. Crew spaces may be used to meet the requirements of this section.

(c) Provide bunks or aircraft type reclining seats for 10 per cent of the number of persons on the most populated facility that the standby vessel is designated to assist. Crew spaces may be used to meet the requirements of this section.

(d) Not carry or store goods, supplies, and equipment on the deck of the standby vessel or in other locations that may hinder the vessel's ability to render assistance to the facility that the vessel is designated to assist.

(e) Not carry or store any hazardous material.

§ 143.405. Equipment.

(a) Standby vessels must have, at least, the following equipment:

(1) Multiple propellers or propulsion devices.

(2) Two searchlights.

(3) For vessels certificated under Subchapter H of 46 CFR Chapter I, a line throwing appliance that meets the requirements in 46 CFR 75.45.

(4) For vessels certificated under Subchapters I or T of 46 CFR Chapter I, a line throwing appliance that meets the requirements of 46 CFR 94.45.

(5) A Stokes or comparable litters.

(6) One blanket for each person on the most populated facility that the standby vessel is designated to assist.

(7) Means for safely retrieving persons, including injured or helpless persons, from the water. The means of retrieval must be demonstrated to the satisfaction of the Officer in Charge, Marine Inspection.

(8) A scramble net that can be rigged on either side of the standby vessel.

(9) A minimum of four Coast Guard approved ring life buoys, each equipped with 15 fathoms of line.

(10) An immersion suit approved by the Coast Guard under 46 CFR 160.171, or a buoyant suit meeting Supplement A of ANSI/UL-1123-1987 and approved under 46 CFR 160.053, for each member of the standby vessel's crew when the standby vessel operates north of 32 degrees north latitude in the Atlantic Ocean or north of 35 degrees north latitude in all other waters.

(11) Two boat hooks.

(12) A fire monitor with a minimum flow rate of, at least, 500 gallons per minute.

(13) One two-way radio capable of voice communications with the OCS facility, helicopters or other rescue aircraft, rescue boats, and shore side support personnel.

(14) Floodlights to illuminate the personnel and boat retrieval area, the

scramble net when deployed, and the water around the personnel retrieval and scramble net deployment areas.

(15) A copy of "The Ship's Medicine Chest and Medical Aid at Sea", DHHS Publication No. (PHS) 84-2024, available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

(16) An industrial first aid kit sized for 50 percent of the number of persons on the most populated facility that the standby vessel is designated to assist.

(17) Coast Guard approved life preservers for 50 percent of the number of persons on the most populated facility that the standby vessel is designated to assist.

(b) Equipment required by paragraph (a) of this section must be to the satisfaction of the Officer in Charge, Marine Inspection.

§ 143.407 Manning.

Standby vessels must be crewed in accordance with their certificate of inspection for 24 hour operation. The Officer in Charge, Marine Inspection, may require the crew to be augmented, as necessary, to provide for maneuvering the standby vessel, for lookouts, for rigging and operating retrieval equipment, and for caring for survivors.

PART 146—OPERATIONS

6. The authority citation for Part 146 is revised to read as follows:

Authority: 43 U.S.C. 1333(d)(1), 1348(c), 1356; 49 CFR 1.46.

7. In § 146.125, paragraph (c) is redesignated as paragraph (d) and a new paragraph (c) is added to read as follows:

§ 146.125 Emergency drills.

(c) *Emergency evacuation drills.* The following emergency evacuation drills must be conducted:

(1) At least once a year, all the elements of the Emergency Evacuation Plan (EEP) under § 146.140 relating to the evacuation of personnel from the facility must be exercised through a drill or a series of drills. The drill(s) must exercise all of the means and procedures listed in the EEP for each circumstance and condition described in the EEP under § 146.140(d)(9).

(2) At least once a month, a drill must be conducted that demonstrates the ability of the facility's personnel to perform their duties and functions on the facility, as those duties and functions are described in the EEP. If a standby vessel is designated for that facility in the EEP, the vessel must be

positioned as described in the EEP for an evacuation of that facility and the vessel's crew must demonstrate its ability to perform its duties and functions under the EEP.

* * * * *

8. New § 146.140 is added to read as follows:

§ 146.140 Emergency Evacuation Plan.

(a) The operator of each manned OCS facility shall develop an Emergency Evacuation Plan (EEP) for the facility which addresses all of the items listed in paragraph (d) of this section. The EEP may apply to more than one facility, if the facilities are located in the same general geographic location and within the same Coast Guard Officer in Charge, Marine Inspection (OCMI) zone; if each facility covered by the EEP is specifically identified in the EEP; and if the evacuation needs of each facility are accommodated. For facilities existing on June 19, 1989, the EEP must be submitted to the OCMI having jurisdiction over the facility before December 18, 1989. For facilities not existing on June 19, 1989, the EEP must be submitted to the OCMI having jurisdiction over the facility, 30 days before placing the facility in operation. The OCMI reviews the EEP to determine whether all items listed in paragraph (d) of this section are addressed for each facility included in the EEP. If the OCMI determines that all items in paragraph (d) of this section are addressed, the OCMI stamps the EEP "APPROVED" and returns it, together with a letter indicating Coast Guard approval, to the operator. If the OCMI determines that any item is not addressed, the OCMI stamps the EEP "RETURNED FOR REVISION" and returns the EEP, together with an explanation of the EEP's deficiencies, to the operator.

(b) Once the EEP is approved under paragraph (a) of this section, the facility operator shall ensure that a copy of the EEP and the letter indicating Coast Guard approval is maintained on the facility.

(c) The EEP must be resubmitted for approval when substantive changes are made to the EEP. Only the pages affected by a change need be resubmitted if the EEP is bound in such a way as to allow old pages to be removed easily and new ones inserted. Substantive changes include, but are not limited to, installation of a new facility within the area covered by an EEP, relocation of a MODU, changes in the means or methods of evacuation, or changes in the time required to accomplish evacuation.

(d) The EEP must, at a minimum,

(1) Be written in language that is easily understood by the facility's operating personnel;

(2) Have a table of contents and general index;

(3) Have a record of changes;

(4) List the name, telephone number, and function of each person to be contacted under the EEP and state the circumstances in which that person should be contacted;

(5) List the facility's communications equipment, its available frequencies, and the communications schedules with shore installations, standby vessels, rescue aircraft, and other OCS facilities specified in the EEP;

(6) Identify the primary source of weather forecasting relied upon in implementing the EEP and state the frequency of reports when normal weather is forecasted, the frequency of reports when heavy weather is forecasted, and the method of transmitting the reports to the facility;

(7) Designate the individual on each facility covered by the EEP who is assigned primary responsibility for implementing the EEP;

(8) Designate those facility and shoreside support personnel who have the authority to advise the person in charge of the facility as to the best course of action to be taken and who initiate actions to assist facility personnel;

(9) Describe the recognized circumstances, such as fires or blowouts, and environmental conditions, such as approaching hurricanes or ice floes, in which the facility or its personnel would be placed in jeopardy and a mass evacuation of the facility's personnel would be recommended;

(10) For each of the circumstances and conditions described under paragraph (d)(9) of this section, list the pre-evacuation steps for securing

operations, whether drilling or production, including the time estimates for completion and the personnel required;

(11) For each of the circumstances and conditions described under paragraph (d)(9) of this section, describe the order in which personnel would be evacuated, the transportation resources to be used in the evacuation, the operational limitations for each mode of transportation specified, and the time and distance factors for initiating the evacuation; and

(12) For each of the circumstances and conditions described under paragraph (d)(9) of this section, identify the means and procedures—

(i) For retrieving persons from the water during an evacuation;

(ii) For transferring persons from the facility to designated standby vessels, lifeboats, or other types of evacuation craft;

(iii) For retrieving persons from designated standby vessels, lifeboats, or other types of evacuation craft if used; and

(iv) For the ultimate evacuation of all persons on the facility to land, another facility, or other location where the evacuees would be reasonably out of danger under the circumstance or condition being addressed.

(e) The operator shall ensure that—

(1) All equipment specified in the EEP, whether the equipment is located on or off of the facility, is made available and located as indicated in the EEP and is designed and maintained so as to be capable of performing its intended function during an emergency evacuation;

(2) All personnel specified in the EEP are available and located as specified in the EEP and are trained in fulfilling their role under the EEP; and

(3) Drills are conducted in accordance with § 146.125(c).

(f) A complete copy of the EEP must be made available to the facility's operating personnel and a brief written summary of, or an oral briefing on, the EEP must be given to each person newly reporting on the facility.

(g) A copy of the EEP must be on board each standby vessel, if any, designated in the EEP and provided to all shoreside support personnel, if any, specified in the EEP.

9. A new § 146.210 is added to read as follows:

§ 146.210 Emergency evacuation plan.

(a) Except as otherwise provided in this section, the requirements applicable to Emergency Evacuation Plans (EEP's) on manned OCS facilities under § 146.140 are applicable to MODU's.

(b) An EEP must be submitted by—

(1) The holder of a lease or permit under the Act for each MODU within the area of the lease or the area covered by the permit; or

(2) The operator under 30 CFR 250.2(gg), if other than the holder of a lease or permit, for each MODU within the area in which the operator controls or manages operations.

(c) To avoid unnecessary duplication, the EEP may incorporate by reference pertinent sections of the MODU's operating manual required by 46 CFR 109.121.

(d) In complying with § 146.140(d)(7), the EEP must designate the master or person in charge of the MODU under 46 CFR 109.107 as the individual who is assigned primary responsibility for implementing the EEP, as it relates to that MODU.

Dated: March 8, 1989.

J.D. Sipes,
Rear Admiral, U.S. Coast Guard Chief, Office
of Marine Safety, Security and Environmental
Protection.

[FR Doc. 89-11626 Filed 5-17-89; 8:45 am]

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federal register

**Monday
March 13, 1995**

Department of Transportation

Coast Guard

**Direct User Fees for Inspection or
Examination of U.S. and Foreign
Commercial Vessels; Final Rule**

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 143****46 CFR Part 2****[CGD 91-030]****RIN 2115-AD78****Direct User Fees for Inspection or Examination of U.S. and Foreign Commercial Vessels****AGENCY:** Coast Guard, DOT.**ACTION:** Final rule.

SUMMARY: The Omnibus Budget Reconciliation Act of 1990 requires the Coast Guard to establish user fees for Coast Guard services related to the inspection and examination of U.S. and foreign commercial vessels. Fees in this rule are based on existing vessel inspection program requirements and services. The fees are established for the purpose of recovering costs associated with providing Coast Guard vessel inspection services.

EFFECTIVE DATE: This rule is effective on May 1, 1995.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G-LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593-0001 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

For inquiries and payment information during initial implementation of the rule, call, toll-free, 1-800-941-3337.

FOR FURTHER INFORMATION CONTACT: Denise J. Mursch, Planning Staff (G-MP-2), Office of Marine Safety, Security and Environmental Protection, (202) 267-0785.

SUPPLEMENTARY INFORMATION:**Drafting Information**

The principal persons involved in drafting this document are LCDR John J. Kelly, Project Manager, and LCDR J.K. Gillespie, Office of Marine Safety, Security and Environmental Protection, and C.G. Green, Project Counsel, Office of Chief Counsel.

Regulatory History

On December 18, 1991, the Coast Guard published in the *Federal Register* (56 FR 65786) a notice of proposed rulemaking (NPRM) entitled "Direct User Fees for Inspection or Examination

of U.S. and Foreign Commercial Vessels." On December 24, 1991, the Coast Guard published a correction to the proposed rule (56 FR 66766). This correction added Appendix A, a summary of the preliminary Regulatory Evaluation, to the NPRM published on December 18, 1991. The initial public comment period closed on February 18, 1992.

The Coast Guard received numerous comments requesting that public hearings be held in connection with the vessel inspection user fee rulemaking. The Coast Guard determined that public hearings would significantly contribute to this rulemaking, and published a Notice in the *Federal Register* on March 24, 1992 (57 FR 10149) to reopen the public comment period and announce the scheduling of nine public hearings. The nine public hearings were held between April 13, 1992, and May 1, 1992, at the following locations: Baltimore, MD; Secaucus, NJ; Boston, MA; Miami, FL; New Orleans, LA; Chicago, IL; Seattle, WA; San Francisco, CA; and San Diego, CA. The public comment period closed on May 18, 1992.

Background and Purpose

The Omnibus Budget Reconciliation Act of 1990 (the Act) amended 46 U.S.C. 2110 and removed long-standing prohibitions against imposing certain user fees.

As amended by the Act, 46 U.S.C. 2110 now requires the establishment and collection of user fees for Coast Guard services provided under Subtitle II of Title 46, United States Code. The Coast Guard is developing Subtitle II user fees in several separate rulemakings, each of which covers services provided in an identifiable program area. On March 19, 1993 (58 FR 15228), the Coast Guard published the final rule on User Fees for Marine Licensing, Certification of Registry, and Merchant Mariner Documentation (CGD 91-002). On November 15, 1993 (58 FR 60256), the Coast Guard published the final rule on User Fees for Documentation of Vessels and Recording of Instruments (CGD 89-007). In addition to the fees for inspection or examination of U.S. and foreign commercial vessels in this rule, the Coast Guard also plans to establish fees for services related to Coast Guard equipment approval and factory inspections (CGD 92-013); inspections for the initial Certificate of Inspection (COI), such as new vessel construction inspections, inspections of existing vessels undergoing rebuilding, reflagging, or major conversion; and for commercial vessel plan review.

Overview of the Rulemaking

This rule revises 46 CFR Part 2 and creates user fees for Coast Guard inspections or examinations of existing U.S. and foreign commercial vessels as follows:

For U.S. Vessels

(1) An annual vessel inspection fee which covers all periodic inspections and follow-on inspections conducted during the course of a given year for commercial vessels required to have a Coast Guard COI.

(2) An overseas inspection fee for inspections conducted outside the United States and its territories, except for inspections conducted in Canada, Mexico, and the British Virgin Islands.

For Foreign Vessels

(1) A fee for the biannual Letter of Compliance (LOC) examination and for the annual reexamination of tankships carrying hazardous liquids or liquefied gases in bulk in U.S. waters;

(2) A fee for the annual examination of tankships carrying oil in bulk in U.S. waters;

(3) A fee for the LOC examination of mobile offshore drilling units (MODUs) operating on the U.S. outer continental shelf;

(4) An annual vessel inspection fee for all vessels required to have a Coast Guard COI, including Canadian tank barges and vessels of nations not signatory to the International Convention for Safety of Life at Sea (SOLAS).

(5) An overseas examination fee for examinations conducted outside the United States and its territories, except for examinations conducted in Canada, Mexico, and the British Virgin Islands.

Vessels Not Covered

This rule does not apply to foreign passenger vessels, to training vessels operated by State maritime academies, or to public vessels of the United States which are excluded from the provisions of subtitle II of Title 46 U.S. Code.

Waivers

Collection of vessel inspection fees is waived for all vessels whose fees would be paid directly using Federal appropriated funds.

Exemptions

No exemptions were proposed in the NPRM; however, the final rule contains one exemption for charitable, not-for-profit, youth-oriented organizations which use their vessel(s) exclusively for training youths in boating, seamanship, and navigation skills. This exemption is

discussed more fully in the section of this document entitled *Exemptions*.

Fee Limit for Tank Barges

Annual vessel inspection fees calculated for tank barges in various service and route categories all exceeded \$500. However, the Act provides that a user fee for inspection or examination of a non-self-propelled tank barge may not exceed \$500 per year. Thus, the Coast Guard set the annual vessel inspection fee for tank barges at the statutory limit of \$500.

Types of Inspections Covered under this Rule

Fees established by this rule are based on Coast Guard costs of providing inspection and examination services. These costs include marine inspector hours, travel time, mileage costs, administrative support costs, training costs, and overhead costs. In establishing these fees, the Coast Guard reviewed all inspection requirements contained in 46 CFR part 2, as well as the technical requirements for inspections found in 46 CFR parts 31, 71, 91, 105, 107, 108, 109, 151, 167, 175, 176, 189, and 190 and in 33 CFR parts 140, 143, 151, 155, and 157.

Depending on vessel type, commercial vessels are subject to periodic inspections at quarterly, 1 year, 1.5 year, 2 year, 2.5 year, 3 year, 5 year or 10 year inspection intervals. Typically, Coast Guard marine inspectors visit each U.S. commercial vessel a minimum of once each year to either: inspect the vessel for reissuance of the COI; to conduct the annual reinspection; or to inspect the vessel's hull. The amount of time it takes to conduct any given inspection is often a function of the type of inspection being conducted, the specific category of vessel being inspected, the length and in some cases the tonnage of the vessel being inspected, and the maximum number of passengers the vessel is authorized to carry under the vessel's COI. These three periodic inspections, namely the inspection for certification, the reinspection (or mid-period inspection), and the hull (or drydock) inspection, generally require the same amount of inspection time for the majority of vessels in each vessel category.

Follow-on inspections ensure that a vessel remains in compliance with its COI. The purpose of follow-on inspections varies from one vessel to the next. However, these inspections typically include, but are not limited to, any of the following four activities:

(a) Certifying that deficiencies noted during a previous inspection have been satisfactorily corrected;

(b) Surveying either damaged ship structures or propulsion systems, or lifesaving, navigation, or firefighting equipment which has failed;

(c) Inspecting, testing, or approving repairs either to damaged ship structures or propulsion systems, or to lifesaving, navigation, or firefighting equipment which has failed; or

(d) Verifying that vessel modifications or alterations meet regulatory requirements.

Wide variations exist relative to the amount of time required to conduct follow-on inspections, which include, but are not limited to: Drydock extension inspections; MARPOL compliance inspections; inspections to clear outstanding requirements issued by a Coast Guard marine inspector on Coast Guard Form CG-835; damage surveys; repair inspections; permit to proceed inspections; and non-credit drydock inspections. These variations are attributable to many factors, including: The degree to which the vessel is made ready for inspection by the owner or operator; the knowledge, training, and experience of shipyard personnel and the ship's crew; the knowledge and training of the marine inspector; the vessel owner's or operator's management and operating procedures; the level of coordination with third party contractors; the nature and extent of the repairs required; and the size and extent of any deficiency list to be inspected or cleared. Generally, there are no accurate predictors as to the amount of time each type of follow-on inspection should take.

Inspection and Examination Fees

For the purposes of this rule, vessels required to have a COI are inspected, and foreign vessels not required to have a COI are examined. Annual vessel inspection fees are payable each year on or before the vessel's user fee anniversary date and entitle a vessel owner or operator to all periodic and follow-on inspection services needed during the year. All other inspection or examination-related fees are payable by the vessel's owner or operator prior to the time that the Service is provided.

Vessels of nations which are party to SOLAS are examined by the Coast Guard only to the extent necessary to verify compliance with their own nation's inspection laws, the requirements of various international treaties, and any additional domestic regulations which may be imposed by the United States. This rule does not

establish fees for SOLAS compliance examinations.

Derivation of the Annual Vessel Inspection Fee

Depending on the specific vessel category, COIs are issued for a period of one, two, or three years. Reinspections are conducted during the intervening years, on or about the anniversary date of the vessel's COI. Hull inspection intervals vary from once every twelve months to once every ten years, depending on the vessel category and whether the vessel operates in salt water or fresh water. Follow-on inspections, on the other hand, can occur at any time.

The length of the period for which a COI is issued is only one factor in the annual vessel inspection fee calculation. Using vessel inspection data, the Coast Guard determined the average amount of time needed to conduct periodic and follow-on inspections for vessels in each vessel category during a twelve month period. For Coast Guard data capture purposes, hull inspections also included internal structural inspections, fuel oil tank inspections, and tailshaft inspections, since these inspections most often coincide or are associated with the hull inspection.

The annual vessel inspection fee is based upon an equation which calculates the average expected value (in terms of annual inspector hours) of inspection services provided to each vessel category during any given year. The average expected value is the average number of hours it takes to conduct a type of inspection multiplied by the probability of that inspection taking place during any given year. It assumes that the average time to conduct an inspection is representative for all vessels within a given vessel category; that the distribution of the average inspection time about the mean is normal; and that the average inspection time has a relatively small standard deviation. However, while use of the average expected value worked well for periodic inspections, it did not work as well for follow-on inspections, because the standard deviation for many follow-on inspections was several times the mean.

Constructing annual vessel inspection fees predicated on full recovery of follow-on inspection costs would have resulted in shipowners who require less inspection services subsidizing shipowners who require significantly greater inspection services. For this reason, the Coast Guard proposed to base charges for follow-on inspections at 50% of cost. Charging only 50% of the cost associated with conducting follow-

on inspections minimized the impact of the large standard deviations and reduced the potential for inequities within vessel categories and subcategories. No comments on the NPRM suggested that there was any disagreement with the proposal. The annual vessel inspection fees in this final rule are thus based on the total cost of conducting periodic inspections and half of the costs of conducting follow-on inspections.

The Coast Guard developed its vessel inspection and examination fees using information from a workload analysis study, vessel inspection data contained in the Coast Guard's Marine Safety Information System (MSIS), and costs associated with conducting vessel inspection and examination activities by personnel assigned to Coast Guard Marine Safety Offices and Coast Guard Marine Inspection Offices.

Vessel inspection and examination fees were developed to generate receipts approximating the total vessel inspection program costs of providing those services. Vessel inspection program costs include the cost of personnel, local travel costs for inspectors, a portion of the annual cost of operating MSIS, and the associated overhead required to provide Coast Guard inspection and examination services (i.e., office space; office equipment and supplies such as telephones, computers and copiers; special training; and other personnel-related costs). Using information derived from a workload analysis study, the hourly standard rates provided in the Coast Guard Standard Rate Instruction (COMDTINST 7310.1), and the Coast Guard Staffing Standards Manual (COMDTINST M5312.11), the Coast Guard calculated the total cost of the vessel inspection program to be approximately \$28.7 million. Of this amount, an estimated \$2.9 million will be the subject of a separate rule covering fees for inspections associated with new vessel construction and for commercial vessel plan review services.

Based on the workload analysis study and the total vessel inspection program cost, the Coast Guard calculated a basic hourly rate for vessel inspection services of \$87 per qualified inspector hour. A detailed discussion of the calculation of this figure is set out in the Regulatory Evaluation.

Each fee was calculated based upon the time the Coast Guard would reasonably expect to spend inspecting or examining vessels in specific categories during an average year, including travel time to and from the inspection site. All fees were rounded down to the nearest \$5.00 increment.

The costs associated with inspecting the different types of MODUs were determined using Coast Guard historical information, because workload data was not captured based on the type of drilling unit.

Consistent with guidance provided by the Office of Management and Budget (OMB) Circular A-25, and except where otherwise mandated by statute, the Coast Guard's goal in establishing user fees for Subtitle II services is full cost recovery. This rule will recover an estimated \$17.2 million of the \$25.8 million annual cost of providing Coast Guard vessel inspection and examination services. An estimated \$8.6 million in costs will not be recovered by user fees due to statutory prohibitions or limitations; lack of statutory authority; exemptions in the rule from payment of fees; and administrative reductions during development of the final fee schedule. These unrecovered costs are listed in Appendix E of the Regulatory Evaluation for this rule.

OMB Circular No. A-25 requires that all user fees be reviewed periodically to determine if adjustments or changes to the fees are necessary. The fees in this rule will be revised if costs change due to inflation or deflation; if the Coast Guard changes the manner in which inspection or examination services are provided; or if otherwise deemed appropriate. Revisions to the fees would be done through rulemaking.

Optional Prepayment of Annual Vessel Inspection Fee

The final rule allows a vessel owner or operator to prepay the annual vessel inspection fee for any period of not less than three years and not more than the design life or expected remaining service life of the vessel. The Coast Guard will calculate the prepayment amount using the net present value of each annual payment during the requested prepayment period. The net present value is a discounted amount which, if deposited in an interest bearing account until the payment year and when added to the accumulated interest, would equal the payment amount due. The interest rate used in calculating net present value will be the 10-year Treasury note rate in effect at the time of calculation, as adjusted for inflation using the projected rate for Federal pay increases. Entitlement to inspection services during the prepayment period is transferable to a subsequent owner of the vessel, but the entitlement is not transferable to a different vessel. If a vessel certificated for a single service changes service during the prepayment period, the fee for the remainder of the prepayment

period must be recalculated using the vessel's new category. The remaining prepaid balance will be applied to the fee calculated for the remaining years in the vessel's new category, commencing with the next user fee anniversary date. With the exception of a vessel that is removed from Coast Guard certification, as discussed in § 2.10-105(e), prepayments of fees are non-refundable.

Overseas Inspection and Examination Fees

Approximately 40,000 inspector hours are expended annually in the overseas inspection of U.S. commercial vessels. These overseas inspections are conducted at the request of the vessel owner. Vessel owners and operators reimburse the Coast Guard (under 46 U.S.C. 3317) for travel and per diem expenses of the marine inspectors, but not for the personnel costs associated with conducting overseas inspections. Personnel hours expended during travel to the overseas inspection site and at the overseas inspection site waiting for a vessel to be made ready for inspection constitute the extra costs associated with providing inspection and examination services at overseas locations which are not included in the annual vessel inspection fees.

The Coast Guard proposed an additional flat fee for each overseas inspection. The total marine inspector hours expended in conducting overseas inspections divided by the number of overseas inspections conducted provides an average time for each inspection of approximately 53 hours travel and delay time. At \$87 per qualified inspector hour, this rule sets the fee for each overseas inspection at \$4,585.

Foreign Tankship Fees

Foreign tankships which carry hazardous liquids or liquefied gases in bulk are issued a LOC, which is valid for two years. These tankships are also examined annually, at which time the vessel's LOC is endorsed. Foreign tankships carrying oil in bulk, on the other hand, are issued a Tank Vessel Examination (TVE) Letter, which is valid for one year. The time involved to conduct each of these tankship examinations is essentially the same. The fee for each of the three examinations, therefore, is the same amount, namely \$1,100.

Foreign MODU Fees

Foreign MODUs are examined under the authority of the Outer Continental Shelf Lands Act, codified in 43 U.S.C. 1356. The regulation requiring a foreign MODU to obtain a LOC is published in

33 CFR 143.210. LOCs for foreign MODUs are valid for one year or until the MODU departs the outer continental shelf, whichever occurs first. Since certain other foreign vessels are required to pay user fees for inspections and examinations, and since U.S. MODUs are generally inspected by and pay fees to foreign agencies when operating in foreign waters, the Coast Guard has established user fees for examination services provided to foreign MODUs. Foreign MODU fees are collected under the authority of 14 U.S.C. 664 and 31 U.S.C. 9701.

Foreign MODU examinations are conducted under 33 CFR 143.207 and 143.210 to ensure compliance with one of the following: (a) The design and equipment standards for MODUs in 46 CFR part 108; (b) the design and equipment standards of the documenting nation, if those regulations have been found to meet or exceed U.S. standards; or, (c) the standards issued by the International Maritime Organization.

Since examinations conducted to ensure compliance with (a) above involve essentially the same inspection services provided to U.S. MODUs, the fees for these foreign MODU examinations are identical to the annual vessel inspection fees for U.S. MODUs. Likewise, since the scope of the examinations conducted to ensure compliance with categories (b) and (c) above are essentially the same, and involve the same amount of time, the fee for each of these foreign MODU examinations is the same amount, namely \$1,830.

Foreign Passenger Vessel Fees

The Coast Guard examines foreign passenger vessels of nations that are party to SOLAS to verify that these vessels are in substantial compliance with the laws of their flag state and the controls imposed by appropriate international treaties. The Coast Guard initially proposed to charge the same fee for each initial, annual, and quarterly foreign passenger vessel examination. However based on further review and research, the Coast Guard has subsequently determined that the reciprocity provision contained in 46 U.S.C. 3303(b) does not allow imposition of a fee for the examination of a foreign passenger vessel except to the extent that a foreign country charges vessels of the United States trading to the ports of that country. Since there are no U.S. passenger vessels being charged examination fees by a foreign country, and no clear indication that any such fees would be charged, the Coast Guard has not established a fee for the

examination of foreign passenger vessels under 46 U.S.C. 3303.

Fee Collections

The Coast Guard has established a vessel user fee anniversary date for each existing vessel currently inspected by the Coast Guard. This was accomplished by checking MSIS data for the COI anniversary date of all Coast Guard inspected vessels and assigning the vessel's user fee anniversary date as the first day of the next month after the COI anniversary date, exclusive of the year. Once established, the vessel user fee anniversary date remains the same for the service life of the vessel. Annual vessel inspection fees are due on or before the vessel's user fee anniversary date. Coast Guard inspection services will not be provided until the annual vessel inspection fee for that year has been paid in full. For new vessels entering service after the effective date of this rule, the vessel user fee anniversary date will be based upon the vessel's initial COI issuance date. This same method will be used for existing vessels coming under Coast Guard certification for the first time.

Annual vessel inspection fees and foreign vessel examination fees must be mailed to the address specified in 46 CFR 2.10-20. Overseas inspection and examination fees, on the other hand, must accompany each request for an overseas inspection or examination as required by § 2.10-120.

Fees generated by this rulemaking will be deposited in the general fund of the U.S. Treasury as offsetting receipts of the Department of Transportation and ascribed to Coast Guard activities. This means that the fees will not be added to current Coast Guard appropriations; nor will the fees directly affect future appropriations used for administration of the Coast Guard's marine safety programs. The Coast Guard considers this to be an advantage, since funding for these programs is more predictable when based on firm appropriations, and administration of the vessel inspection program will not be dependent on the amount of fees collected during any given year.

Discussion of the Comments

Overview

During the comment period, the Coast Guard received a total of 1,092 written comments to the docket. In addition, 176 persons either testified or submitted written statements during the nine public hearings.

All segments of the industry generally objected to the proposed imposition of any user fees for the inspections of their

vessels. They also objected to the proposed fee amounts being too high. Many requested an after-the-fact billing system to charge for the actual inspection time rather than the proposed annual fees.

The largest number of comments came from owners and operators of small passenger vessels who were primarily concerned with the cumulative economic impact of local, State, and Federal fees and the effect of the fees on their income.

Numerous comments were also received from the freight barge industry. The industry's primary concerns were that they were not included in the fee cap for tank barges and that they would be charged twice for what appears to be identical services conducted by the Coast Guard and American Bureau of Shipping (ABS).

The oceangoing merchant fleet industry was primarily concerned that the proposed fees would place their vessels at a competitive disadvantage relative to their foreign counterparts; that foreign countries may choose to reciprocate and charge U.S. vessels fees for operating in their ports; that the Coast Guard should delegate more of its inspection responsibilities to ABS; that charging an hourly rate would provide an incentive for owners to have their vessels ready for inspection; and that if the industry must pay for vessel inspection services, the Coast Guard needs to improve its efficiency and the quality of its inspection corps.

The offshore oil industry also submitted numerous comments. The primary concerns of this industry segment related to the economic impact the fees would have on individual vessel operators supporting their industry, i.e. offshore supply vessels (OSVs).

Some comments requested that more information be provided which specifically shows how the annual inspection fees were derived. The Coast Guard has included a detailed example of an annual fee calculation in the final Regulatory Evaluation for this rule.

Exemptions

Under 46 U.S.C. 2110(g), the Coast Guard may exempt a person from paying fees if it is determined to be in the public interest to do so. In the NPRM the Coast Guard did not propose any exemptions, but invited comments on exemptions that could be considered to be in the public interest. Over 40 exemption requests were received, spanning a wide range of vessel categories. The categories for which exemptions were requested included: State, local, and private ferries; vessels

operated by youth-oriented, not for profit, charitable or educational organizations; vessels operated by nonprofit organizations or foundations; oceangoing merchant vessels; small passenger vessels less than 30 feet in length; certain historic vessels; small entities; small passenger vessels; U.S. vessels engaged in foreign commerce; small passenger vessels built before December 31, 1990; vessels whose gross profit was less than 20% of the proposed annual vessel inspection fee; companies engaged in providing passenger transportation services; auxiliary sailing vessels; sailing school vessels less than or equal to 65 feet in length; yacht club launches carrying 12 passengers or less; any small entity negatively impacted by the fees; tourism vessels; U.S. flag liner vessels; small passenger vessels less than 100 gross tons; small passenger vessels less than 100 gross tons and engaged in recreational diving and fishing activities; foreign vessels; and U.S. vessels in general. Of this list, the greatest number of comments came from the Boy Scouts of America (BSA); state, local, and private ferries; and various not for profit organizations. Comments from these groups presented a variety of reasons to support their requests for exemption.

Most other requests for exemptions simply suggested an exemption category but failed to provide an articulated rationale in support of their request.

Several comments requested an exemption for ferries which are owned and operated by local, state, or private entities and which support local transportation systems. The comments indicated that ferries reduced vehicle traffic congestion on area roads and provided access to remote sites, such as to a barrier island State park, or to the islands of Martha's Vineyard and Nantucket. The comments also indicated that many ferries operate on a nonprofit basis in an effort to keep their fares as low as possible, with fare increases often regulated by a State Public Utilities Commission. One State transportation department indicated that it received some type of subsidy from the Federal Transit Administration (FTA) and stated that it is not logical for the Federal Government to subsidize water-based nonprofit operations on the one hand, while imposing a fee for Coast Guard inspection services on the other hand.

A substantial number of comments requested exemptions for vessels owned or operated by organizations that are charitable, not for profit, and youth-oriented, such as the BSA, including the Sea Scouts and Sea Explorers, Girl

Scouts of the United States of America (GSA), and the Young Men's Christian Association (YMCA) of the United States of America. These organizations are involved in teaching youths maritime skills, such as boating, seamanship, and navigational skills. These organizations argued that since many of their programs rely solely on volunteers, fund-raising activities, and private donations for their total funding and support, their ability to continue offering these programs would be adversely affected if fees were charged for the inspection of their vessels.

In addition to organizations discussed above, several other nonprofit organizations requested exemptions for their vessels. These organizations provide the public with educational programs having an environmental or historical focus, rather than teaching youths maritime skills. One organization provides charitable medical care and therefore has a humanitarian focus.

The Coast Guard acknowledges that there are many charitable organizations which provide services to the public, and that even commercial operations, such as ferries, benefit the general public. However, the Coast Guard does not agree that all organizations which serve or benefit the public in some manner should be exempted from the vessel inspection fees.

The Coast Guard has a long-standing record of supporting national youth programs (Coast Guard Public Affairs Manual—COMDTINST M5728.2B). Charging fees for inspecting these vessels would not be in keeping with this long-standing support, nor would it be consistent with other Coast Guard user fee rulemakings such as the recreational vessel user fee and merchant marine licensing user fees which have established a similar exemption. Therefore, consistent with past practice, the Coast Guard has decided to exempt vessels which are owned or operated by not for profit, charitable, youth-oriented organizations and which are used exclusively by those organizations for training youths in boating, seamanship, and navigation skills.

A vessel meeting the criteria set out in the final rule may be eligible for an exemption. Vessel owners and operators, including the BSA, GSA, and YMCA organizations, desiring an exemption must submit a written request to Commandant (G-MP) via the Officer in Charge, Marine Inspection (OCMI) of the Marine Inspection Zone in which the vessel normally operates. Since some of the vessels owned or operated by the BSA, GSA, and YMCA

organizations may not be used exclusively by those organizations for training youths in boating, seamanship, and navigation skills, it is expected that some of these vessels may not be eligible for this exemption.

Historic Vessels

Several comments to the docket asserted that the proposed annual vessel inspection fees will have an adverse impact on vessels listed on the National Register of Historic Places and other vessels possessing either historical character or historical significance. Section 106 of the National Historic Preservation Act (NHPA) requires Federal agencies to consider the effects of their actions on historic properties and to seek comments from an independent reviewing agency, the Advisory Council on Historic Preservation (ACHP). The purpose of the Section 106 process is to prevent unnecessary harm to historic properties arising from Federal actions. Regulations for the Section 106 process are contained in 36 CFR part 800.

Because a number of inspected vessels are listed on the National Register of Historic Places, the Coast Guard referred this matter to the Advisory Council on Historic Preservation. In November 1993, the Advisory Council determined that this rule does not constitute an undertaking under Section 106 of the National Historic Preservation Act, therefore the Coast Guard did not do a Section 106 analysis.

Specific Comments

Several comments expressed the opinion that their taxes had already paid for the cost of providing Coast Guard inspection services, and that charging fees amounted to nothing more than "double taxation." Some comments stated that the primary beneficiaries of Coast Guard inspection services include the public, the ship's crew and its passengers, and the environment, and that fees should be reduced substantially in recognition of that fact.

The Coast Guard does not agree. The Omnibus Budget Reconciliation Act of 1990 tasked the Coast Guard with establishing user fees for services provided under Subtitle II of Title 46, United States Code. This congressional mandate was aimed at recovering costs associated with providing Coast Guard services from the recipients of those services. OMB Circular No. A-25, dated July 15, 1993, states that when a service or privilege provides special benefits to an identifiable recipient beyond those that accrue to the general public, a

charge will be imposed to recover the full cost to the Federal Government for providing the special benefit, or the market price. The Circular also provides that when the public obtains benefits as a necessary consequence of an agency's provision of special benefits to an identifiable recipient (i.e., the public benefits are not independent of, but merely incidental to, the special benefits), an agency need not allocate any costs to the public and should seek to recover from the identifiable recipient either the full cost to the Federal Government of providing the special benefit or the market price, whichever applies.

Just as a business cannot operate legally without applicable State and city business licenses, a U.S. commercial vessel of a certain size or tonnage cannot legally carry passengers or cargo in U.S. waters unless it has a valid COI issued by the Coast Guard. The Coast Guard's position is that the vessel owner or operator is the primary beneficiary of Coast Guard inspection services.

A few comments asserted that there were no cost controls inherent in the proposed fees that would help ensure that the fees were competitive, reasonable, and cost effective. Still others questioned having 416 FTE (full time equivalents or man-years, as opposed to actual personnel) associated with the total vessel inspection program cost, because only about half of the FTE could be accounted for by the MSIS inspection workload data.

Personnel such as the Chief of the Inspection Department, the Assistant Chief of the Inspection Department, marine inspector trainees, clerical and support personnel, and to a lesser extent the Executive Officer and the Commanding Officer at each of the Marine Safety Offices, all contribute to the 416 FTE associated with the administration of the Coast Guard's vessel inspection program. However, the hours for these support personnel are not in the MSIS inspection workload data which tracks mainly those who are directly involved in doing the inspection or processing the reports. The support and administrative costs not tracked in MSIS are nonetheless necessary to the vessel inspection program, as are the marine inspectors actually conducting the onboard inspections.

Others asserted that the Coast Guard intended to charge a separate fee for reinspections and follow-on inspections.

All reinspections, hull inspections, and follow-on inspections are encompassed within the annual vessel inspection fee. With the exception of the

overseas inspection fee, the annual vessel inspection fee represents the only inspection fee most U.S. vessel owners will pay during any given year. Payment of the annual vessel inspection fee entitles each owner or operator to a full year of periodic and follow-on inspections, regardless of when the COI, or any other inspection, is conducted.

Some comments stated that the Coast Guard's de facto COI issuance policy is shortening the inspection cycle, causing inspections to occur more frequently than statutorily required. They indicated the current Coast Guard practice of listing the COI issuance date as the date that the inspection was conducted (versus the actual expiration date of the COI) would cause owners to pay an annual vessel inspection fee while receiving less than 12 months of Coast Guard inspection services.

The annual vessel inspection fee will be due on the same date each year, namely the user fee anniversary date, for as long as the vessel remains in service. Therefore, the COI issuance date will have no bearing on the amount of annual vessel inspection services provided.

A few comments suggested that inspectors may become even more vigilant during future inspections so as to find discrepancies and thereby generate additional user fee receipts for the U.S. Treasury.

Since the annual vessel inspection fee includes all periodic and follow-on inspections conducted during the course of the year, there exists no incentive for inspectors to uncover additional discrepancies to increase fee collections.

A number of comments took exception to the Coast Guard's use of the term "privilege of inspection" in the NPRM and suggested that since inspections are required by Coast Guard regulations a more appropriate phrase would be either "right to be inspected," "eligibility for inspection," or "entitlement to inspection." The Coast Guard agrees, and the phrase "privilege of inspection" has been replaced by language more correctly indicating that payment of the annual vessel inspection fee entitles a vessel owner or operator to a full year of periodic and follow-on inspection services.

Numerous comments suggested that the proposed \$500 cap on tank barge inspection fees was discriminatory and inequitable, especially when compared to the fees proposed for small passenger vessels and the fees proposed for freight barges.

The tank barge cap was part of the Act passed by Congress. The calculated fees for tank barges ranged from an annual

fee of \$778 to \$1,015. Because the fees as calculated exceeded the statutory limit of \$500, and the Act prohibits charging a fee exceeding \$500 per year for these vessels, the Coast Guard set the annual vessel inspection fee at the maximum amount allowed by Congress.

Some comments expressed the opinion that in response to the fees established for foreign vessels under this rule, countries may elect, in turn, to charge fees for U.S. vessels operating in foreign ports.

The Coast Guard acknowledges the possibility that foreign countries may consider charging reciprocal fees. However, the Act requires that fees be established for services provided under Subtitle II of Title 46 United States Code, except as otherwise provided in Title 46 and to the extent that the fees are not in conflict with the international obligations of the United States. The Coast Guard has determined that user fees are enforceable for TVE and LOC examinations conducted on foreign tankships and MODUs. These examinations are required by 46 U.S.C. Chapter 37 and are not based solely on any international convention or agreement; rather, they are based on U.S. domestic port entry requirements aimed at ensuring the protection of U.S. ports, its waterways, and the environment.

Several comments suggested that annual vessel inspection fees will place U.S. vessels at a competitive disadvantage relative to foreign vessels engaging in U.S. or international commerce. One commercial shipping representative commented that his company was attempting to compete in an international market, where his competitor's costs associated with regulatory bodies are limited to those of a classification society. He objected to having to pay Coast Guard vessel inspection fees in addition to classification fees stating that the increased fee burden placed his company at a competitive disadvantage.

Just as the Coast Guard inspects the U.S. commercial vessel fleet, SOLAS signatory nations inspect vessels belonging to their commercial vessel fleets. Most of these nations charge their fleets fees for providing these inspection services. Since these vessels have been inspected by their "flag state," and have been issued appropriate international convention certificates prior to entering U.S. waters, Coast Guard examinations are limited to ensuring compliance only with U.S. regulations which may supersede international requirements. These LOC and TVE examinations take less time to conduct than an inspection for a COI. Thus, these examinations

have lower fees. Vessels of foreign nations not party to SOLAS, and vessels to which SOLAS does not apply are subject to the same inspection requirements as U.S. vessels. Because these latter vessels require the same amount of Coast Guard inspection services as their U.S. counterparts, they must pay a vessel inspection fee equal to the annual vessel inspection fee paid by U.S. vessels of the same vessel service category. Thus, foreign vessels using U.S. ports pay the equivalent amounts for Coast Guard inspection services as U.S. vessels.

One comment suggested that the proposed vessel examination fee schedule should be expanded to include inspections of foreign cargo vessels of nations that are signatory to SOLAS.

As authorized by 46 U.S.C. 3303 and required under 46 CFR 90.05-1, foreign vessels of a country having inspection laws and standards similar to those of the United States, and which have an unexpired COI issued by proper authority of its respective country, receive only a port state control examination to ensure that the condition of the vessel is as stated on its COI. User fees solely for port state control examinations would be inconsistent with the operation of customary international practice and they are not included in this rule.

A few comments stated that every vessel carrying passengers for hire should be inspected by the Coast Guard. Others stated that the law concerning bareboat charters should be changed.

These suggestions would require changes to inspection statutes and regulations which are beyond the scope of this rulemaking. However, should additional categories of commercial vessels become subject to Coast Guard inspection in the future, user fees will be established for these vessels as well. For example, the Passenger Vessel Safety Act of 1993 now requires that certain additional vessels carrying passengers for hire be inspected by the Coast Guard. Therefore, the fees established in this rule also apply to these vessels.

A few comments expressed the concern that fees charged for vessel inspection services were, in reality, paying for other Coast Guard services provided to recreational and fishing vessels for which user fees have not been proposed. The Coast Guard disagrees.

This rule establishes annual vessel inspection fees for those vessels subject to Coast Guard inspection under 46 U.S.C. 3301. Recreational vessels and fishing vessels are not currently required to be inspected.

One comment suggested that the proposed annual vessel inspection fee for liquefied natural gas tankships (LNG) was not based on the actual time spent inspecting such vessels. The comment stated that the proposed fee for LNG tankships was 244% higher than the proposed fee for a non-LNG tankship, despite the fact that both tankship categories should take essentially the same amount of time to inspect.

The Coast Guard agrees that if vessel size was the only factor, LNG tankships should take essentially the same amount of time to conduct the required inspections as non-LNG tankships. However, Coast Guard-inspected LNG vessels operate almost exclusively in the overseas trade. MSIS data indicates that most reinspections of LNG tankships occur while the vessel is underway, and most drydockings often require the services of a dedicated inspector for extended periods. The annual vessel inspection fee for LNG tankships also includes Coast Guard costs associated with conducting the annual testing of firefighting systems. All of these factors increase the average annual inspection time.

Because there are only 10 active vessels in the LNG tankship fleet, the Coast Guard reviewed MSIS data on each of the 10 vessels dating back to 1987 to establish a more reliable average inspection time. Data which clearly exceeded the mean inspection time was intentionally eliminated from this analysis. The results indicated that a reduction in the proposed annual vessel inspection fee for LNG tankships was, in fact, justified. However, the recalculated annual vessel inspection fee for LNG tankships remains almost twice as high as the annual vessel inspection fee for a conventional tankship.

One comment asked whether a separate fee would be assessed to a vessel operating part of the year in one region of the country and operating the rest of the year in another region of the country.

Only one annual vessel inspection fee will be charged per vessel, regardless of the number of regions in which a vessel operates during any given year. Payment of the annual vessel inspection fee entitles a vessel owner to a full year of periodic and follow-on inspections, regardless of where in the country the vessel chooses to operate and how often the vessel is inspected.

Several comments suggested that the Coast Guard should consider billing at the conclusion of the inspection. Other comments expressed the opinion that fixed annual fees do not provide an incentive for owners to have their

vessels "ready for inspection." These comments argued that paying an annual fee, in effect, rewards those owners and operators who are not prepared for the inspection at the expense of those who are prepared. One commenter said he objected to having his annual fee become higher because of another company which makes no attempt to maintain its vessels or prepare adequately for an inspection. He suggested the Coast Guard establish a published guideline of thresholds. When the number of visits exceeds that threshold, the annual fee for that vessel should increase on its next anniversary, and hopefully other more cooperative and prepared companies' fees should decline. Generally, these comments stated that charging for each inspection at a fair, hourly rate would not only be more equitable, but would also ensure that the fees reflected the actual amount of time spent on board the vessel.

Hourly fees would more accurately reflect the actual time an inspector spends on board a vessel and would also likely result in lower fees for those owners whose vessels were "ready for inspection" compared to owners whose vessels were "not ready for inspection." However, the average expected value of services provided each year is representative of the majority of vessels in each vessel category. In addition to the average annual amount of time spent on board each vessel, annual vessel inspection fees also include travel and administrative (paperwork, review, and research) time.

Billing at the conclusion of each inspection poses essentially the same problems as charging at an hourly rate. Charging at an hourly rate would require creating and staffing a billing system that would increase collection costs by an estimated \$1.75 million, resulting in higher fees for vessel owners and operators. Moreover, OMB Circular No. A-25 guidance states that user charges will be collected in advance of, or simultaneously with, the rendering of services unless appropriations and authority are provided in advance to allow reimbursable services. Thus, the Coast Guard decided not to bill at the conclusion of the inspection using an hourly rate.

The small passenger vessel industry was particularly concerned with the impact of the proposed fees on the ability of many operators, especially small entities, to stay in business. Citing the poor state of the economy and their declining revenues in general, they commented on the cumulative adverse impact of the growing number of Federal, State, and local fees and

regulations. The comments cited more than 60 different fees and assessments, with the number of fees applicable to any given vessel owner depending upon such considerations as the type of operation, the vessel's size, the geographic area of operation, and the number of passengers carried on board a given vessel. Included were such fees as harbor maintenance fees; drug testing fees; State gaming fees; tonnage fees; Animal and Plant Health Inspection Service fees; State agricultural inspection fees; Bureau of Land Management fees; State saltwater fishing license fees; Customs fees; St. Lawrence Seaway tolls; Federal Communications Commission (FCC) inspection fees; State vessel registration fees; State and Federal water use fees; dockage fees; National Marine Fisheries Service permit fees; municipal business registration fees; commercial use permit fees; Federal reef fishing fees; State business license fees; Gulf of Mexico Fishery Management Council fees; International Pacific Halibut Commission permit fees; Mexican Fish Commission permit fees; State fish and game permit fees; retail fish license fees; lobster license fees; and Public Utility Commission fees. Other comments mentioned State and Federal income taxes; State sales and excise taxes; fuel taxes; corporation taxes; municipal head taxes; self-employment taxes; unemployment taxes; winter boat storage fees; lift fees; insurance and maintenance costs; proposed Coast Guard user fees for marine licensing, vessel documentation, and plan review; and compliance with the Oil Pollution Act of 1990, the Americans with Disabilities Act, and the proposed Subchapter T, liferaft, and EPIRB regulations.

While admitting that the proposed vessel inspection fees alone would not likely cause them to consider leaving the industry, comments stated that the increasing costs of operating small passenger vessels is so overwhelming that some owners or operators will have little choice but to exit the industry. They were also concerned that if they went out of business there would be resulting loss of jobs and revenues in the local communities which often rely on tourist dollars for their income. Some small passenger vessel owners stated they were reluctant or unable to pass on the cost of Coast Guard fees by raising their fees to customers. Other small passenger vessel owners were concerned that their customers would be unwilling to pay higher fares, and would seek other, less costly leisure or tourist activities.

The Coast Guard considered the impact that the annual vessel inspection fees would have, particularly on the ability of small passenger vessel operators to remain in business. The Coast Guard held nine public hearings on the proposed rule in order to gather more data on the likely economic impact of the proposed fees. Based upon the comments received, both in writing to the docket and during the public hearings, the Coast Guard reviewed its proposed fees. The Coast Guard recognizes that the economic impact on each owner or operator depends on a myriad of factors including seasonal operation, number of passengers, status of the economy, weather, and the ability to pass on new costs to paying passengers. While the Coast Guard can calculate the dollar amount of impact on individual vessel owners, it cannot calculate the overall economic impact on each vessel owner and the data in the comments did not support a finding of a significant impact on a substantial number of small entities.

In the NPRM, the Coast Guard divided the U.S. fleet into 29 different vessel subcategories for the purpose of establishing annual vessel inspection fees. The Coast Guard selected the fee subcategories after observing patterns in the amount of time it takes to conduct an inspection as a function of inspection type, vessel type, and other factors.

Many comments stated that the costs for inspecting smaller vessels appeared too high and did not accurately reflect the inspection time required for these vessels. In response to these comments, the Coast Guard reexamined its inspection data and found that other breakpoints could be used to establish additional subcategories (see Figure 1). By establishing these additional subcategories, the Coast Guard was able to tier the fees differently in order to achieve a more precise allocation of program costs. While reexamining the inspection data, the Coast Guard also identified some outliers in the data that skewed the average mean inspection time for all vessels of that category. By disregarding these data outliers in computing the mean inspection time, the Coast Guard was able to develop mean inspection times that more precisely represent the average inspection time for each vessel category resulting, in many cases, in lower fees.

FIGURE 1.—NUMBER OF ANNUAL VESSEL INSPECTION FEE SUBCATEGORIES

| Vessel category | NPRM ¹ | Final rule |
|---|-------------------|------------|
| Freight Barges | 1 | 3 |
| Freight Ships | 1 | 3 |
| Ready Reserve Fleet | | |
| Freight Ships | 1 | 0 |
| Industrial Vessels | 1 | 2 |
| Mobile Offshore Drilling Units | 4 | 4 |
| Offshore Supply Vessels | 1 | 2 |
| Offshore Supply Vessels in the Alternate Reinspection Program | 0 | 2 |
| Oceanographic Research Vessels | 1 | 3 |
| Sea-going Towing Vessels | 1 | 1 |
| Tank Barges | 1 | 1 |
| Tankships | 1 | 3 |
| Ready Reserve Fleet Tankships | 1 | 0 |
| Liquefied Gas Tankships | 1 | 1 |
| Small Passenger Vessels | 6 | 9 |
| Sailing School Ships ² ... | 0 | 3 |
| Passenger Barges | 1 | 4 |
| Passenger Ships | 5 | 5 |
| Nautical School Ships ... | 1 | 3 |
| All Other Inspected Vessels | 1 | 1 |
| Totals | 29 | 50 |

Notes:
¹ Ready Reserve Fleet Freight Ship and Ready Reserve Fleet Tankship are not included as categories in the final rule.
² Sailing School Ships were included with Small Passenger Vessels in the NPRM.

For instance, the Coast Guard initially proposed a single fee subcategory for all small passenger vessels less than or equal to 54 feet in length. The annual inspection fee proposed for all vessels in this category was \$820. However, during the review of the proposed fees for small passenger vessels, the Coast Guard determined that the inspection data supported creating another subcategory based on length, and recalculated the annual vessel inspection fees based on these new subcategories. The Coast Guard also examined its inspection data for DUKW vessels (ex-Army 2½ ton amphibian trucks), hydrojet boats, swamp tour boats, and yacht club launches. Comments stated that due to these vessels' simplified design, the time required to conduct an inspection on these types of vessels was considerably less than the time required for other small passenger vessels. However, MSIS inspection data supported the creation of separate fee categories for DUKW vessels and hydrojet boats, but did not

indicate a significant difference in the mean inspection time for "swamp tour boats" and yacht club launches when compared to other small passenger vessels of the same length. Therefore the following new subcategories were created for small passenger vessels (SPVs):

| New subcategories | Annual inspection fee |
|---|-----------------------|
| —DUKW vessels | \$450 |
| —Hydrojet boats | 470 |
| —SPVs length not greater than 30 feet | 545 |
| —SPVs more than 30 feet but not more than 54 feet | 670 |

Several comments stated that fees should be linked to some measure of a vessel's ability to generate revenue, such as the number of passengers a vessel can carry. Others stated that fees should take into account a vessel's actual gross earnings for the year. For instance, several comments asserted that the fees failed to take into account the seasonal nature of many vessel operations, and that vessels operating 3-5 months a year should not be charged the same annual fees as vessels which operate year-round.

The Coast Guard does not agree. The number of passengers for which a vessel is certificated is not a direct measure of actual revenues, it is a measure of potential revenues. The authorized total number of passengers is not necessarily the same as the actual number of passengers a vessel carries during any given voyage. Indeed, many small passenger vessel owner comments indicated that their vessels frequently sail with fewer than half the authorized number of passengers on board. Nor is the number of months a vessel may operate during the year an effective predictor of revenues for that year. For instance, revenue generated by a vessel carrying one-half its passenger capacity for twelve months would be comparable to a similar vessel carrying full passenger capacity for six months.

Although the economic impact of an annual fee may be greater for a vessel with a short operating season, than for a similar vessel with a longer season, the amount of resources expended by the Coast Guard to inspect these vessels is the same whether a vessel operates for one month or for twelve. The Coast Guard based its annual vessel inspection fees on the average cost to the Coast Guard of inspecting each category of vessels.

Some comments expressed the opinion that Coast Guard travel costs ought to reflect the proximity of the inspector to the job site, instead of attributing a fixed amount of average travel time to each vessel per year. Others pointed out that many small passenger vessel owners and operators, especially those located in remote areas, often coordinate inspections with other vessel owners and operators in an effort to minimize Coast Guard travel time.

Coordinating inspections is a common practice within the small passenger vessel industry. This practice most often applies to inspection sites located several hours from the Coast Guard inspection unit. However, Coast Guard MSIS data shows that travel time averages just over two hours per inspection, regardless of the number of inspections conducted during a particular inspection trip. It is not uncommon for inspectors to travel three hours each way to get to an inspection site. In other cases, one inspector may inspect three vessels in the same day. The practice of doing multiple inspections during a single inspection trip allows the Coast Guard to minimize its travel costs; otherwise, average Coast Guard travel costs would be greater. Thus, the Coast Guard considers it reasonable that it include in the vessel owner's annual vessel inspection fee an average of about two hours travel time per vessel per year.

Comments from various industry segments recommended that the Coast Guard not impose any user fees until all the proposed user fee rules have been published, so that the cumulative economic impact of these fees on owners and operators could be properly evaluated.

The user fee rules under development by the Coast Guard may impact some of the same segments of the regulated marine community. One example is the small passenger vessel industry, where vessels are often owned and operated by the same individual who may be subject to both marine licensing fees (CGD 91-002) and inspection fees from this rule. On December 18, 1991, the Coast Guard reopened the comment period for the Marine Licensing NPRM to run concurrently with the comment period for the Commercial Vessel Inspection NPRM. Establishing the concurrent comment period did not provide any new information to the marine licensing user fee rule, or to this rule concerning cumulative impact of the fees. Since these two rules are the most likely to have affected the same segments of the regulated community, and since the Coast Guard did not receive data from the licensing rule comments during the

concurrent comment period that necessitated changes in this final rule, the Coast Guard decided not to delay publication of this final rule pending comments on remaining user fee proposals.

A number of comments expressed concern over the apparent duplication of inspection services by Coast Guard, ABS, and other parties for which fees are charged. One commercial shipping representative suggested that when a classed vessel is surveyed by ABS that the survey be accepted by the Coast Guard. One barge company stated that barge owners will incur inspection charges for essentially the same service from both Coast Guard and ABS, i.e., an inspection and survey to ensure the structural integrity of the vessel.

The Coast Guard is aware that inspections or surveys done by other agencies such as FCC, by classification societies like ABS, and by marine surveyors are subject to fees. Although activities of the same type done by different agencies may appear to be at least partially duplicative, the activities have a different purpose. Other third party inspections or surveys, such as those conducted by marine surveyors, are also for a different purpose, usually to meet insurance company requirements.

The Coast Guard agrees that cost savings could result if some inspections or surveys done by one agency could be used by other agencies or third parties for several purposes. Acceptance of third party inspections or surveys as evidence of compliance with Coast Guard regulations is an issue which is being reviewed by the Coast Guard as part of its Maritime Regulatory Reform initiative, and could result in changes to the Coast Guard's marine inspection program. However, such program changes are beyond the scope of this rule.

A few comments suggested that the Coast Guard should consider revising its vessel inspection intervals so that the various inspection requirements such as hull inspection interval and mid-period inspection or COI inspection interval coincide, thereby reducing the number of required Coast Guard inspections. One commercial shipping representative stated that presently, the rules call for drydocking deep-draft vessels twice in five years with a maximum of three years between drydockings. In addition, there are two inspections for certificate renewal and three annual inspections. As it stands now, some owners will schedule an inspection for certificate renewal at the two year interval and then drydock the vessel 6 to 12 months later and again request a new certificate.

The existing certificate expiration schedule and the new drydock provisions do not complement each other and cause both parties additional inspection time and delays. He suggested that adopting a 2.5 year COI with a 15 month reinspection schedule would rectify this situation.

Because the Coast Guard is currently unable to apportion its hull inspection costs more precisely, it chose to compute the annual vessel inspection fee based upon the longest hull inspection interval applicable to each vessel category or subcategory. Although the Coast Guard is reexamining this subject with a view to minimizing the intervals to the extent allowed by law, this and other similar suggestions to revise the Coast Guard inspection intervals would involve program changes which are beyond the scope of this rule.

Some comments recommended deferring follow-on overseas inspections until the next scheduled reinspection or inspection for certification. Follow-on inspections can often be scheduled around or in conjunction with a periodic inspection. Only in extreme cases is it necessary to dispatch an inspector overseas solely for the purpose of conducting a follow-on inspection. Certain deficiencies may impact a vessel's overall safety and must be corrected prior to the next scheduled periodic inspection. The OCMI may extend the compliance date for certain deficiencies which do not jeopardize the safety of the vessel, its passengers, or its crew. Other deficiencies can be cleared administratively by the vessel's master or chief engineer submitting written servicing reports or certifications. The cognizant OCMI possesses the authority to determine whether a deficiency's compliance timeframe can be extended or whether it can be cleared administratively. If it requires a separate overseas trip, then another overseas fee must be paid. The overseas inspection and examination fee will apply to each periodic and follow-on inspection conducted overseas, as well as to each foreign vessel examination conducted overseas.

Some comments indicated that the overseas inspection or examination fee would be excessive for inspections or examinations conducted in locations near the continental U.S. These comments indicated that it may take less time to travel to the inspection site outside the continental U.S. than to travel to other inspection sites within the continental U.S. For instance, one commenter indicated that on occasion his firm, and at least one other U.S. shipping company, has used a Canadian

shipyard requiring approximately 35 miles of inspector travel from the Marine Safety Office in Buffalo, New York, for required inspections.

The Coast Guard agrees. The overseas inspection or examination fee in the final rule does not apply to inspections or examinations conducted in Canada, Mexico, or the British Virgin Islands. The overwhelming majority of inspections or examinations conducted in these countries involve only a short commute by either car, boat, or plane. For example, it is not uncommon for Coast Guard inspectors to travel to sites in Canada and Mexico by car or short plane trip, and sites in the British Virgin Islands by short boat trip. Coast Guard data indicates that it actually takes less time to travel to some of these sites than it does to travel to a remote inspection site in the continental United States. For this reason the Coast Guard will not charge the additional overseas inspection or examination fee for these inspections or examinations.

Another comment stated that it would be more equitable to owners whose vessels operate overseas if the Coast Guard charged just one overseas inspection fee per vessel per year instead of charging an overseas inspection fee each time an overseas inspection is conducted.

Overseas inspections involve travel and delay time of approximately 40,000 hours annually. Much of this time is expended in direct support of conducting periodic inspections; however, some of the time is expended conducting follow-on inspections, such as clearing deficiencies (i.e., CG-835s).

Several comments suggested that the Coast Guard should consider expanding the OSV alternate reinspection program for mid-period inspections to MODUs operating outside the U.S. for extended periods. Currently, OSVs under 400 gross tons, operating outside the continental U.S., have the option to participate in an alternate reinspection program, under the regulations contained in 46 CFR 91.27-13. If accepted into the alternate reinspection program, OSV owners perform an alternate reinspection of their vessel, in lieu of having a Coast Guard marine inspector perform the inspection, and then submit results to the OCMI for review.

This rule establishes a lower annual vessel inspection fee for OSVs participating in the alternate reinspection program than for those OSVs which do not participate in the alternate reinspection program. This lower fee reflects the fact that since a marine inspector is not needed for the inspection, it takes less time for the

Coast Guard simply to review the results of the alternate reinspection. Although expansion of the alternate reinspection program to include U.S. MODUs operating overseas is beyond the scope of this rule, the Coast Guard will examine this issue independently of this rule.

A few comments suggested that vessel owners should receive either credit or a refund for "unused certificate time" to cover that portion of a year during which a vessel may be laid up or otherwise taken out of service.

If the vessel owner pays the annual vessel inspection fee, and the vessel is subsequently laid up or taken out of service for part of the year, the Coast Guard will not issue a refund for the portion of the year for which the vessel was laid up or taken out of service. If a vessel is laid up or out of service on its user fee anniversary date, and the vessel is expected to remain laid up or out of service until its next user fee anniversary date (twelve months later), the vessel owner or operator will not be required to pay the annual vessel inspection fee for that year. When the vessel is placed back in service, however, the owner or operator will be required to pay the full annual vessel inspection fee before the vessel is inspected.

Additionally, OSVs will occasionally surrender their COI in order to operate as an oceanographic research vessel. Upon compliance with the procedures set forth in 46 CFR 3.10, the OCMI issues a Letter of Designation as an Oceanographic Research Vessel. Uninspected vessels may also be issued a Letter of Designation. For the purposes of this rule, vessels operating under a Letter of Designation as an Oceanographic Research Vessel will not be charged an annual vessel inspection fee. However, if the vessel returns to inspected service, it must pay the annual vessel inspection fee for that year before any inspection services are provided.

Several comments suggested Coast Guard marine inspectors should conduct FCC radio inspections, thereby saving vessel owners the cost of the FCC radio inspection fee.

When Coast Guard marine inspectors conduct inspections for COIs or reinspections, they do not conduct the FCC radio inspection. They only verify that a vessel has a valid Safety Radiotelephone Certificate issued by the FCC and ensure that the vessel's radio equipment passes an operational test. The Coast Guard and FCC have previously considered this issue and determined it was not feasible to combine these inspection activities.

Several comments expressed the opinion that if an OSV were to change its service to a freight vessel at any time during the course of a given year, the vessel owner should not have to pay the higher annual vessel inspection fee applicable to freight vessels. Another commenter suggested that since many OSV crewboats and utility boats are inspected under Subchapter T, these vessels should not have to pay an OSV fee that is any higher than the fee for a corresponding small passenger vessel.

Annual vessel inspection fees for vessels certificated for single service will not be adjusted for the year in which a change in vessel service occurs. The vessel's service at the time of its user fee anniversary date will thus determine which annual vessel inspection fee the owner must pay. Regardless of whether or not a crewboat or a utility boat is inspected under Subchapter T or Subchapter I, the vessel is still an OSV. Annual vessel inspection fees are based on the COI, reinspection, and hull inspection intervals applicable to each vessel category, and the average amount of time it takes to conduct each of these inspections. Thus, since small passenger vessel COIs are valid for three years and OSV COIs are valid for two years, an OSV owner should expect to pay a higher annual vessel inspection fee in comparison to a small passenger vessel of equivalent size.

A few comments asked which fee would apply on vessels operating in more than one service under their COI. Vessels which are authorized to operate in more than one service are referred to as "dual-certificated." In such instances, the vessel owner will pay the higher annual vessel inspection fee of the two.

Several questions were raised regarding the examination of foreign vessels and applicable fee payment procedures. For instance, how will fees be collected, and what billing system will be in place?

As with U.S. vessels, foreign vessel fees must be paid before the examination is conducted. The fee may be paid by either the vessel owner, the vessel operator, or some other designated vessel representative (e.g. the vessel's agent); however, the primary responsibility for payment of the fees resides with the vessel owner. Since it is not uncommon for a vessel to arrive in a U.S. port with an expired TVE Letter or LOC, foreign vessel representatives will need to plan accordingly. Payment must be received before the examination is conducted.

The fees listed in § 2.10-125 apply for foreign tank vessel examinations required by the Coast Guard. For vessels

receiving a LOC, which is valid for two years, the \$1,100 fee must be paid for each initial (or biennial examination, as appropriate), and for the examination conducted in the intervening years. For foreign tank vessels receiving a TVE, which is valid for one year only, the \$1,100 fee applies to each annual TVE letter examination. As with annual vessel inspection fees, follow-up visits necessary for corrections of deficiencies related to the above examinations are included in the fees established for TVE and LOC examinations.

Foreign vessel examination fees are based on the cost of providing required examination services, regardless of how many or how few port calls are made during the course of a given twelve month period. If a foreign tank vessel carrying oil in bulk has a TVE conducted one year and does not make another U.S. port call until three years later, its TVE letter will have expired and the \$1,100 fee must be paid before another TVE is conducted. If, on the other hand, a chemical tankship has a LOC examination conducted one year and doesn't return to U.S. waters until thirteen months later, its intervening annual examination will be due and the \$1,100 fee must be paid before the LOC endorsement examination is conducted.

Comments Beyond the Scope of the Rule

The Coast Guard received many other suggestions for changing the way the Coast Guard conducts its inspection program. These persons believed these changes would result in more efficient use of Coast Guard resources and would reduce the fees. For instance, several small passenger vessel owners recommended that the Coast Guard accept inspections by non-Coast Guard inspectors, such as insurance industry inspectors; qualified members of the marine surveying community belonging to a recognized professional organization; or qualified marine surveyors certified by the Coast Guard. These comments asserted that private sector companies could conduct vessel inspections in a more cost-effective manner.

Also, a few comments indicated that it takes a significant amount of time just to inspect lifejackets on large passenger vessels. They suggested that this activity should be performed by an individual whose services would cost less than a marine inspector, such as a Coast Guard petty officer.

All these comments are beyond the scope of this rule, and the Coast Guard will examine these issues independently of this rule.

Other Changes

In addition to changes discussed in the preceding sections, the Coast Guard made other substantive changes to the proposed regulations.

Applications for Inspections

In the NPRM, the Coast Guard proposed in § 2.01-1, *Applications for inspections*, that application forms would be accompanied by applicable fees, that evidence of payment would be endorsed on the COI, and that payment of fees would be verified before the inspection was scheduled. The Coast Guard has determined that this language is now redundant or inconsistent with the requirements of subpart 2.10 and, therefore, has been deleted from the final rule.

Definitions

Most vessel definitions are based on regulations or statutes. In addition to a few minor revisions to certain proposed definitions which are editorial in nature, the definition for "Towing vessel" has been changed to "Sea-going towing vessel." A definition for "Submersible vessel," the "user fee anniversary date" and the "vessel identification number," the latter two of which relate to the collection process, have been added, and the definition for Oceanographic research vessel has been corrected to conform with the definition in 46 U.S.C. 2101.

Also, definitions of the following have been revised to conform to revisions made by the Passenger Vessel Safety Act of 1993:

1. Offshore supply vessel
2. Passenger vessel
3. Sailing school vessel
4. Small passenger vessel

The revised definitions in the final rule do not change the category in which a vessel would have been placed by the NPRM. However, the Passenger Vessel Safety Act of 1993 has resulted in certain previously uninspected charter vessels now coming under Coast Guard inspection requirements. When the NPRM was published, these vessels were not inspected by the Coast Guard and, therefore, were not subject to inspection user fees. To comport with the statutory change, these vessels (most of which are now included in the small passenger vessel category) are subject to Coast Guard inspection and to the corresponding fees established in this rule.

The language in Table 2.10-101 has been revised so that the definition for "all other inspected vessels" is no longer needed and has been deleted from the final rule.

Public Vessels of the United States and Other Vessels Owned or Operated by Federal Agencies

Under 46 U.S.C. 2109, most public vessels of the United States are excluded from the vessel inspection requirements of Subtitle II of Title 46 United States Code. The provisions of Subtitle II apply only to those public vessels of the United States owned or operated by the Department of Transportation, except for Saint Lawrence Seaway Development and Coast Guard vessels. That means the Maritime Administration is the only Federal agency subject to user fees for subtitle II services provided to their public vessels. Maritime Administration public vessels include vessels of the Ready Reserve Fleet and training vessels operated by the U.S. Merchant Marine Academy and State maritime academies.

Under specific Memorandums of Understanding, the Coast Guard does inspect public vessels of other agencies such as the Military Sealift Command. However, these inspections are not required by Subtitle II, and the cost of providing these services is not recoverable through user fees; nor can these costs be reallocated to other vessels. In addition, Federal agencies may own or operate vessels which are not "public vessels" because they are engaged in commerce, or are required for some other reason to be inspected under Subtitle II. The Coast Guard could charge inspection fees for these vessels; however, there would be no benefit to charging fees to these agencies for required inspections. The user fee provisions of the Act are intended to help reduce the Federal budget deficit and the fees collected by the Coast Guard are deposited into the general fund of the U.S. Treasury. Payment of the fees by a Federal agency would result in a payment from a Federal agency to the U.S. Treasury; it would not increase the revenues to the U.S. Treasury. Thus, the Coast Guard has decided to waive collection of annual vessel inspection fees which would be paid directly using Federal appropriated funds.

Overtime Compensation for Civilian Inspectors

Overtime compensation for civilian inspectors is authorized by 46 U.S.C. 2111 and is currently located in 46 CFR 2.01-60 of the regulations. The Coast Guard proposed to update § 2.01-60 and include it with other inspection fees in new Subpart 2.10.

However, the Coast Guard decided not to move this section on overtime compensation regulations into the user

fee regulations. Although the Coast Guard's intent was to locate requirements for all inspection fees together, the Coast Guard decided that this action could cause confusion. The overtime compensation fees are required by a different statute and are not part of the user fees established in this rule. Also, since the Coast Guard is authorized to directly recover these amounts to pay for civilian overtime, different accounting procedures are in place.

Although the Coast Guard proposed to update the existing regulations in § 2.01-60, the Coast Guard has decided against doing so at this time. Instead, these regulations will be revised in a future rulemaking. Therefore, the regulations in § 2.01-60 have not been changed in this rulemaking and apply to inspections where civilian inspector overtime is involved.

Excursion Permit Fee

The NPRM proposed to charge a fee for excursion permits. Vessel operators desiring to carry passengers in excess of the number listed on the vessel's COI must apply to the cognizant OCMI for issuance of an excursion permit. Excursion permits are issued by the OCMI only after the vessel has been inspected to ensure that the proposed excursion would meet minimum safety requirements. The MSIS data indicates that only a limited number of these permits are issued each year (79 in 1989, 56 in 1990, and 85 in 1991), despite verbal comments during the public hearings which suggested that a substantially greater number of such permits are issued annually. Because the MSIS data on these permit inspections is incomplete, proposed section 2.10-106 has been deleted from this rule. The Coast Guard may, however, propose an excursion permit fee when more data becomes available in the future.

Collection Procedures

Since the NPRM was published, a collection system has been established for the payment of annual vessel inspection fees, foreign vessel examination fees, and overseas inspection fees. As a result, specific collection procedures have been added to this rule.

This rule specifies that payments may be made by check or money order only. Wire transfers and credit cards are not available payment options at this time. If desired, vessel owners and operators may pay inspection or examination fees for several different vessels in the same transaction, provided that the vessel name and vessel identification number

of each vessel for which a payment is being made accompanies the payment. All inspection and examination fees must be paid before the inspection or examination service is provided.

Regarding payment of the annual vessel inspection fee, proposed § 2.10-101(b) indicated that a U.S. vessel owner would pay the annual vessel inspection fee on the anniversary date of the COI. This requirement has been changed. The vessel owner must pay the annual inspection fee on or before the vessel's user fee anniversary date, as defined in § 2.10-25. Approximately six weeks prior to this date, the Coast Guard will send a user fee notification letter to the owner of each U.S. commercial vessel inspected by the Coast Guard. The notification letter will include the vessel's name, its official number, the vessel's user fee anniversary date (payment due date), the amount due, and the address to which the payment must be sent to ensure that the fee is credited to the proper vessel.

All user fee payments will be processed by NationsBank in Atlanta, Georgia. Inspection and examination fee payments will not be accepted at Coast Guard Marine Safety or Marine Inspection Offices. The only exception to this policy involves payment of overseas inspection and examination fees, which must accompany the request for an overseas inspection or examination. Under the computerized payment tracking system established by the Coast Guard, all payment histories should be updated within one business day following receipt of the payment by NationsBank. An 800 number has also been established to handle start-up user fee inquiries and to provide payment information. The number, 1-800-941-3337 will remain in effect during initial implementation of the rule.

Penalties for Failure To Pay

Section 2110 of Title 46 U.S.C. authorizes a civil penalty of up to \$5,000 for failure to pay fees and authorizes the Secretary of the Treasury to withhold customs clearance for vessels which fail to pay fees, when so requested by the Secretary of Transportation. Inspection and examination services will not be provided unless the Coast Guard can verify that the appropriate fees have been paid. The Coast Guard will treat checks returned due to insufficient funds, account closed, or any other such reason, as a delinquent payment and will seek to recover appropriate collection and enforcement costs from the appropriate party as permitted by law.

Renumbered Sections

This rule renumbers and reorganizes many of the sections in the proposed regulations (see Figure 2).

FIGURE 2.—CHANGES TO SECTION NUMBERS IN THE REGULATION

| NPRM | Final Rule |
|------------------|------------|
| (None) | § 2.10-1 |
| (None) | § 2.10-5 |
| (None) | § 2.10-10 |
| § 2.10-11 | (None) |
| (None) | § 2.10-20 |
| § 2.10-1 | § 2.10-25 |
| § 2.10-101 | § 2.10-101 |
| § 2.10-103 | § 2.10-105 |
| § 2.10-105 | § 2.10-115 |
| § 2.10-106 | (None) |
| § 2.10-107 | § 2.10-120 |
| § 2.10-109 | § 2.10-125 |
| § 2.10-110 | § 2.10-130 |
| § 2.10-13 | § 2.10-135 |

Regulatory Evaluation

This rule is a significant regulatory action under section 3(f) of Executive Order 12866 but does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been reviewed by the Office of Management and Budget under that order. It is significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). Fees are mandated by the Omnibus Budget Reconciliation Act of 1990, which amended 46 U.S.C. 2110 to remove long-standing prohibitions against charging fees for Coast Guard commercial vessel inspection and examination services.

The Act required the Coast Guard to establish fees for services provided under Subtitle II of Title 46 United States Code. These services include: Licensing and documentation of merchant marine personnel; commercial vessel documentation; commercial vessel inspections and examinations; equipment approval and factory inspections; and vessel plan review and new vessel construction. Whereas the total cost of these user fees is expected to be less than \$35 million, this rulemaking deals only with vessel inspection user fees, which are estimated at \$17.2 million annually. Projected receipts are well below the \$100 million threshold which would make this subject to the provisions of section 6(a)(3) of Executive Order 12866, however the Coast Guard has prepared a final Regulatory Evaluation. The Regulatory Evaluation is available in the docket for inspection or copying where indicated under ADDRESSES. It concluded that the financial impact on

the public, including most of the individuals subject to the user fees in this rule, is expected to be minimal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

Based upon a careful review of the public comments and public testimony, the Coast Guard developed a fee structure which is intended to help reduce the impact on owners and operators of small business entities. Based on the establishment of additional vessel subcategories, which resulted in lower fees in many instances, the Coast Guard certifies under 5 U.S.C. 605(b) that these fees are not expected to have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains additional collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). Existing requirements for applications for inspection are covered under OMB control number 2115-0007. Additional requirements under this rule involve the collection of funds, and of such information as is required to calculate the annual vessel inspection fee due and to ensure proper collection of fees. This information includes the name of the vessel, the vessel identification number, and other identifying information which will permit follow-up action if an incorrect fee amount is submitted or a payment instrument fails to clear NationsBank.

A new requirement is established for those owners choosing to pay annual vessel inspection fees for future years in advance. The owner must, in a written request to the Coast Guard, indicate the vessel identification number and the number of years for which the owner desires to prepay the annual vessel inspection fee. If a vessel is permanently removed from Coast Guard certification, the owner may seek a refund of the remaining prepayment amount by submitting a written request to the Coast Guard.

Another new requirement is established for organizations seeking an exemption from the annual vessel inspection fee for vessels owned or

operated by their organization. In order to be eligible for an exemption, organizations must submit a written request to the Coast Guard and provide evidence that their organization is charitable in nature, not for profit, and youth-oriented, and that each vessel is owned or operated by the organization and is used exclusively for training youths in boating, seamanship, and navigation skills.

Finally, a new requirement is established for Federal agencies owning or operating inspected vessels for which fees would be paid directly using Federal appropriated funds. The Coast Guard will waive collection of the annual vessel inspection fee for these vessels. However, by October 1 of each year, agencies owning or operating eligible vessels must provide the Coast Guard with the name and the vessel identification number of each vessel to which the waiver will apply.

The additional collection of information burden placed on the public by this rule is expected to be minimal. These new collection of information requirements were approved by OMB and are covered under OMB control number 2115-0617.

Federalism

The Coast Guard has analyzed this rule in accordance with the principles and criteria contained in Executive Order 12612 and has determined that the final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This final rule establishes user fees for vessel inspection and examination services. This rule will result in the payment of fees by States, State agencies, and local governments for inspection services provided to vessels owned by such entities. The impact of these fees on these entities is expected to be minimal. While some States and local governments may be required to pay fees, the fees will be solely due to the fact that the entity owns or operates the vessel, not due to a mandate imposed on them as a government entity.

Environment

The Coast Guard has considered the environmental impact of this rule and has concluded that, under section 2.B.2 of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. Section 2.B.2 of that instruction excludes "administrative actions and procedural regulations and policies which clearly do not have any environmental impacts." A Categorical

Exclusion Determination is available in the docket for inspection or copying

List of Subjects

33 CFR Part 143

Continental shelf, Fees, Marine safety, Occupational safety and health, Vessels

46 CFR Part 2

Fees, Marine safety, Reporting and recordkeeping requirements, Vessels.

For the reasons set out in the preamble, the Coast Guard amends Title 33, Chapter I, Subchapter N, Part 143 and Title 46, Chapter I, Subchapter A, Part 2 as follows:

Title 33—[Amended]

SUBCHAPTER N—OUTER CONTINENTAL SHELF ACTIVITIES

PART 143—DESIGN AND EQUIPMENT

1 The authority citation for Part 143 is revised to read as follows:

Authority: 43 U.S.C. 1333(d)(1), 1348(c), 1356; 49 CFR 1.46; section 143.210 is also issued under 14 U.S.C. 664 and 31 U.S.C. 9701

2. Section 143.210 is amended by adding a new paragraph (c) to read as follows:

§ 143.210 Letter of Compliance.

(c) The owner or operator of a foreign mobile offshore drilling unit requiring a letter of compliance examination must pay the fee prescribed in 46 CFR 2.10-130

Title 46—[Amended]

SUBCHAPTER A—PROCEDURES APPLICABLE TO THE PUBLIC

PART 2—VESSEL INSPECTIONS

3 The authority citation for Part 2 is revised to read as follows:

Authority: 14 U.S.C. 664, 31 U.S.C. 9701, 33 U.S.C. 1903; 43 U.S.C. 1333, 1356; 46 U.S.C. 2110, 3306, 3703, 5115, 8105; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277, 49 CFR 1.46; Subpart 2.45 also issued under the authority of Act Dec. 27, 1950, Ch 1155, secs 1, 2, 64 Stat 1120 (see 46 U.S.C. App. note prec. 1).

PART 2—VESSEL INSPECTIONS

4. In section 2.01-1 paragraph (b) is revised to read as follows:

§ 2.01-1 Applications for inspections.

(a) * * *
 (b) *To whom submitted.* The completed form must be submitted to the Officer in Charge, Marine Inspection, in the Marine Inspection

Zone within which the inspection is to be conducted

* * * * *

5 In section 2.01-6 the section heading is revised, paragraph (a)(2) is redesignated as paragraph (a)(2)(i) and a new paragraph (a)(2)(ii) is added to read as follows:

§ 2.01-6 Certificates issued to foreign vessels.

(a) * * *
 (2) (i) * * *
 (ii) Letter of Compliance—issued to Foreign Mobile Offshore Drilling Units engaged in Outer Continental Shelf activities under 33 CFR 143.210.

* * * * *

6. A new Subpart 2.10 is added to read as follows:

Subpart 2.10—Fees

- Sec
- 2.10-1 Applicability
- 2.10-5 Exemptions
- 2.10-10 Waivers
- 2.10-20 General requirements
- 2.10-25 Definitions.
- 2.10-101 Annual vessel inspection fee
- 2.10-105 Prepayment of annual vessel inspection fees.
- 2.10-115 Changes in vessel service
- 2.10-120 Overseas inspection and examination fees
- 2.10-125 Fees for examination of foreign tankships.
- 2.10-130 Fees for examination of foreign mobile offshore drilling units
- 2.10-135 Penalties.

Subpart 2.10—Fees

§ 2.10-1 Applicability.

- (a) This subpart establishes vessel inspection fees for all vessels required to have a Certificate of Inspection and vessel examination fees for all foreign vessels required to have either a Letter of Compliance or a Tank Vessel Examination Letter
- (b) The fees in this subpart do not apply to:
 - (1) Vessels being inspected for the initial issuance of a Certificate of Inspection;
 - (2) Foreign passenger vessels;
 - (3) Training vessels operated by State maritime academies; and
 - (4) Public vessels of the United States, except for Maritime Administration vessels.

§ 2.10-5 Exemptions.

(a) Vessels owned or operated by an organization which is charitable in nature, not for profit, and youth-oriented may be exempted from the fees required by this subpart provided that the vessels are used exclusively for training youths in boating, seamanship, and navigation skills.

(b) Vessel owners or operators must submit a written request for exemption to the Officer in Charge, Marine Inspection of the Marine Inspection Zone in which the vessel normally operates. The exemption request must provide the vessel name, the vessel identification number, and evidence that the organization and the vessel meet the criteria set forth in paragraph (a) of this section

§ 2.10-10 Waivers.

The Commandant (G-MP) will waive collection of vessel inspection fees in this subpart for a Federally-owned or operated vessel if the fee would be directly paid by an agency acting as the vessel owner using Federal appropriated funds. By October 1 of each year, Federal agencies shall provide Commandant (G-MP) with a list of the names and vessel identification numbers of vessels for which a fee waiver is requested

§ 2.10-20 General requirements.

- (a) Unless otherwise specified, vessel owners must pay the fees required by this subpart before inspection or examination services are provided
- (b) Fees required by this subpart must be paid in U.S. currency by check or money order, drawn on a U.S. bank, and made payable to the U.S. Treasury
- (c) All payments must be accompanied by the vessel name and its vessel identification number.
- (d) Unless otherwise specified, fees required by this subpart must be mailed to the following address. USCG Inspection Fees, PO Box 105663, Atlanta, GA 30348-5663

(e) For purposes of this subpart, the address for Commandant (G-MP) is: Commandant (G-MP), United States Coast Guard, 2100 Second Street S.W., Washington, DC 20593-0001.

(f) Information concerning a vessel's user fee anniversary date may be obtained from any Coast Guard Marine Safety or Marine Inspection Office.

§ 2.10-25 Definitions.

The following definitions apply to this subpart:
Drill ship MODU means a mobile offshore drilling unit with a ship shape displacement hull intended for operation in the floating condition.
Freight barge means a non-self-propelled vessel carrying freight for hire.
Freight ship means a self-propelled freight vessel.
Freight vessel means a motor vessel of more than 15 gross tons that carries freight for hire, except an oceanographic research vessel or an offshore supply vessel

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federal register

**Friday
June 28, 1996**

Department of Transportation

Coast Guard

**Technical Amendments,
Organizational Changes,
Miscellaneous Editorial Changes and
Conforming Amendments; Final
Rule**

Dated: June 17, 1996.

For the Commission,

Gilbert F. Casellas,

Chairman.

Accordingly, 29 CFR Part 1602 is amended as follows:

PART 1602—[AMENDED]

1. The authority citation for part 1602 continues to read as follows:

Authority: 42 U.S.C. 2000e-8, 2000e-12, 44 U.S.C. 3501 *et seq.*; 42 U.S.C. 12117.

§ 1602.41 Requirement for filing and preserving copy of report.

2. Section 1602.41 is amended as follows:

(a) In the introductory text, in the first sentence, delete the phrase “and individual schools within such systems or district”.

(b) In the concluding text, in the first sentence, delete the phrase, “, or the individual school which is the subject of the report where more convenient.”.

3. Section 1602.43 is revised to read as follows:

§ 1602.43 Commission’s remedy for school systems’ or districts’ failure to file report.

Any school system or district failing or refusing to file report EEO-5 when required to do so may be compelled to file by order of a U.S. district court, upon application of the Commission or the Attorney General.

4. Section 1602.44 is revised to read as follows:

§ 1602.44 School systems’ or districts’ exemption from reporting requirements.

If it is claimed that the preparation or filing of the report would create undue hardship, the school system or district may apply to the Commission for an exemption from the requirements set forth in this part by submitting to the Commission or its delegate a specific proposal for an alternative reporting system prior to the date on which the report is due.

[FR Doc. 96-16056 Filed 6-27-96; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 1, 2, 5, 8, 19, 20, 26, 45, 51, 67, 81, 89, 110, 114, 116, 117, 127, 140, 141, 144, 148, 151, 153, 154, 155, 156, 157, 158, 159, 160, 164, 165, 174, 179, 181, 183, and 187

[CGD 96-026]

RIN 2115 AF33

Technical Amendments; Organizational Changes; Miscellaneous Editorial Changes and Conforming Amendments

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule amends Title 33, Code of Federal Regulations to reflect recent agency organizational changes. It also makes editorial changes throughout the title to correct addresses, update cross-references, remove obsolete regulatory provisions, and make other technical corrections. This rule will have no substantive effect on the regulated public.

EFFECTIVE DATE: This rule is effective on June 30, 1996.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G-LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593-0001 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

FOR FURTHER INFORMATION CONTACT: Janet Walton, Project Manager, Office of Standards Evaluation and Development (G-MSR-2), (202) 267-0257.

SUPPLEMENTARY INFORMATION:

Background and Purpose

Each year Title 33 of the Code of Federal Regulations (CFR) is recodified on July 1. This rule makes miscellaneous editorial changes and conforming amendments, including changes brought about by the Coast Guard Headquarters reorganization, to be included in the 1996 recodification of Title 33.

Discussion of Changes

Coast Guard Headquarters recently went through a comprehensive streamlining and reorganization. The substantive functions it performs are essentially unchanged; however, many functions have been consolidated. This rule reflects the redistribution of

functions and responsibilities due to the reorganization.

The rule also makes editorial changes throughout the title to correct addresses, update cross-references, and make other technical corrections.

Sections 157.03, 159.3, 181.3, and 183.3 are being reformatted by reorganizing the definitions into alphabetical order and removing paragraph designators.

Section 165.T01-005 expired on May 1, 1994 and section 165.702 expired on December 31, 1991. These regulations are no longer needed and are being removed.

In addition the safety zone in § 165.1112 was originally established to protect Navy cables and equipment on the ocean floor which could have been damaged by anchoring, fishing, and similar activities. The Navy equipment has been removed and this safety zone is no longer required and is being removed.

Since this amendment relates to departmental management; organization; procedure; and practice, notice and comment on it are unnecessary and it may be made effective in fewer than 30 days after publication in the **Federal Register**. Therefore, this final rule is effective June 30, 1996.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This rule involves internal agency practices and procedures, it will not impose any costs on the public.

Collection of Information

This rule contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have significant federalism implications

to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under paragraph 2.B.2 of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. This exclusion is in accordance with paragraphs 2.B.2.e.(34) (a) and (b), concerning regulations that are editorial or procedural and concerning internal agency functions or organization. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

List of Subjects

33 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Penalties.

33 CFR Part 2

Administrative practice and procedure, Law enforcement.

33 CFR Part 5

Volunteers.

33 CFR Part 8

Armed forces reserves.

33 CFR Part 19

Navigation (water), Vessels.

33 CFR Part 20

Administrative practice and procedure, Authority delegations (Government agencies), Penalties, Water pollution control, Waterways.

33 CFR Part 26

Communications equipment, Marine safety, Radio, Telephone, Vessels.

33 CFR Part 45

Military personnel, Reporting and recordkeeping requirements.

33 CFR Part 51

Administrative practice and procedure, Military personnel.

33 CFR Part 67

Continental shelf, Navigation (water), Reporting and recordkeeping requirements.

33 CFR Part 81

Navigation (water), Reporting and recordkeeping requirements, Treaties.

33 CFR Part 89

Navigation (water), Reporting and recordkeeping requirements, Waterways.

33 CFR Part 110

Anchorage grounds.

33 CFR Part 114

Bridges.

33 CFR Part 116

Bridges.

33 CFR Part 117

Bridges.

33 CFR Part 127

Fire prevention, Harbors, Natural gas, Reporting and recordkeeping requirements, Security measures.

33 CFR Part 140

Continental shelf, Investigations, Marine safety, Occupational safety and health, Penalties, Reporting and recordkeeping.

33 CFR Part 141

Citizenship and naturalization, Continental shelf, Employment, Reporting and recordkeeping.

33 CFR Part 144

Continental shelf, Marine safety, Occupational safety and health.

33 CFR Part 148

Administrative practice and procedure, Environmental protection, Harbors, Petroleum.

33 CFR Part 151

Administrative practice and procedure, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 153

Hazardous substances, Oil pollution, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 154

Fire prevention, Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 155

Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 156

Hazardous substances, Oil pollution, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 157

Cargo vessels, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 158

Administrative practice and procedure, Harbors, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 159

Sewage disposal, Vessels.

33 CFR Part 160

Administrative practice and procedure, Harbors, Hazardous materials transportation, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Vessels, Waterways.

33 CFR Part 164

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

33 CFR Part 174

Intergovernmental relations, Marine safety, Reporting and recordkeeping requirements.

33 CFR Part 179

Marine safety, Reporting and recordkeeping requirements.

33 CFR Part 181

Labeling, Marine safety, Reporting and recordkeeping requirements.

33 CFR Part 183

Marine safety.

33 CFR Part 187

Marine safety, Reporting and recordkeeping requirements, Administrative practice and procedure.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR parts 1, 2, 5, 8, 19, 20, 26, 45, 51, 67, 81, 89, 110, 114, 116, 117, 127, 140, 141, 144, 148, 151, 153, 154, 155, 156, 157, 158, 159, 160, 164, 165, 174, 179, 181, 183, and 187 as follows:

PART 1—GENERAL PROVISIONS

1. The authority citation for part 1 is revised to read as follows:

Authority: 14 U.S.C. 633; 33 U.S.C. 401, 491, 525, 1321, 2716, and 2716a; 46 U.S.C. 9615; 49 U.S.C. 322; 49 CFR 1.45(b), 1.46; section 1.01–70 also issued under the authority of E.O. 12580, 3 CFR, 1987 Comp.,

APPENDIX A TO PART 117—DRAWBRIDGES EQUIPPED WITH RADIOTELEPHONES—Continued

| Waterway | Mile | Location | Bridge name and owner | Call sign | Calling channel | Working channel |
|-------------------------|------|-----------------|--------------------------------------|---------------|-----------------|-----------------|
| Steamboat Slough | 11.2 | Courtland | Steamboat Slough, CA DOT, SR160. | WHX 295 | 16 | 9 |
| Three Mile Slough | 0.1 | Rio Vista | Three Mile Slough, CA DOT, SR160. | KMJ 385 | 16 | 9 |
| Turner Cut | 2.3 | McDonald Island | Zuckerman Bros. Br, Delta Farms. | WHV 959 | 16 | 9 |
| * | * | * | * | * | * | * |

PART 127—LIQUEFIED NATURAL GAS WATERFRONT FACILITIES

51. The authority citation for part 127 continues to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

§ 127.003 [Amended]

52. In § 127.003, in paragraph (a), remove the word “(G-MTH);” and add, in its place, the word “(G-MOC);” and in paragraph (b), under the entry for National Fire Protection Association, before the words “Batterymarch Park” add the number “1”.

§ 127.015 [Amended]

53. In § 127.015, in paragraphs (c)(1) and (d), remove the words “Office of Marine Safety, Security and Environmental Protection” and add, in their place, the words “Marine Safety and Environmental Protection”.

PART 140—GENERAL

54. The authority citation for part 140 continues to read as follows:

Authority: 43 U.S.C. 1333(d)(1), 1348(c), 1356; 49 CFR 1.46.

§ 140.7 [Amended]

55. In § 140.7, in paragraph (a), remove the words “Merchant Vessel Inspection and Documentation Division (G-MVI);” and add, in their place, the words “Office of Compliance (G-MOC);” and in paragraph (b) under American National Standards Institute, remove the words “1430 Broadway, New York, NY 10018” and add, in their place, the words “11 West 42nd Street, New York, NY 10036”.

§ 140.15 [Amended]

56. In § 140.15, paragraph (b), remove the words “Coast Guard Publication CG-190, “Equipment Lists” and add, in their place, the words “COMDTINST M16714.3 (Series) Equipment List” and remove the word “(G-MVI);” and add, in its place, the word “(G-MSE);”.

PART 141—PERSONNEL

57. The authority citation for part 141 is revised to read as follows:

Authority: 43 U.S.C. 1356; 49 CFR 1.46(z).

§ 141.20 [Amended]

58. In § 141.20, in paragraph (c), remove the word “(G-MVP);” and add, in its place, the word “(G-MOC);”.

PART 144—LIFESAVING APPLIANCES

59. The authority citation for part 144 continues to read as follows:

Authority: 43 U.S.C. 1333d; 46 U.S.C. 3102(a); 46 CFR 1.46.

§ 144.30-5 [Amended]

60. In § 144.30-5, in paragraph (a), remove the word “(G-MVI);” and add, in its place, the word “(G-MSE);”.

PART 148—GENERAL

61. The authority citation for part 148 continues to read as follows:

Authority: Secs. 5(a), 5(b), Pub. L. 93-627, 88 Stat. 2131 (33 U.S.C. 1504(a), (b)); 49 CFR 1.46(s).

§§ 148.211 and 148.217 [Amended]

62. In 33 CFR part 148, remove the words “Office of Marine Safety, Security and Environmental Protection” and add, in their place, the words “Marine Safety and Environmental Protection” in the following places:

- (a) Section 148.211 introductory text; and
- (b) Section 148.217(a).

PART 151—VESSELS CARRYING OIL, NOXIOUS LIQUID SUBSTANCES, GARBAGE, MUNICIPAL OR COMMERCIAL WASTE, AND BALLAST WATER

63. The authority citation for part 151 continues to read as follows:

Authority: 33 U.S.C. 1321(j)(1)(C) and 1903(b); E.O. 12777; 3 CFR, 1991 Comp. p. 351; 49 CFR 1.46.

§ 151.1012 [Amended]

64. In § 151.1012, in paragraph (a), remove the word “(G-MPS-1);” and add, in its place, the word “(G-MOC);”.

§ 151.1021 [Amended]

65. In § 151.1021, in paragraphs (b)(1) and (c), remove the words “Office of

Marine Safety, Security and Environmental Protection” and add, in their place, the words “Marine Safety and Environmental Protection”.

§ 151.27 and 151.28 [Amended]

66. In addition to the amendments set forth above, in 33 CFR part 151, remove the word “(G-MEP-6)” and add, in its place, the word “(G-MOR)” in the following places:

- (a) Section 151.27(b); and
- (b) Section 151.28(a), (b), and (c).

PART 153—CONTROL OF POLLUTION BY OIL AND HAZARDOUS SUBSTANCES, DISCHARGE REMOVAL

67. The authority citation for part 153 continues to read as follows:

Authority: 14 U.S.C. 633; 33 U.S.C. 1321; 42 U.S.C. 9615; E.O. 12580, 3 CFR, 1987 Comp., p. 193; E.O. 12777, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.45 and 1.46.

§ 153.103 [Amended]

68. In § 153.103, in paragraph (d), remove the words “Office of Marine Safety, Security and Environmental Protection” and add, in their place, the words “Marine Safety and Environmental Protection”.

PART 154—FACILITIES TRANSFERRING OIL OR HAZARDOUS MATERIAL IN BULK

69. The authority citation for part 154 continues to read as follows:

Authority: 33 U.S.C. 1231, 1321(j)(1)(C), (j)(5), (j)(6) and (m)(2); sec. 2, E.O. 12777, 56 FR 54757; 49 CFR 1.46. Subpart F is also issued under 33 U.S.C. 2735.

§ 154.106 [Amended]

70. In § 154.106, in paragraph (b), under the entry American National Standards Institute, remove the words “1430 Broadway, New York, NY 10018” and add, in their place, the words “11 West 42nd Street, New York, NY 10036”; and under the entry for National Fire Protection Association, before the words “Batterymarch Park” add the number “1”.

federal register

**Tuesday
April 8, 1997**

Department of Transportation

Coast Guard

**Civil Money Penalties Inflation
Adjustments; Final Rule**

statements from an appropriate official of the school shall be documented. A copy of the documentation shall be provided to the covered school, which shall be informed of its opportunity to forward clarifying comments to accompany the submission to the ASD(FMP), and shall be provided 30 days to offer such clarifying comments.

(3) Evaluate responses to the letter of inquiry, and other such evidence obtained in accordance with this part, and submit to the ASD(FMP) the names and addresses of covered schools that are believed to be in violation of policies established in § 216.4. Full documentation shall be furnished to the ASD(FMP) for each such covered school, including the school's formal response to the letter of inquiry, documentation of any oral response, or evidence showing that attempts were made to obtain either written confirmation or an oral statement of the school's policies.

(c) The Heads of the DoD Components shall:

(1) Provide the ASD(FMP) with the names and addresses of covered schools identified as a result of evaluation(s) required under §§ 216.4 (e) and (f).

(2) Take immediate action to deny obligations of DoD Funds to covered schools identified under paragraph (a)(1)(i) of this section, and to restore eligibility of covered schools identified under paragraph (a)(2) of this section.

§ 216.6 Information requirements.

The information requirements identified at §§ 216.5 (b) and (c)(1) have been assigned Report Control Symbols DD-P&R (SA) 1386 and DD-P&R (SA) 1640, respectively, in accordance with DoD 8910.1-M.¹

Appendix A of Part 216—ROTC Sample Letter of Inquiry

(Tailor letter to situation presented).

Dr. Jane Smith,
President, ABC College, Anywhere, USA
12345-9876.

Dear Dr. Smith: I understand that ABC College has [refused a request from a Military Department to establish a Senior ROTC unit at your institution] [refused to continue existing ROTC programs at your institution] [prevented students from participation at a Senior ROTC program at another institution] by a policy or practice of the College. Current law¹ prohibits funds by grant or contract (including a grant of funds to be available for student aid) from appropriations of the Departments of Defense, Labor, Health and Human Services, Education, and Related Agencies to schools that have a policy or

practice prohibiting or preventing the Secretary of Defense from maintaining, establishing, or efficiently operating a Senior ROTC unit. Those statutes also bar agency funds for schools that prohibit or prevent a student from enrolling in an ROTC unit at another institution of higher education. Department of Defense Directive 1322.13 implements² those statutes.

This letter provides you an opportunity to clarify your institution's policy regarding ROTC access on the campus of ABC College. In that regard, I request, within the next 30 days, a written statement of the institution with respect to [define the problem area(s)].

Based on this information, Department of Defense officials will make a determination as to your institution's eligibility to receive funds by grant or contract. That decision will affect eligibility for funding from appropriations of the Departments of Defense, Labor, Health and Human Services, Education, and Related Agencies. Should it be determined that ABC College is in violation of the aforementioned statutes, such funding would be stopped, and the school would be ineligible to receive such funds in the future.

I regret that this action may have to be taken. Successful officer procurement requires that the Department of Defense maintain a strong ROTC commissioning program. I hope it will be possible to [define the correction to the aforementioned problem area(s)]. I am available to answer any questions.

Sincerely,

Appendix B of Part 216—Military Recruiting Sample Letter of Inquiry

(Tailor letter to situation presented).

Dr. John Doe,
President, ABC College, Anywhere, USA
12345-9876.

Dear Dr. Doe: I understand that military recruiting personnel [are unable to recruit on the campus of ABC College] [have been refused directory information on ABC College students for military recruiting] by a policy or practice of the College. Current law¹ prohibits funds by grant or contract (including a grant of funds to be available for student aid) from appropriations of the Departments of Defense, Transportation, Labor, Health and Human Services, Education, and Related Agencies to schools that have a policy of denying military recruiting personnel entry to campuses, access to students on campuses, or access to directory information on students. Department of Defense Directive 1322.13 implements² those statutes.

This letter provides you an opportunity to clarify your institution's policy regarding military recruiting on the campus of ABC

² DoD Directive 1322.13, "Military Recruiting and Reserve Officers Training Corps Program Access to Institutions of Higher Education" (available on the worldwide web at <http://www.dtic.dla.mil/defenselink/>).

¹ 108 Stat. 2663 and 110 Stat. 3009

² DoD Directive 1322.13, "Military Recruiting and Reserve Officers Training Corps Program Access to Institutions of Higher Education" (available on the worldwide web at <http://www.dtic.dla.mil/defenselink/>).

College. In that regard, I request, within the next 30 days, a written policy statement of the institution with respect to access to campus and students, and to student directory information³ by military recruiting personnel. Your response should highlight any difference between access for military recruiters and access for recruiting by other potential employers.

Based on this information, Department of Defense officials will make a determination as to your institution's eligibility to receive funds by grant or contract. That decision will affect eligibility for funding from appropriations of the Departments of Defense, Transportation, Labor, Health and Human Services, Education, and Related Agencies. Should it be determined that ABC College is in violation of the aforementioned statutes, such funding would be stopped, and the school would be ineligible to receive such funds in the future.

I regret that this action may have to be taken. Successful recruiting requires that Department of Defense recruiters have reasonable access to students on the campuses of colleges and universities, and at the same time have effective relationships with the officials and student bodies of those institutions. I hope it will be possible to [define the correction to the aforementioned problem area(s)]. I am available to answer any questions.

Sincerely,

Dated: March 28, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97-8610 Filed 4-7-97; 8:45 am]

BILLING CODE 5000-04-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 5, 26, 27, 95, 100, 110, 130, 136, 138, 140, 151, 153, 177

46 CFR Part 2

[CGD 96-052]

RIN 2105-AC63

Civil Money Penalties Inflation Adjustments

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: In accordance with the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, this final rule incorporates inflation adjustments for civil money penalties.

³ Directory information refers to a student's name, address, telephone listing, date and place of birth, level of education, academic major, degrees received, and the educational institution in which the student most recently was enrolled.

¹ Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

¹ 10 U.S.C. 983 and 110 Stat. 3009.

DATES: This rule is effective on May 7, 1997.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G-LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593-0001 between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Parks, Office of Regulations and Administrative Law, at (202) 267-2830.

SUPPLEMENTARY INFORMATION:

The Debt Collection Improvement Act of 1996

In an effort to maintain the remedial impact of civil money penalties (CMPs) and promote compliance with the law, Congress amended the Federal Civil Monetary Penalty Inflation Adjustment

Act of 1990 (Pub. L. 101-410) with the Debt Collection Improvement Act of 1996 (DCIA) (Pub. L. 104-134). The DCIA requires Federal agencies to adjust certain CMPs to account for inflation. As amended, the law requires each agency to make an initial inflationary adjustment for each applicable CMP, and to make further adjustments at least once every 4 years thereafter for these penalty amounts.

The Debt Collection Improvement Act of 1996 further stipulates that any resulting increase in a CMP due to the calculated inflation adjustment (i) should apply only to a violation that occurs after October 23, 1996—the Act's effective date—and (ii) should not exceed 10 percent of the penalty indicated. CMPs that fall under the Internal Revenue Code of 1986; the Tariff Act of 1930; the Occupational Safety and Health Act of 1970; and the Social Security Act; are exempt from the requirements of the Act.

Method of Calculation

Under the Act, the inflation adjustment for each applicable CMP is determined by increasing the maximum CMP amount per violation by a cost-of-living adjustment. The cost-of-living adjustment equals the percentage difference between the Consumer Price Index (CPI) for the calendar year preceding the adjustment, and the CPI for the calendar year in which the amount of the CMP was last set in accordance with the law. Any increase calculated under this adjustment is subject to a specific rounding formula set forth in the Act. Since the Coast Guard's penalties have never previously been adjusted for inflation, this first statutorily required adjustment will be limited to ten percent for every penalty. Table A below sets forth each CMP provision which is being increased and shows the intermediate calculations performed to arrive at the adjusted final maximum penalty contained in the last column.

TABLE A.—SUMMARY OF CIVIL MONETARY PENALTY INFLATION ADJUSTMENT CALCULATIONS

| U.S. Code citation | Civil monetary penalty description | Year penalty amount was last set by law | Maximum penalty amount set by law as of 10/23/96 | Inflation factor calculation | Maximum penalty increase after P.L. 101-410 rounding | Maximum penalty amount after increase and P.L. 101-410 rounding | Maximum penalty amount after P.L. 101-410 rounding and 10% limit |
|-------------------------|--|---|--|------------------------------|--|---|--|
| 14 U.S.C. 88(c) | Saving Life and Property .. | 1990 | \$5,000 | 458.7/389.1 | \$1,000 | \$6,000 | \$5,500 |
| 14 U.S.C. 645(h) | Confidentiality of Medical Quality Assurance Records (first offense). | 1992 | 3,000 | 458.7/419.9 | 0 | 3,000 | 3,000 |
| 14 U.S.C. 645(h) | Confidentiality of Medical Quality Assurance Records (subsequent offense). | 1992 | 20,000 | 458.7/419.9 | 2,000 | 22,000 | 22,000 |
| 33 U.S.C. 471 | Anchorage Ground/Harbor Regulations General. | 1983 | 100 | 458.7/298.1 | 50 | 150 | 110 |
| 33 U.S.C. 474 | Anchorage Ground/Harbor Regulations St. Mary's River. | 1968 | 200 | 458.7/97.1 | 700 | 900 | 220 |
| 33 U.S.C. 495 | Bridges/Failure to Comply with Regulations. | 1983 | 1,000 | 458.7/298.1 | 500 | 1,500 | 1,100 |
| 33 U.S.C. 499 | Bridges/Drawbridges | 1988 | 1,000 | 458.7/353.5 | 300 | 1,300 | 1,100 |
| 33 U.S.C. 502 | Bridges/Failure to Alter Bridge Obstructing Navigation. | 1982 | 1,000 | 458.7/290.6 | 600 | 1,600 | 1,100 |
| 33 U.S.C. 533 | Bridges/Maintenance & Operation. | 1983 | 1,000 | 458.7/298.1 | 500 | 1,500 | 1,100 |
| 33 U.S.C. 1208(a) | Bridge to Bridge Communication. | 1971 | 500 | 458.7/121.5 | 1,400 | 1,900 | 550 |
| 33 U.S.C. 1208(b) | Bridge to Bridge Communication. | 1971 | 500 | 458.7/121.5 | 1,400 | 1,900 | 550 |
| 33 U.S.C. 1232 | PWSA Regulations | 1990 | 25,000 | 458.7/389.1 | 5,000 | 30,000 | 27,500 |
| 33 U.S.C. 1236(b) | Vessel Navigation: Regattas or Marine Parades. | 1990 | 5,000 | 458.7/389.1 | 1,000 | 6,000 | 5,500 |
| 33 U.S.C. 1236(c) | Vessel Navigation: Regattas or Marine Parades. | 1990 | 5,000 | 458.7/389.1 | 1,000 | 6,000 | 5,500 |
| 33 U.S.C. 1236(d) | Vessel Navigation: Regattas or Marine Parades. | 1990 | 2,500 | 458.7/389.1 | 0 | 2,500 | 2,500 |
| 33 U.S.C. 1319(d) | Pollution Prevention | 1987 | 25,000 | 458.7/340.1 | 10,000 | 35,000 | 27,500 |
| 33 U.S.C. 1319(a)(2)(A) | Pollution Prevention (per violation). | 1987 | 10,000 | 458.7/340.1 | 3,000 | 13,000 | 11,000 |

TABLE A.—SUMMARY OF CIVIL MONETARY PENALTY INFLATION ADJUSTMENT CALCULATIONS—Continued

| U.S. Code citation | Civil monetary penalty description | Year penalty amount was last set by law | Maximum penalty amount set by law as of 10/23/96 | Inflation factor calculation | Maximum penalty increase after P.L. 101-410 rounding | Maximum penalty amount after increase and P.L. 101-410 rounding | Maximum penalty amount after P.L. 101-410 rounding and 10% limit |
|------------------------------|--|---|--|------------------------------|--|---|--|
| 33 U.S.C. 1319(g)(2)(A) | Pollution Prevention (total under subparagraph). | 1987 | 25,000 | 458.7/340.1 | 10,000 | 35,000 | 27,500 |
| 33 U.S.C. 1319(g)(2)(B) | Pollution Prevention (per day of violation). | 1987 | 10,000 | 458.7/340.1 | 3,000 | 13,000 | 11,000 |
| 33 U.S.C. 1319(g)(2)(B) | Pollution Prevention (total under subparagraph). | 1987 | 125,000 | 458.7/340.1 | 40,000 | 165,000 | 137,500 |
| 33 U.S.C. 1321(b)(6)(B)(i) | Oil/Hazardous Substances: Discharges (per violation). | 1990 | 10,000 | 458.7/389.1 | 2,000 | 12,000 | 11,000 |
| 33 U.S.C. 3121(b)(6)(B)(i) | Oil/Hazardous Substances: Discharges (total under paragraph). | 1990 | 25,000 | 458.7/389.1 | 5,000 | 30,000 | 27,500 |
| 33 U.S.C. 1321(b)(6)(B)(ii) | Oil/Hazardous Substances: Discharges (per day of violation). | 1990 | 10,000 | 458.7/389.1 | 2,000 | 12,000 | 11,000 |
| 33 U.S.C. 1321(b)(6)(B)(ii) | Oil/Hazardous Substances: Discharges (total under paragraph). | 1990 | 125,000 | 458.7/389.1 | 20,000 | 145,000 | 137,500 |
| 33 U.S.C. 1321(b)(7)(A) | Oil/Hazardous Substances: Discharges (per day of violation). | 1990 | 25,000 | 458.7/389.1 | 5,000 | 30,000 | 27,500 |
| 33 U.S.C. 1321(b)(7)(A) | Oil/Hazardous Substances: Discharges (per barrel of oil or unit of hazsub discharged). | 1990 | 1,000 | 458.7/389.1 | 200 | 1,200 | 1,100 |
| 33 U.S.C. 1321(b)(7)(B) | Oil/Hazardous Substances: Discharges. | 1990 | 25,000 | 458.7/389.1 | 5,000 | 30,000 | 27,500 |
| 33 U.S.C. 1321(b)(7)(C) | Oil/Hazardous Substances: Discharges. | 1990 | 25,000 | 458.7/389.1 | 5,000 | 30,000 | 27,500 |
| 33 U.S.C. 1321(b)(7)(D) | Oil/Hazardous Substances: Discharges (per barrel of oil or unit of hazsub discharged). | 1990 | 3,000 | 458.7/389.1 | 1,000 | 4,000 | 3,300 |
| 33 U.S.C. 1321(j) | Oil/Hazardous Substances Prevention Regulations. | 1990 | 25,000 | 458.7/389.1 | 5,000 | 30,000 | 27,500 |
| 33 U.S.C. 1322(j) | Marine Sanitation Devices | 1987 | 2,000 | 458.7/340.1 | 1,000 | 3,000 | 2,200 |
| 33 U.S.C. 1322(j) | Marine Sanitation Devices | 1987 | 5,000 | 458.7/340.1 | 2,000 | 7,000 | 5,500 |
| 33 U.S.C. 1517(a) | Deepwater Ports Regulations. | 1989 | 10,000 | 458.7/371.7 | 2,000 | 12,000 | 11,000 |
| 33 U.S.C. 1608(a) | International Regulations .. | 1980 | 5,000 | 458.7/247.6 | 4,000 | 9,000 | 5,500 |
| 33 U.S.C. 1608(b) | International Regulations .. | 1980 | 5,000 | 458.7/247.6 | 4,000 | 9,000 | 5,500 |
| 33 U.S.C. 1908(b)(1) | Pollution from Ships | 1980 | 25,000 | 458.7/247.6 | 20,000 | 45,000 | 27,500 |
| 33 U.S.C. 1908(b)(2) | Pollution from Ships | 1980 | 5,000 | 458.7/247.6 | 4,000 | 9,000 | 5,500 |
| 33 U.S.C. 2072(a) | Inland Navigation Rules | 1980 | 5,000 | 458.7/247.6 | 4,000 | 9,000 | 5,500 |
| 33 U.S.C. 2072(b) | Inland Navigation Rules | 1980 | 5,000 | 458.7/247.6 | 4,000 | 9,000 | 5,500 |
| 33 U.S.C. 2609(a) | Shore Protection | 1988 | 25,000 | 458.7/353.6 | 5,000 | 30,000 | 27,500 |
| 33 U.S.C. 2609(b) | Shore Protection | 1988 | 10,000 | 458.7/353.6 | 3,000 | 13,000 | 11,000 |
| 33 U.S.C. 2716a(a) | Oil Pollution Liability and Compensation. | 1990 | 25,000 | 458.7/389.1 | 5,000 | 30,000 | 27,500 |
| 46 U.S.C. App 1805(c)(2) | Suspension of Passenger Service. | 1986 | 50,000 | 458.7/327.9 | 20,000 | 70,000 | 55,000 |
| 46 U.S.C. 2302(a) | Negligent Operations | 1990 | 1,000 | 458.7/389.1 | 200 | 1,200 | 1,100 |
| 46 U.S.C. 2302(c)(1) | Negligent Operations | 1990 | 1,000 | 458.7/389.1 | 200 | 1,200 | 1,100 |
| 46 U.S.C. 2306(a)(2)(B)(4) | Vessel Reporting Requirements: Owner. | 1984 | 5,000 | 458.7/310.7 | 2,000 | 7,000 | 5,500 |
| 46 U.S.C. 2306(b)(2) | Vessel Reporting Requirements: Master. | 1984 | 1,000 | 458.7/310.7 | 500 | 1,500 | 1,100 |
| 46 U.S.C. 3102(c)(1) | Immersion Suits | 1988 | 5,000 | 458.7/353.6 | 1,000 | 6,000 | 5,500 |
| 46 U.S.C. 3302(j)(5) | Inspection Permit | 1986 | 1,000 | 458.7/327.9 | 400 | 1,400 | 1,100 |
| 46 U.S.C. 3318(a) | Vessel Inspection | 1990 | 5,000 | 458.7/389.1 | 1,000 | 6,000 | 5,500 |
| 46 U.S.C. 3318(g) | Vessel Inspection | 1990 | 5,000 | 458.7/389.1 | 1,000 | 6,000 | 5,500 |
| 46 U.S.C. 3318(h) | Vessel Inspection | 1990 | 1,000 | 458.7/389.1 | 200 | 1,200 | 1,100 |
| 46 U.S.C. 3318(i) | Vessel Inspection | 1990 | 1,000 | 458.7/389.1 | 200 | 1,200 | 1,100 |
| 46 U.S.C. 3318(j)(1) | Vessel Inspection | 1990 | 10,000 | 458.7/389.1 | 2,000 | 12,000 | 11,000 |
| 46 U.S.C. 3318(j)(1) | Vessel Inspection | 1990 | 2,000 | 458.7/389.1 | 0 | 2,000 | 2,000 |
| 46 U.S.C. 3318(k) | Vessel Inspection | 1990 | 10,000 | 458.7/389.1 | 2,000 | 12,000 | 11,000 |

TABLE A.—SUMMARY OF CIVIL MONETARY PENALTY INFLATION ADJUSTMENT CALCULATIONS—Continued

| U.S. Code citation | Civil monetary penalty description | Year penalty amount was last set by law | Maximum penalty amount set by law as of 10/23/96 | Inflation factor calculation | Maximum penalty increase after P.L. 101-410 rounding | Maximum penalty amount after increase and P.L. 101-410 rounding | Maximum penalty amount after P.L. 101-410 rounding and 10% limit |
|-----------------------|--------------------------------------|---|--|------------------------------|--|---|--|
| 46 U.S.C. 3318(l) | Vessel Inspection | 1990 | 5,000 | 458.7/389.1 | 1,000 | 6,000 | 5,500 |
| 46 U.S.C. 3502(e) | List/Count of Passengers | 1983 | 100 | 458.7/298.1 | 50 | 150 | 110 |
| 46 U.S.C. 3504(c) | Notification to Passengers | 1983 | 10,000 | 458.7/298.1 | 5,000 | 15,000 | 11,000 |
| 46 U.S.C. 3504(c) | Notification to Passengers | 1983 | 500 | 458.7/298.1 | 300 | 800 | 550 |
| 46 U.S.C. 3506 | Copies of Laws on Passenger Vessels. | 1983 | 200 | 458.7/298.1 | 100 | 300 | 220 |
| 46 U.S.C. 3718(a)(1) | Dangerous Cargo Carriage | 1990 | 25,000 | 458.7/389.1 | 5,000 | 30,000 | 27,500 |
| 46 U.S.C. 4106 | Uninspected Vessels | 1988 | 5,000 | 458.7/353.6 | 1,000 | 6,000 | 5,500 |
| 46 U.S.C. 4311(b) | Recreational Vessels | 1984 | 100,000 | 458.7/310.7 | 45,000 | 145,000 | 110,000 |
| 46 U.S.C. 4311(b) | Recreational Vessels | 1984 | 2,000 | 458.7/310.7 | 1,000 | 3,000 | 2,200 |
| 46 U.S.C. 4311(c) | Recreational Vessels | 1984 | 1,000 | 458.7/310.7 | 500 | 1,500 | 1,100 |
| 46 U.S.C. 4507 | Vessel Inspection | 1988 | 5,000 | 458.7/353.6 | 1,000 | 6,000 | 5,500 |
| 46 U.S.C. 5116(a) | Load Lines | 1990 | 5,000 | 458.7/389.1 | 1,000 | 6,000 | 5,500 |
| 46 U.S.C. 5116(b) | Load Lines | 1990 | 10,000 | 458.7/389.1 | 2,000 | 12,000 | 11,000 |
| 46 U.S.C. 5116(c) | Load Lines | 1990 | 5,000 | 458.7/389.1 | 1,000 | 6,000 | 5,500 |
| 46 U.S.C. 6103(a) | Reporting Marine Casualties. | 1988 | 1,000 | 458.7/353.6 | 300 | 1,300 | 1,100 |
| 46 U.S.C. 6103(b) | Reporting Marine Casualties. | 1988 | 5,000 | 458.7/353.6 | 1,000 | 6,000 | 5,500 |
| 46 U.S.C. 8101(e) | Manning of Inspected Vessels. | 1990 | 1,000 | 458.7/389.1 | 200 | 1,200 | 1,100 |
| 46 U.S.C. 8101(f) | Manning of Inspected Vessels. | 1990 | 10,000 | 458.7/389.1 | 2,000 | 12,000 | 11,000 |
| 46 U.S.C. 8101(g) | Manning of Inspected Vessels. | 1990 | 10,000 | 458.7/389.1 | 2,000 | 12,000 | 11,000 |
| 46 U.S.C. 8102(a) | Watchmen on Passenger Vessels. | 1984 | 1,000 | 458.7/310.7 | 500 | 1,500 | 1,100 |
| 46 U.S.C. 8103(f) | Citizenship Requirements | 1988 | 500 | 458.7/353.6 | 100 | 600 | 550 |
| 46 U.S.C. 8104(i) | Watches on Vessels | 1990 | 10,000 | 458.7/389.1 | 2,000 | 12,000 | 11,000 |
| 46 U.S.C. 8104(j) | Watches on Vessels | 1990 | 10,000 | 458.7/389.1 | 2,000 | 12,000 | 11,000 |
| 46 U.S.C. 8302(e) | Staff Department on Vessels. | 1985 | 100 | 458.7/322.3 | 40 | 140 | 110 |
| 46 U.S.C. 8304(d) | Officer's Competency Certificates. | 1983 | 100 | 458.7/298.1 | 50 | 150 | 110 |
| 46 U.S.C. 8502(e) | Coastwise Pilotage | 1990 | 10,000 | 458.7/389.1 | 2,000 | 12,000 | 11,000 |
| 46 U.S.C. 8502(f) | Coastwise Pilotage | 1990 | 10,000 | 458.7/389.1 | 2,000 | 12,000 | 11,000 |
| 46 U.S.C. 8503 | Federal Pilots | 1990 | 25,000 | 458.7/389.1 | 5,000 | 30,000 | 27,500 |
| 46 U.S.C. 8701(d) | Merchant Mariners Documents. | 1986 | 500 | 458.7/327.9 | 200 | 700 | 550 |
| 46 U.S.C. 8702(e) | Crew Requirements | 1990 | 10,000 | 458.7/389.1 | 2,000 | 12,000 | 11,000 |
| 46 U.S.C. 8906 | Small Vessel Manning | 1983 | 1,000 | 458.7/298.1 | 500 | 1,500 | 1,100 |
| 46 U.S.C. 9308(a) | Pilotage: Great Lakes | 1990 | 10,000 | 458.7/389.1 | 2,000 | 12,000 | 11,000 |
| 46 U.S.C. 9308(b) | Pilotage: Great Lakes | 1990 | 10,000 | 458.7/389.1 | 2,000 | 12,000 | 11,000 |
| 46 U.S.C. 9308(c) | Pilotage: Great Lakes | 1990 | 10,000 | 458.7/389.1 | 2,000 | 12,000 | 11,000 |
| 46 U.S.C. 10104(b) | Failure to Report Sexual Offense. | 1989 | 5,000 | 458.7/371.7 | 1,000 | 6,000 | 5,500 |
| 46 U.S.C. 10307 | Posting of Agreements | 1983 | 100 | 458.7/298.1 | 50 | 150 | 110 |
| 46 U.S.C. 10308(b) | Foreign Engagements by Seamen. | 1983 | 100 | 458.7/298.1 | 50 | 150 | 110 |
| 46 U.S.C. 10309(b) | Replacement of Lost/Deserted Seamen. | 1983 | 200 | 458.7/298.1 | 100 | 300 | 220 |
| 46 U.S.C. 10310 | Discharge of Seamen | 1983 | 50 | 458.7/298.1 | 30 | 80 | 55 |
| 46 U.S.C. 10312(c) | Foreign/Intercoastal Voyages. | 1983 | 100 | 458.7/298.1 | 50 | 150 | 110 |
| 46 U.S.C. 10314(a)(2) | Pay Advances to Seamen | 1983 | 500 | 458.7/298.1 | 300 | 800 | 550 |
| 46 U.S.C. 10314(b) | Pay Advances to Seamen | 1983 | 500 | 458.7/298.1 | 300 | 800 | 550 |
| 46 U.S.C. 10315(c) | Allotments to Seamen | 1983 | 500 | 458.7/298.1 | 300 | 800 | 550 |
| 46 U.S.C. 10321 | Seamen Protection: General. | 1983 | 200 | 458.7/298.1 | 100 | 300 | 220 |
| 46 U.S.C. 10505(b) | Advances | 1983 | 500 | 458.7/298.1 | 300 | 800 | 550 |
| 46 U.S.C. 10508(b) | Seamen Protection: General. | 1983 | 20 | 458.7/298.1 | 10 | 30 | 22 |
| 46 U.S.C. 10711 | Effects of Deceased Seamen. | 1983 | 200 | 458.7/298.1 | 100 | 300 | 220 |
| 46 U.S.C. 10902(a)(2) | Complaints of Unfitness | 1983 | 500 | 458.7/298.1 | 300 | 800 | 550 |

TABLE A.—SUMMARY OF CIVIL MONETARY PENALTY INFLATION ADJUSTMENT CALCULATIONS—Continued

| U.S. Code citation | Civil monetary penalty description | Year penalty amount was last set by law | Maximum penalty amount set by law as of 10/23/96 | Inflation factor calculation | Maximum penalty increase after P.L. 101-410 rounding | Maximum penalty amount after increase and P.L. 101-410 rounding | Maximum penalty amount after P.L. 101-410 rounding and 10% limit |
|----------------------------|--|---|--|------------------------------|--|---|--|
| 46 U.S.C. 10903(d) | Proceedings on Examination of Vessel. | 1983 | 100 | 458.7/298.1 | 50 | 150 | 110 |
| 46 U.S.C. 10907(b) | Permission to Make Complaint. | 1983 | 500 | 458.7/298.1 | 300 | 800 | 550 |
| 46 U.S.C. 11101(f) | Accommodations for Seamen. | 1985 | 500 | 458.7/322.3 | 200 | 700 | 550 |
| 46 U.S.C. 11102(b) | Medicine Chests on Vessels. | 1983 | 500 | 458.7/298.1 | 300 | 800 | 550 |
| 46 U.S.C. 11104(b) | Destitute Seamen | 1983 | 100 | 458.7/298.1 | 50 | 150 | 110 |
| 46 U.S.C. 11105(c) | Wages on Discharge | 1983 | 500 | 458.7/298.1 | 300 | 800 | 550 |
| 46 U.S.C. 11303(a) | Log Books | 1983 | 200 | 458.7/298.1 | 100 | 300 | 220 |
| 46 U.S.C. 11303(b) | Log Books | 1983 | 200 | 458.7/298.1 | 100 | 300 | 220 |
| 46 U.S.C. 11303(c) | Log Books | 1983 | 150 | 458.7/298.1 | 100 | 250 | 185 |
| 46 U.S.C. 11506 | Carrying of Sheath Knives | 1983 | 50 | 458.7/298.1 | 30 | 80 | 55 |
| 46 U.S.C. 12122(a) | Identification of Vessels | 1986 | 500 | 458.7/327.9 | 200 | 700 | 550 |
| 46 U.S.C. 12309(b) | Numbering of Undocumented Vessels. | 1983 | 1,000 | 458.7/298.1 | 500 | 1,500 | 1,100 |
| 46 U.S.C. 12507(b) | Vessel Identification System. | 1988 | 10,000 | 458.7/353.6 | 3,000 | 13,000 | 11,000 |
| 46 U.S.C. 14701 | Measurement of Vessels .. | 1986 | 20,000 | 458.7/327.9 | 10,000 | 30,000 | 22,000 |
| 46 U.S.C. 14701 | Registry/Recording: Tonnage. | 1986 | 20,000 | 458.7/327.9 | 10,000 | 30,000 | 22,000 |
| 46 U.S.C. 14702 | Measurement/False Statements. | 1986 | 20,000 | 458.7/327.9 | 10,000 | 30,000 | 22,000 |
| 46 U.S.C. 31309 | Instruments and Liens | 1988 | 10,000 | 458.7/353.6 | 3,000 | 13,000 | 11,000 |
| 49 U.S.C. 1809(a)(1) | Hazardous Materials—Relating to Vessels. | 1975 | 10,000 | 458.7/160.6 | 18,000 | 28,000 | 11,000 |

Future adjustments will also be made in accordance with the statutory formula. Since today's inflation adjustments are being made in March 1997, the next scheduled adjustment will cover inflation from June 1996 to June of the year in which the next adjustment is made. The Debt Collection Improvement Act requires that penalties be adjusted for inflation at least once every four years.

This rule also eliminates or revises existing sections of the Code of Federal Regulations (CFR) which contain civil penalty amounts. These sections are now obsolete as they contain penalty amounts which have not been adjusted for inflation in accordance with the Debt Collection Improvement Act of 1996. The Coast Guard has incorporated all penalty amounts into a single table for ease of use by the public. Because the volume of the CFR which contains Title 33 is widely disseminated, the Coast Guard is placing the table, including all applicable Coast Guard administered penalties from Titles 33, 46 and 49, in a new part 27 within 33 CFR. The Coast Guard has attempted to include in the table all penalties covered by the Act. However, due to factors such as subsequent statutory changes, some

penalties may not be included in the table. If a penalty amount is not included in the table its statutorily set amount will control.

Waiver of Proposed Rulemaking

In developing this final rule, the Coast Guard is waiving the usual notice of proposed rulemaking and public comment procedures set forth in the Administrative Procedure Act (APA) (5 U.S.C. 553). The APA provides an exception to the notice and comment procedures when an agency finds there is good cause for dispensing with such procedures on the bases that they are impracticable, unnecessary or contrary to the public interest. The Coast Guard has determined that, under 5 U.S.C. 553(b)(3)(B), good cause exists for dispensing with the notice of proposed rulemaking and public comment procedures for this rule. Specifically, this rulemaking implements the Debt Collection Improvement Act of 1996, which leaves the agency no discretion. Accordingly, the Coast Guard believes that opportunity for prior comment is unnecessary and is issuing these revised regulations as a final rule that will apply to all future cases under this authority. Other administrations with the

Department of Transportation have also followed this procedure.

Assessment

This final rule is exempt from review under Executive Order 12866 because it is limited to the adoption of statutory language without interpretation.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612) the Coast Guard is required to assess the impact of regulations on small business entities. While some penalties may have an impact on small entities, it is the nature of the violation and not the size of the entity that will result in an action by the Coast Guard. Moreover, although this rule increases the maximum penalty that could be assessed, it does not change the Coast Guard's existing enforcement policies which provide for consideration of the size of an entity and the economic impact of the penalty on that entity. The aggregate economic impact of this rulemaking on small business entities should be minimal. Therefore, the Coast Guard certifies that this final rule will not have a significant economic impact on a substantial number of small business entities.

Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), the Coast Guard will provide assistance to small entities to determine how this rule applies to them. If you are a small entity against which a civil penalty has been assessed by the Coast Guard and you need assistance understanding the provisions of this rule or how it applies to your circumstances, please bring this issue to the attention of the hearing officer in your case.

Collection of Information

This rule contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.1B, (as revised by 59 FR 38654, July 29, 1994), this rule is categorically excluded from further environmental documentation because it contains only regulations which are editorial or procedural in nature. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects

33 CFR Part 5

Volunteers.

33 CFR Part 26

Communications equipment, Marine safety, Radio, Telephone, Vessels.

33 CFR Part 27

Marine safety, Oil pollution, Penalties, Vessels, Waterways.

33 CFR Part 95

Alcohol abuse, Drug abuse, Marine safety, Penalties.

33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

33 CFR Part 110

Anchorage grounds.

33 CFR Part 130

Hazardous materials transportation, Insurance, Oil pollution, Reporting and recordkeeping requirements, Vessels, Water pollution control.

33 CFR Part 136

Administrative practice and procedure, Claims, Continental shelf, Insurance, Oil pollution.

33 CFR Part 138

Insurance, Maritime carriers, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 140

Continental shelf, Investigations, Marine safety, Occupational safety and health, Penalties, Reporting and recordkeeping requirements.

33 CFR Part 151

Administrative practice and procedure, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 153

Hazardous substances, Oil pollution, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 177

Marine safety.

46 CFR Part 2

Marine safety, Reporting and recordkeeping requirements, Vessels.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR parts 5, 26, 95, 100, 110, 130, 136, 138, 140, 151, 153, and 177; and 46 CFR part 2; and adds 33 CFR part 27.

Title 33, Chapter I

PART 5—[AMENDED]

1. The authority citation for part 5 is revised to read as follows:

Authority: 14 U.S.C. 633, 892; 49 CFR 1.46.

§ 5.67 [Removed]

2. Section 5.67 is removed.

PART 26—[AMENDED]

3. The authority citation for part 26 continues to read as follows:

Authority: 14 U.S.C. 2; 33 U.S.C. 1201-1208; 49 CFR 1.45(b), 1.46; Rule 1, International Regulations for the Prevention of Collisions at Sea.

§ 26.10 [Removed]

4. Section 26.10 is removed.

5. Add a new part 27 to read as follows:

PART 27—ADJUSTMENT OF CIVIL MONETARY PENALTIES FOR INFLATION

Sec.

27.1 Applicability.

27.2 Effective date.

27.3 Penalty Adjustment Table.

Authority: Pub. L. 101-410, 104 Stat. 890 as amended by Pub. L. 104-134; 49 CFR 1.45, 1.46.

PART 27—ADJUSTMENT OF CIVIL MONETARY PENALTIES FOR INFLATION

§ 27.1 Applicability.

This part applies to each statutory provision under the laws administered by the Coast Guard concerning the maximum civil monetary penalty which may be assessed in either civil judicial or administrative proceedings.

§ 27.2 Effective date

The increased penalty amounts set forth in this rule apply to all violations under the applicable statutes and regulations which occur after May 7, 1997.

§ 27.3 Penalty Adjustment Table

The adjusted statutory penalty provisions and their maximum applicable amounts are set out in Table 1. The last column of the table provides the newly effective maximum penalty amounts.

TABLE 1.—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS *

| U.S. Code citation | Civil monetary penalty description | New maximum penalty amount |
|--------------------|--|----------------------------|
| 14 U.S.C. 88(c) | Saving Life and Property | \$5,500 |
| 14 U.S.C. 645(h) | Confidentiality of Medical Quality Assurance Records (first offense) | 3,000 |

16. The authority citation for part 110 is revised to read as follows:

Authority: 33 U.S.C. 471, 1221 through 1236, 2030, 2035, 2071; 49 CFR 1.46 and 33 CFR 1.05-1(g).

§ 110.1a [Amended]

17. In § 110.1a, paragraph (b) is removed.

PART 130—[AMENDED]

18. The authority citation for part 130 is revised to read as follows:

Authority: 33 U.S.C. 2716, 2716a; E.O. 12777, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46.

19. Section 130.14 is revised to read as follows:

§ 130.14 Enforcement.

Enforcement actions will be carried out under the provisions of 33 CFR 138.140.

PART 136—[AMENDED]

20. The authority citation for part 136 is revised to read as follows:

Authority: 31 U.S.C. 3801 through 3812; 33 U.S.C. 2713, 2714; E.O. 12777, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46.

§ 136.9 Falsification of claims. [Amended]

21. In § 136.9, remove the words “of up to \$5,000”.

PART 138—[AMENDED]

22. The authority citation for part 138 is revised to read as follows:

Authority: 33 U.S.C. 2716, 2716a; 42 U.S.C. 9608, 9609; sec. 7(b), E.O. 12580, 3 CFR, 1987 Comp., p. 198; E.O. 12777, 3 CFR 1991 Comp., p. 351; 49 CFR 1.46; § 138.30 also issued under the authority of 46 U.S.C. 2103, 14302.

23. In § 138.140, paragraph (a) is revised to read as follows:

§ 138.140 Enforcement.

(a) Any person who fails to comply with this part with respect to evidence of financial responsibility under section 1016 of OPA 90 (33 U.S.C. 2716) is subject to a civil penalty. In addition, under section 4303(b) of that Act (33 U.S.C. 2716a(b)), the Attorney General may secure such relief as may be necessary to compel compliance with this part including termination of operations. Further, any person who fails to comply with this part with respect to evidence of financial responsibility under section 108(a)(1) of CERCLA (42 U.S.C. 9608(a)(1)), is subject to a Class I administrative civil penalty and a Class II administrative civil penalty or judicial penalty.

* * * * *

24. In § 138.140, paragraph (b), remove “section 4197 of the Revised Statutes (46 U.S.C. 91)” and add, in its place “46 U.S.C. App. 91”.

* * * * *

PART 140—[AMENDED]

25. The authority citation for part 140 is revised to read as follows:

Authority: 42 U.S.C. 1333, 1348, 1350, 1356; 49 CFR 1.46.

§ 140.35 Sanctions

26. In § 140.35, paragraph (a)(3), remove the words “of not more than \$10,000”.

PART 151—[AMENDED]

27. The authority citation for part 151 is revised to read as follows:

Authority: 33 U.S.C. 1321, 1903, 1908; E.O. 12777, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46.

§ 151.04 Penalties for violation

28. In § 151.04, paragraph (a), remove the words “not to exceed \$25,000”.

29. In § 151.04, paragraph (b), remove the words “not to exceed \$5,000”.

30. In § 151.59 paragraphs (d)(6) and (e)(2)(ii) are revised to read as follows:

§ 151.59 Placards.

* * * * *

(d) * * *

(6) A person who violates the above requirements is liable for a civil penalty for each violation, and the criminal penalties of a class D felony.

* * * * *

(e) * * *

(2) * * *

(ii) A person who violates the above requirements is liable for a civil penalty for each violation, and the criminal penalties of a class D felony.

* * * * *

PART 153—[AMENDED]

31. The authority citation for part 153 continues to read as follows:

Authority: 14 U.S.C. 633; 33 U.S.C. 1321; 42 U.S.C. 9615; E.O. 12580, 3 CFR, 1987 Comp., p. 193; E.O. 12777, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.45 and 1.46.

32. Section 153.307 is revised to read as follows:

§ 153.307 Penalties.

Section 311(b)(7)(C) of the Act, as amended, prescribes that any person who fails or refuses to comply with the provisions of this subpart is liable for a civil penalty per day of violation.

PART 177—[AMENDED]

33. The authority citation for part 177 is revised to read as follows:

Authority: 46 U.S.C. 4302, 4311; 49 CFR 1.45 and 1.46.

34. Section 177.09 is revised to read as follows:

§ 177.09 Penalties.

An operator of a vessel who does not follow the directions of a Coast Guard Boarding Officer prescribed in § 177.05 is, in addition to any other penalty prescribed by law, subject to—

(a) The criminal penalties of 46 U.S.C. 4311, which provides that a person willfully operating a recreational vessel in violation of 46 U.S.C., Chapter 43 or regulations issued thereunder, shall be fined not more than \$5,000, imprisoned for not more than one year, or both.

(b)(1) The civil penalties for violating 46 U.S.C. 4307(a)(1).

(2) The civil penalties of 46 U.S.C. 4311, which provides that a person violating any other provision of 43 U.S.C., Chapter 43 or regulation issued thereunder is liable to the United States Government for a civil penalty, and, if the violation involves the operation of a vessel, the vessel is liable in rem for the penalty.

Title 46, Chapter I

PART 2—[AMENDED]

35. The authority citation for part 2 is revised to read as follows:

Authority: 14 U.S.C. 664; 31 U.S.C. 9701; 33 U.S.C. 1903; 43 U.S.C. 1333, 1356; 46 U.S.C. 2110, 3306, 3703; E.O. 12234, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46; Subpart 2.45 also issued under the authority of 64 Stat. 1120.

§ 2.10-135 Penalties [Amended]

36. In § 2.10-135, paragraph (a), remove the words “of not more than \$5,000”.

37. The heading Subpart 2.50 is revised and § 2.50-1 is added to read as follows:

Subpart 2.50—Penalties

§ 2.50-1 Penalty procedures.

Civil and criminal penalty procedures appear in 33 CFR part 1. Civil monetary penalty amounts are set forth in 33 CFR part 27.

Dated: March 24, 1997.

Paul M. Blayney,

Rear Admiral, U.S. Coast Guard, Chief Counsel.

[FR Doc. 97-8781 Filed 4-7-97; 8:45 am]

BILLING CODE 4910-14-M

federal register

**Thursday
June 19, 1997**

Department of Transportation

Coast Guard

**Technical Amendments,
Organizational Changes,
Miscellaneous Editorial Changes and
Conforming Amendments; Final
Rule**

this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: May 27, 1997.

FOR FURTHER INFORMATION CONTACT: Captain R.R. Pixa, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, Virginia, 22332-2400, Telephone Number: (703) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS JUNEAU (LPD 10) is a vessel of the Navy which, due to its special construction and purpose, cannot fully

comply with the following specific provisions of 72 COLREGS: Annex I, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with its special functions as a naval vessel. The Deputy Assistant Judge Advocate General (Admiralty) of the Navy has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed

herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

Accordingly, 32 CFR part 706 is amended as follows:

PART 706—[AMENDED]

1. The authority citation for 32 CFR Part 706 continues to read as follows:

Authority: 33 U.S.C. 1605.

2. Table Five of § 706.2 is amended by revising the entry for the USS JUNEAU to read as follows:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE FIVE

| Vessel | No. | Masthead lights not over all other lights and obstructions. annex I, sec. 2(f) | Forward masthead light not in forward quarter of ship. annex I, sec. 3(a) | After mast-head light less than 1/2 ship's length aft of forward masthead light. annex I, sec. 3(a) | Percentage horizontal separation attained |
|------------------|--------|--|---|---|---|
| USS JUNEAU | LPD 10 | N/A | N/A | X | 49 |

Dated: May 27, 1997.
 Approved:
R.R. Pixa,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty).
 [FR Doc. 97-16057 Filed 6-18-97; 8:45 am]
BILLING CODE 3810-FF-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 1, 2, 3, 8, 25, 26, 51, 54, 67, 70, 72, 80, 89, 114, 116, 127, 141, 147, 148, 151, 153, 154, 155, 156, 157, 158, 160, 161, 163, 164, 165, 167, 174, 175, and 187.

[CGD 97-023]

Technical Amendments; Organizational Changes; Miscellaneous Editorial Changes and Conforming Amendments

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule amends Title 33, Code of Federal Regulations, to reflect recent agency organizational changes. It also makes editorial changes throughout the title to correct addresses, update cross-references, make conforming amendments, and make other technical corrections. This rule will have no substantive effect on the regulated public.

DATES: This rule is effective on June 30, 1997.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the Office of the Executive Secretary, Marine Safety Council (G-LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593-0001 between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

FOR FURTHER INFORMATION CONTACT: Janet Walton, Project Manager, Standards Evaluation and Development Division (G-MSR-2), (202) 267-0257.

SUPPLEMENTARY INFORMATION:

Background and Purpose

Each year Title 33 of the Code of Federal Regulations (CFR) is recodified on July 1. This rule makes miscellaneous editorial changes, conforming amendments, and revisions relating to recent Coast Guard organizational changes, to be included in the 1997 recodification of Title 33.

Discussion of Changes

As part of its Headquarters reorganization, the Coast Guard changed senior management position titles from "Chief" to "Assistant Commandant" for the Acquisition, Civil Rights, Marine Safety and Environmental Protection, Operations, and Systems and Human Resources programs. This rule revises these titles to conform to the current organization.

This rule also makes editorial changes throughout the title, corrects addresses, updates cross-references, makes conforming amendments to geographical descriptions resulting from organizational changes, and makes other

technical and editorial corrections. This rule does not change any substantive requirements of existing regulations.

Section 2.05-35

This rule corrects a codification error that dropped a sentence from § 2.05-35, Exclusive Economic Zone.

Section 3.70-15

In § 3.70-15, the Coast Guard is revising the description of the Guam Captain of the Port and Marine Inspection zone to conform to the provisions of the Compact of Free Association with the Republic of Palau.

Part 148, Subpart G

On August 4, 1995, DOT published a final rule (60 FR 39849) adding to 33 CFR part 137 a new subpart G—Limits of Liability. Subpart G set the limits of liability for U.S. deepwater ports in accordance with section 1004 of the Oil Pollution Act of 1990 (33 U.S.C. 2704). On March 7, 1996, the Coast Guard issued its final rule on Financial Responsibility for Water Pollution (Vessels) (61 FR 9264). In that rule, the Coast Guard removed 33 CFR part 137 because it no longer governed vessel financial responsibility. This action erroneously removed subpart G of part 137 which should have been moved to 33 CFR part 148, Subchapter NN—Deepwater Ports. In order to correct the erroneous removal of subpart G, today's final rule adds to 33 CFR part 148 a new subpart G—Limits of Liability, consisting of § 148.701 and § 148.703 which contain the same regulatory text published by DOT in 1995.

Parts 161, 164, and 165

In parts 161, 164, and 165 the Coast Guard is changing the terms "Automated Dependent Surveillance" and "Automated Dependent Surveillance Shipborne Equipment (ADS and ADSSE)" to "Automatic Identification System" and "Automatic Identification System Shipborne Equipment (AIS and AISSE)" wherever it appears in these parts. This nomenclature change is necessary because of the recent international acceptance of AIS terminology in the development of equipment performance standards.

Section 167.154

In § 167.154, paragraph (a) is being revised because one of the coordinates for the south-eastern approach of the New York Traffic Separation Scheme was incorrect. This paragraph is revised to reflect the correct coordinates as adopted by the International Maritime Organization.

Since this amendment relates to departmental management, organization, procedure, and practice, notice and comment on it are unnecessary and it may be made effective in fewer than 30 days after publication in the **Federal Register**. Therefore, this final rule is effective on June 30, 1997.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT)(44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. As this rule involves internal agency practices and procedures, it will not impose any costs on the public.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under paragraph 2.B.2.e.(34) of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. This exclusion is in accordance with paragraphs 2.B.2.e.(34)(a) and (b), concerning regulations that are editorial or procedural and concerning internal agency functions or organization. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects

33 CFR Part 1

Administrative practice and procedure, Authority delegations

(Government agencies), Freedom of information, Penalties.

33 CFR Part 2

Administrative practice and procedure, Law enforcement.

33 CFR Part 3

Organization and functions (Government agencies).

33 CFR Part 8

Armed forces reserves.

33 CFR Part 25

Authority delegations (Government agencies) Claims.

33 CFR Part 26

Communications equipment, Marine safety, Radio, Telephone, Vessels.

33 CFR Part 51

Administrative practice and procedure, Military personnel.

33 CFR Part 54

Alimony, Child support, Military personnel, Wages.

33 CFR Part 67

Continental shelf, Navigation (water), Reporting and recordkeeping requirements.

33 CFR Part 70

Navigation (water), Penalties.

33 CFR Part 72

Government publications, Navigation (water).

33 CFR Part 80

Navigation (water), Treaties, Waterways.

33 CFR Part 89

Navigation (water), Reporting and recordkeeping requirements, Waterways.

33 CFR Part 114

Bridges.

33 CFR Part 116

Bridges.

33 CFR Part 127

Fire prevention, Harbors, Natural gas, Reporting and recordkeeping requirements, Security measures.

33 CFR Part 141

Citizenship and naturalization, Continental shelf, Employment, Reporting and recordkeeping requirements.

33 CFR Part 147

Continental shelf, Marine safety, Navigation (water).

immediately following § 80.170 and immediately preceding § 80.501.

PART 89—INLAND NAVIGATION RULES: IMPLEMENTING RULES

35. The authority citation for part 89 continues to read as follows:

Authority: 33 U.S.C. 2071; 49 CFR 1.46(n)(14).

§ 89.18 [Amended]

36. In § 89.18(a), remove the word “Chief,” and add, in its place, the words “offices of Assistant Commandant for”.

PART 114—GENERAL

37. The authority citation for part 114 continues to read as follows:

Authority: 33 U.S.C. 401, 491, 499, 521, 525, and 535; 14 U.S.C. 633; 49 U.S.C. 1655(g); 49 CFR 1.46(c).

38. Revise § 114.05(l) to read as follows:

§ 114.05 Definitions.

* * * * *

(l) *Assistant Commandant for Operations.* The term “Assistant Commandant for Operations” means the officer of the Coast Guard designated by the Commandant as the staff officer in charge of the Office of Navigation Safety and Waterway Services, U.S. Coast Guard Headquarters.

§ 114.50 [Amended]

39. In § 114.50, remove the words “U.S. Coast Guard” immediately preceding the word “Chief”.

PART 116—ALTERATION OF UNREASONABLY OBSTRUCTIVE BRIDGES

40. The authority citation for part 116 continues to read as follows:

Authority: 33 U.S.C. 401, 521; 49 U.S.C. 1655(g); 49 CFR 1.4, 1.46(c).

§ 116.55 [Amended]

41. In § 116.55, in paragraph (a), remove the words “Chief, Operations” and add, in its place, the words “Assistant Commandant for Operations”; and paragraph (b) is revised to read as follows:

§ 116.55 Appeals.

* * * * *

(b) The appeal must be submitted in writing to the Assistant Commandant for Operations, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, within 60 days after the District Commander’s or the Chief’s, Office of Bridge Administration decision. The Assistant Commandant for Operations will make a decision on the appeal within 90 days after receipt

of the appeal. The Assistant Commandant for Operations’ decision of this appeal shall constitute final agency action.

* * * * *

PART 127—WATERFRONT FACILITIES HANDLING LIQUEFIED NATURAL GAS AND LIQUEFIED HAZARDOUS GAS

42. The authority citation for part 127 continues to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

Table 1 to Part 127 [Redesignated as Table 127.005]

43. In 33 CFR part 127, Table 1 is redesignated as Table 127.005.

§ 127.005 [Amended]

44. In § 127.005 remove the words “Table 1 to this part” and add, in their place, the words “Table 127.005” wherever they appear in this section.

§ 127.015 [Amended]

45. In § 127.015, in paragraphs (c)(1) and (d), remove the word “Chief,” and add, in its place, the words “Assistant Commandant for”.

§ 127.1605 [Amended]

46. In § 127.1605, introductory text, remove the word “are” and add, in its place, the word “area”.

PART 141—PERSONNEL

47. The authority citation for part 141 continues to read as follows:

Authority: 43 U.S.C. 1356; 49 CFR 1.46(z).

§ 141.5 [Amended]

48. In § 141.5, in paragraph (b)(1), remove the words “46 U.S.C. 672a” and add, in their place, the words “46 U.S.C. 8103”; and in paragraph (b)(2) remove the words “46 U.S.C. 1132” and add, in their place, the words “46 U.S.C. 7102 and 8103”.

PART 147—SAFETY ZONES

49. The authority citation for part 147 is revised to read as follows:

Authority: 14 U.S.C. 85; 43 U.S.C. 1333; 49 CFR 1.46.

PART 148—GENERAL

50. The authority citation for part 148 continues to read as follows:

Authority: Secs. 5(a), 5(b), Pub. L. 93-627, 88 Stat. 2131 (33 U.S.C. 1504(a), (b)); 49 CFR 1.46(s).

§ 148.211 and 148.217 [Amended]

51. In 33 CFR part 148, remove the word “Chief,” and add, in its place, the words “Assistant Commandant for” in the following sections:

(a) Section 148.211 introductory text; and
(b) Section 148.217(a).

52. A new subpart G consisting of §§ 148.701 and 148.703, is added to read as follows:

Subpart G—Limits of Liability

Sec.
148.701 Purpose.
148.703 Limits of liability.

Subpart G—Limits of Liability

§ 148.701 Purpose.

This subpart sets forth the limits of liability for U.S. deepwater ports in accordance with section 1004 of the Oil Pollution Act of 1990 (33 U.S.C. 2704).

§ 148.703 Limits of liability.

(a) The limits of liability for U.S. deepwater ports will be established by the Secretary of Transportation on a port-by-port basis, after review of the maximum credible spill and associated costs for which the port would be liable. The limit for a deepwater port will not be less than \$50 million or more than \$350 million.

(1) The limit of liability for the LOOP deepwater port licensed and operated by Louisiana Offshore Oil Port, Inc., is \$62,000,000.

(2) [Reserved]

(b) [Reserved]

PART 151—VESSELS CARRYING OIL, NOXIOUS LIQUID SUBSTANCES, GARBAGE, MUNICIPAL OR COMMERCIAL WASTE, AND BALLAST WATER

Subpart B—Transportation of Municipal and Commercial Waste

53. The authority citation for subpart B continues to read as follows:

Authority: 33 U.S.C. 2602; 49 CFR 1.46.

§ 151.1021 [Amended]

54. In § 151.1021, in paragraphs (b)(1) and (c), remove the word “Chief,” and add, in its place, the words “Assistant Commandant for”.

PART 153—CONTROL OF POLLUTION BY OIL AND HAZARDOUS SUBSTANCES, DISCHARGE REMOVAL

55. The authority citation for part 153 is continues to read as follows:

Authority: 14 U.S.C. 633; 33 U.S.C. 1321; 42 U.S.C. 9615; E.O. 12580, 3 CFR, 1987 Comp., p. 193; E.O. 12777, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.45 and 1.46.

§ 153.103 [Amended]

56. In § 153.103(d), remove the word “Chief,” and add, in its place, the words “Assistant Commandant for”.

federal register

**Tuesday
July 1, 1997**

**Department of
Transportation**

Coast Guard

Inflatable Liferrafts; Correction

Dated: June 19, 1997.

J.L. Linnon,

Rear Admiral, U.S. Coast Guard Commander, First Coast Guard District.

[FR Doc. 97-17087 Filed 6-30-97; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 144

46 CFR Parts 109, 159, 160, and 199

[CGD 85-205]

RIN 2115-AC51

Inflatable Liferrafts; Correction

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: This document contains corrections to the final regulations [CGD 85-205] which were published May 9, 1997 (62 FR 25525). The final rule completely revised Coast Guard regulations for the approval and servicing of inflatable liferafts in 46 CFR Part 160.

DATES: This rule is effective on July 1, 1997.

FOR FURTHER INFORMATION CONTACT:

Mr. Kurt J. Heinz, Lifesaving and Fire Safety Standards Division (G-MSE-4), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, telephone 202-267-1444, fax 202-267-1069, e-mail: kheinz@comdt.uscg.mil.

SUPPLEMENTARY INFORMATION:

Need for Correction

The Coast Guard published a document in the Federal Register on May 9, 1997 (62 CFR 25525), completely revising its regulations in 46 CFR Part 160 for the approval and servicing of inflatable liferafts. That document also made a consequential amendment to 46 CFR 199.190(g)(3)(i), to update an obsolete reference to the old regulations. However, it failed to address similar obsolete references in 33 CFR 144.01-15 (d) and 46 CFR 109.301(g)(3)(ii). This document amends those paragraphs as necessary to update obsolete references to the old regulations, and to update a requirement in 33 CFR 144.01-15(d) for equipment which is no longer approved under the new regulations. It also makes one purely editorial correction to the paragraph numbering in 46 CFR 160.151-13(g).

Correction of Publication

In rule FR Doc. 97-11897 published on May 9, 1997 (62 FR 25525), make the following corrections:

1. On page 25543, second column, under Consequential Revisions, add the following before the existing paragraph: "This final rule amends 33 CFR 144.01-15(d) to replace the obsolete requirement for "Limited Service" liferafts (which will no longer be approved) with a requirement for the analogous liferafts approved under this rule, and to remove the obsolete note referencing the servicing requirements in the old regulations. This amendment will not affect existing installed liferafts, and so should not have any substantive impact on anyone.

This final rule also amends 46 CFR 109.301(g)(3)(ii) to replace the obsolete reference to servicing procedures in subpart 160.051 with a reference to subpart 106.151."

2. On page 25544, third column, under List of Subjects, add the following before the existing text:

33 CFR Part 144

Continental shelf, Marine safety, Occupational safety and health.

46 CFR Part 109

Marine safety, Occupational safety and health, Oil and gas exploration, Reporting and recordkeeping requirements, Vessels.

3. On page 25544, third column, replace the words of issuance with the following:

"For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 144 and 46 CFR parts 109, 159, 160, and 199 as follows:"

4. On page 25544, third column, following the words of issuance, insert the following amendatory paragraphs 1 through 4 and text, and renumber existing amendatory paragraphs 1 through 12 as 5 through 17: 33 CFR Part 144.

1. The authority citation for part 144 continues to read as follows:

Authority: 43 U.S.C. 1333d; 46 U.S.C. 3102(a); 46 CFR 1.46.

2. In § 144.01-15, remove the Note following paragraph (d), and revise paragraph (d) to read as follows:

§ 144.01-15 Alternates for life floats.

* * * * *

(d) Inflatable liferafts shall be approved by the Coast Guard under approval series 160.151. An approved "Limited Service" or "Ocean Service" liferaft installed on board a platform before May 9, 1997, may continue to be used to meet the requirements of this

section provided it is maintained in good and serviceable condition.

46 CFR Part 109

3. The authority citation for part 109 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306, 5115, 6101, 10104; 49 CFR 1.46.

4. In § 109.301, revise paragraph (g)(3)(ii) to read as follows:

§ 109.301 Operational readiness, maintenance, and inspection of lifesaving equipment.

* * * * *

(g) Servicing of inflatable lifesaving appliances, inflated rescue boats, and marine evacuation systems.

* * * * *

(3) Each inflatable liferaft must be serviced—

* * * * *

(ii) In accordance with servicing procedures meeting the requirements of part 160, subpart 160.151 of this chapter.

* * * * *

46 CFR Part 160

§ 160.151-13 [Corrected]

5. On page 25549, top of the second column, renumber paragraphs (h) (1)-(4) of § 160.151-13 as (g)(3) (i)-(iv).

Dated: June 24, 1997.

R.C. North,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 97-17067 Filed 6-30-97; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD13-97-003]

RIN AE94

Puget Sound and Adjacent Waters, WA-Regulated Navigation

AGENCY: Coast Guard, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: On May 1, 1997, the Coast Guard published a direct final rule (62 FR 23659). This direct final rule notified the public of the Coast Guard's intent to correct an administrative error which unintentionally omitted the District Commander's authority to grant waivers from the rule excluding tankers over 125,000 dead weight tons from operating in Puget Sound, Puget Sound

federal register

**Tuesday
June 30, 1998**

Department of Transportation

Coast Guard

**Technical Amendments,
Organizational Changes,
Miscellaneous Editorial Changes and
Conforming Amendments; Final
Rule**

DEPARTMENT OF TRANSPORTATION**Coast Guard**

33 CFR Parts 1, 64, 66, 67, 100, 109, 110, 115, 117, 118, 130, 135, 141, 143, 144, 146, 151, 153, 154, 155, 157, 160, 161, 162, 163, 164, 165, 174, 175, 181, and 183

[USCG-1998-3799]

**Technical Amendments;
Organizational Changes;
Miscellaneous Editorial Changes and
Conforming Amendments**

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule makes editorial and technical changes throughout Title 33 of the Code of Federal Regulations (CFR) to update the title before it is recodified on July 1. It corrects addresses, updates cross-references, makes conforming amendments, and makes other technical corrections. This rule will have no substantive effect on the regulated public.

DATES: This rule is effective on June 30, 1998.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the Office of the Executive Secretary, Marine Safety Council (G-LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593-0001 between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-267-1477.

FOR FURTHER INFORMATION CONTACT: Janet Walton, Project Manager, Standards Evaluation and Development Division (G-MSR-2), 202-267-0257.

SUPPLEMENTARY INFORMATION:**Discussion of the Rule**

This rule makes editorial changes throughout the title, corrects addresses, updates cross-references, makes conforming amendments to geographical descriptions resulting from organizational changes, and makes other technical and editorial corrections. Some editorial changes are discussed individually in the following paragraphs. This rule does not change any substantive requirements of existing regulations.

Section 100.50

This rule removes § 100.50, Penalties. On April 8, 1997, the Coast Guard published a final rule, entitled Civil Money Penalties Inflation Adjustments [CGD 96-052] (62 FR 16695), which

incorporated this section into Table 1.— Civil Monetary Penalty Inflation Adjustments, in 33 CFR part 27.

Part 130

On March 7, 1996, the Coast Guard published a final rule finalizing its interim regulations implementing the provisions concerning financial responsibility for vessels under the Oil Pollution Act of 1990 and the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (Acts) [CGD 91-005] (61 FR 9264). In addition, the Coast Guard removed obsolete provisions by removing 33 CFR parts 131, 132 and 137.

As stated in the final rule, "Part 130, the remaining preexisting vessel financial responsibility part, is being phased out and will be removed after December 27, 1997, at the close of the transition schedule established by § 138.15(b) of the interim rule and, now, this final rule." With this final rule, the Coast Guard removes part 130.

Section 174.121

This rule revises § 174.121 to reflect the current address for States forwarding copies of casualty or accident reports to the Commandant (G-OCC).

Section 175.17

In § 175.17, the exemption in paragraph (e) for recreational submersibles terminated on April 30, 1995. This rule removes the paragraph.

Section 175.135

In § 175.135, the provisions of paragraph (a) expired in July 1982. This rule removes the paragraph.

Section 181.21

The Coast Guard revises § 181.21 to reflect the current statutory citation in 46 U.S.C. 4301.

Section 183.901

This rule removes § 183.901 because the Outboard Marine Corporation no longer builds the "OMC Sea Drive" and the special provision is not relevant to another product.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT)

(44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This rule involves internal agency practices and procedures, and it will not impose any costs on the public.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2-1, paragraphs (34) (a) and (b) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. This exclusion is in accordance with paragraphs (34) (a) and (b), concerning regulations that are editorial or procedural and concerning internal agency functions or organization. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under ADDRESSES.

List of Subjects**33 CFR Part 1**

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Penalties.

33 CFR Part 64

Navigation (water), Reporting and recordkeeping requirements.

33 CFR Part 66

Intergovernmental relations, Navigation (water), Reporting and recordkeeping requirements.

33 CFR Part 67

Continental shelf, Navigation (water), Reporting and recordkeeping requirements.

33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

33 CFR Part 109.

Anchorage grounds.

33 CFR Part 110

Anchorage grounds.

33 CFR Part 115

Administrative practice and procedure, Bridges, Reporting and recordkeeping requirements.

33 CFR Part 117

Bridges.

33 CFR Part 118

Bridges.

33 CFR Part 130

Insurance, Maritime carriers, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 135

Administrative practice and procedure, Advertising, Claims, Continental shelf, Insurance, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 141

Citizenship and naturalization, Continental shelf, Employment, Reporting and recordkeeping requirements.

33 CFR Part 143

Continental shelf, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements.

33 CFR Part 144

Continental shelf, Marine safety, Occupational safety and health.

33 CFR Part 146

Continental shelf, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 151

Administrative practice and procedure, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 153

Hazardous substances, Oil pollution, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 154

Fire prevention, Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 155

Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 157

Cargo vessels, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 160

Administrative practice and procedure, Harbors, Hazardous materials transportation, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Vessels, Waterways.

33 CFR Part 161

Harbors, Navigation (water), Reporting and recordkeeping requirements, Vessels, Waterways.

33 CFR Part 162

Navigation (water), Waterways.

33 CFR Part 163

Cargo vessels, Harbors, Navigation (water), Waterways.

33 CFR Part 164

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

33 CFR Part 174

Intergovernmental relations, Marine safety, Reporting and recordkeeping requirements.

33 CFR Part 175

Marine safety.

33 CFR Part 181

Labeling, Marine safety, Reporting and recordkeeping requirements.

33 CFR Part 183

Marine safety, Reporting and recordkeeping requirements, Administrative practice and procedure.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 1, 64, 66, 67, 100, 109, 110, 115, 117, 118, 130, 135, 141, 143, 144, 146, 151, 153, 154, 155, 157, 160, 161, 162, 163, 164, 165, 174, 175, 181, and 183 as follows:

PART 1—GENERAL PROVISIONS**Subpart 1.01—Delegation of Authority**

1. Revise the authority citation for subpart 1.01 to read as follows:

Authority: 14 U.S.C. 633; 33 U.S.C. 401, 491, 525, 1321, 2716, and 2716a; 42 U.S.C. 9615; 49 U.S.C. 322; 49 CFR 1.45(b), 1.46; section 1.01-70 also issued under the authority of E.O. 12580, 3 CFR, 1987 Comp., p. 193; and sections 1.01-80 and 1.01-85 also issued under the authority of E.O. 12777, 3 CFR, 1991 Comp., p. 351.

§ 1.01-20 [Amended]

2. In § 1.01-20, remove paragraph (b) and remove the designator for paragraph (a).

3. Revise § 1.01-50 to read as follows:

§ 1.01-50 Delegation to District Commander, Seventeenth Coast Guard District.

The Commandant redelegates to the District Commander, Seventeenth Coast Guard District, the authority in 46 U.S.C. 3302(i)(1) to issue permits to certain vessels transporting cargo, including bulk fuel, from one place in Alaska to another place in Alaska.

Subpart 1.20—Testimony by Coast Guard Personnel and Production of Records in Legal Proceedings

4. The authority citation for subpart 1.20 continues to read as follows:

Authority: 5 U.S.C. 301; 14 U.S.C. 632, 633, 49 U.S.C. 322; 49 CFR 1.46 and part 9.

§ 1.20-1 [Amended]

5. In § 1.20-1(c), remove the words "Claims and Litigation Division" and add, in their place, the words "Office of Claims and Litigation", wherever they appear.

Subpart 1.26—Charges for Duplicate Medals, and Sales of Personal Property, Equipment for Services and Rentals

6. The authority citation for subpart 1.26 continues to read as follows:

Authority: 14 U.S.C. 633; 49 CFR 1.46(k).

§ 1.26-15 [Amended]

7. In § 1.26-15(a), remove the last sentence, in the paragraph, and add, in its place, the words "49 U.S.C. 44502(d) authorizes the Coast Guard to provide for assistance, the sale of fuel, oil, equipment, and supplies, to an aircraft when necessary to allow the aircraft to continue to the nearest private airport."

§§ 117.449 and 117.487 [Amended]

58. In addition to the amendments set forth above, in 33 CFR part 117, remove the words "Texas and Pacific" and add, in their place, the words "Union Pacific" in the following sections:

- (a) Section 117.449(a); and
- (b) Section 117.487(b).

§§ 117.637 and 117.855 [Amended]

59. In addition to the amendments set forth above, in 33 CFR part 117, remove the words "Chessie System" and add, in their place, the words "CSX Transportation" in the following sections:

- (a) Section 117.637(b); and
- (b) Section 117.855(c) introductory text.

§§ 117.865 and 117.881 [Amended]

60. In addition to the amendments set forth above, in 33 CFR part 117, remove the words "Burlington Northern" and add, in their place, the words "Willamette and Pacific" in the following sections:

- (a) Section 117.865; and
- (b) Section 117.881(a).

§§ 117.1047 and 117.1065 [Amended]

61. In addition to the amendments set forth above, in 33 CFR part 117, remove the words "Burlington Northern" and add, in their place, the words "Puget Sound and Pacific" in the following sections:

- (a) Section 117.1047(b); and
- (b) Section 117.1065(b).

PART 118—BRIDGE LIGHTING AND OTHER SIGNALS

62. The authority citation for part 127 continues to read as follows:

Authority: 33 U.S.C. 494; 14 U.S.C. 85, 633; 49 CFR 1.46(b) and (c).

§ 118.60 [Amended]

63. In § 118.60, remove the words "Annex I, Appendix A of 33 CFR Part 81" and add, in their place, the words "33 CFR Part 84—Annex 1".

PART 130—FINANCIAL RESPONSIBILITY FOR WATER POLLUTION

64. The authority citation for part 130 continues to read as follows:

Authority: 33 U.S.C. 2716, 2716a; E.O. 12777, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46.

PART 130—[REMOVED]

65. Remove part 130.

PART 135—OFFSHORE OIL POLLUTION COMPENSATION FUND

66. The authority citation for part 135 continues to read as follows:

Authority: 33 U.S.C. 2701–2719; E.O. 12777, 56 FR 54757; 49 CFR 1.46.

§ 135.9 [Amended]

67. In § 135.9, remove the words "Funds Management Branch, Commandant (G–MER–4), U.S. Coast Guard Headquarters, 2100 Second Street, SW, Washington, DC 20593–0001" and add, in their place, the words "U.S. Coast Guard National Pollution Funds Center, 4200 Wilson Boulevard, Suite 1000, Arlington, VA 22203–1804".

§ 135.305 [Amended]

68. In § 135.305(a)(1), remove the words "400 Seventh Street SW., Washington, D.C. 20590" and add, in their place, the words "2100 Second Street, SW., Washington, DC 20593–0001".

PART 141—PERSONNEL

69. The authority citation for part 141 continues to read as follows:

Authority: 43 U.S.C. 1356; 49 CFR 1.46(z).

§ 141.15 [Amended]

70. In § 141.15(a), remove the words "On or after April 5, 1983, each" and add, in their place, the word "Each".

PART 143—DESIGN AND EQUIPMENT

71. The authority citation for part 143 continues to read as follows:

Authority: 43 U.S.C. 1333(d)(1), 1348(c), 1356; 49 CFR 1.46; section 143.210 is also issued under 14 U.S.C. 664 and 31 U.S.C. 9701.

§ 143.15 [Amended]

72. In § 143.15(b), remove the words "(33 CFR Part 87, Appendix A)".

PART 144—LIFESAVING APPLIANCES

73. The authority citation for part 144 continues to read as follows:

Authority: 43 U.S.C. 1333d; 46 U.S.C. 3102(a); 46 CFR 1.46.

§ 144.01–20 [Amended]

74. In § 144.01–20, in paragraph (b), remove the words "On or before July 1, 1963, all" and add, in their place, the word "All"; and in paragraphs (c) and (d), remove the words, "after October 5, 1982,".

PART 146—OPERATIONS

75. The authority citation for part 146 continues to read as follows:

Authority: 43 U.S.C. 1333(d)(1), 1348(c), 1356; 49 CFR 1.46.

§ 146.140 [Amended]

76. In § 146.140(a), remove the words "For facilities existing on June 19, 1989, the EEP must be submitted to the OCMJ having jurisdiction over the facility before December 18, 1989. For facilities not existing on June 19, 1989, the" and add, in their place, the word "The".

PART 151—VESSELS CARRYING OIL, NOXIOUS LIQUID SUBSTANCES, GARBAGE, MUNICIPAL OR COMMERCIAL WASTE, AND BALLAST WATER**Subpart A—Implementation of MARPOL 73/78 and the Protocol on Environmental Protection to the Antarctic Treaty as It Pertains to Pollution From Ships**

77. The authority citation for subpart A continues to read as follows:

Authority: 33 U.S.C. 1321 and 1903; Pub. L. 104–227 (110 Stat. 3034), E.O. 12777, 3 CFR, 1991 Comp. p. 351; 49 CFR 1.46.

§ 151.10 [Amended]

78. In § 151.10, remove paragraph (i).
79. Revise § 151.17(b)(1) to read as follows:

§ 151.17 Surveys.

* * * * *

(b)* * *

(1) An initial survey conducted before the ship is put into service.

* * * * *

§ 151.19 [Amended]

80. In § 151.19, remove paragraph (f).

§ 151.27 [Amended]

81. In § 151.27(a), remove the last sentence.

PART 153—CONTROL OF POLLUTION BY OIL AND HAZARDOUS SUBSTANCES, DISCHARGE REMOVAL

82. The authority citation for part 153 continues to read as follows:

Authority: 14 U.S.C. 633; 33 U.S.C. 1321; 42 U.S.C. 9615; E.O. 12580, 3 CFR, 1987 Comp., p. 193; E.O. 12777, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.45 and 1.46.

§ 153.205 [Amended]

83. In § 153.205, in Table 1 titled "Addresses and Telephone Numbers of Coast Guard District Offices and EPA Regional Offices," in the entry for the 11th Coast Guard District, remove the address and phone number "union Bank Bldg., 400 Oceangate, Long Beach, CA 90822–5399. 213–499–5330" and add, in its place, the address "Building 50–6, Coast Guard Island, Alameda, CA 94501, telephone 510–437–2940"

federal register

**Thursday
March 30, 2000**

Department of Transportation

Coast Guard

**Safety Zone, Outer Continental Shelf
Platforms in the Gulf of Mexico;
Final Rule**

requirements for the applicable federal program listed in paragraph (a) of this section. This determination is not subject to the prohibition against increasing the rent to owner during the initial lease term (see § 982.309).

(c) *Certificate tenancy—Rent adjustment.* Rent to owner for a certificate tenancy is not subject to provisions governing annual adjustment (§ 982.519) or special adjustment (§ 982.520) of rent to owner.

17. On page 56915, in the second column, correct § 982.552(c)(1)(x) to read as follows:

§ 982.552 PHA denial or termination of assistance for family.

* * * * *

(c) * * *

(1) * * *

(x) If a welfare-to-work (WTW) family fails, willfully and persistently, to fulfill its obligations under the welfare-to-work voucher program.

* * * * *

§ 982.555 [Amended]

18. On page 56915, in the third column, add amendatory instruction 27a. to read as follows:

27a. Amend § 982.555 as follows:

a. In paragraph (b)(5), revise the reference to “or lease” to read “or tenancy”;

b. Revise the heading for paragraph (e)(2) to read “Discovery.”

19. On page 56915, in the third column, add amendatory instructions 29. and 30. to read as follows:

PART 983—SECTION 8 PROJECT-BASED CERTIFICATE PROGRAM

29. The authority citation continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

§ 983.1 [Amended]

30. Amend § 983.1(a) by removing the phrase “, authorized under section 8(d)(2) of the 1937 Act (42 U.S.C. 1437f(d)(2))”.

Dated: March 22, 2000.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 00-7642 Filed 3-29-00; 8:45 am]

BILLING CODE 4210-32-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 985

[Docket No. FR-4498-C-03]

RIN 2577-AC10

Technical Amendment to the Section 8 Management Assessment Program (SEMAP); Correction

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Correction.

SUMMARY: On December 3, 1999, HUD published a final rule amending its regulations for the Section 8 Management Assessment Program (SEMAP). The December 3, 1999 final rule adopted without change the amendments to the SEMAP regulations made by HUD's July 26, 1999 interim rule. The final rule also made several amendments to conform the SEMAP regulations to HUD's October 21, 1999 final rule implementing the statutory merger of the Section 8 tenant-based certificate and voucher programs. The purpose of this document is to make two typographical corrections to the December 3, 1999 final rule.

DATES: *Effective Date:* January 3, 2000.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Indian Housing, Department of Housing and Urban Development, Room 4220, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708-0477, extension 4069 (this is not a toll-free number). Hearing or speech impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION: On December 3, 1999 (64 FR 67982), HUD published a final rule amending its regulations for the Section 8 Management Assessment Program (SEMAP). The December 3, 1999 final rule adopted the amendments to the SEMAP regulations made by HUD's July 26, 1999 (64 FR 40496) interim rule. The July 26, 1999 interim rule made various technical amendments to the SEMAP regulations. The public comment period on the interim rule closed on September 24, 1999. No public comments were submitted on the interim rule. Accordingly, the December 3, 1999 final rule adopted the amendments made by the interim rule without change. The final rule became effective on January 3, 2000.

In addition to finalizing the July 26, 1999 interim rule, the December 3, 1999 final rule also made several amendments to conform the SEMAP regulations to HUD's October 21, 1999 (64 FR 56894) final rule implementing the statutory merger of the Section 8 tenant-based certificate and voucher programs into the new Housing Choice Voucher program (the regulations for this new program are codified at 24 CFR part 982).

The purpose of this document is to correct two typographical errors contained in the SEMAP regulations at 24 CFR part 985. Specifically, § 985.3 provides two incorrect percentages in the provisions regarding the rating of public housing agency (PHA) management performance. The corrections were intended to be part of the December 3, 1999 final rule, but were inadvertently omitted from that rule. This document makes the necessary correction to the December 3, 1999 final rule.

Accordingly, in the final rule entitled “Technical Amendment to the Section 8 Management Assessment Program (SEMAP),” FR Document 99-31440, beginning at 64 FR 67982, in the issue of Friday, December 3, 1999, the following corrections are made:

§ 985.5 [Corrected]

1. On page 67983, in the second column, amendatory instruction 2 is corrected by removing the word “and” after paragraph i., and adding new paragraphs k. and l. to read as follows:

k. In paragraph (l)(3)(i), revise the phrase “99 percent” to read “100 percent”; and

l. In paragraph (o)(3)(v), revise the phrase “70 percent” to read “79 percent.”

Dated: March 22, 2000.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 00-7640 Filed 3-29-00; 8:45 am]

BILLING CODE 4210-33-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 147

[CGD08-99-023]

RIN 2115-AF93

Safety Zone; Outer Continental Shelf Platforms in the Gulf of Mexico

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing safety zones around seven high-production, manned oil and natural gas platforms on the Outer Continental Shelf in the Gulf of Mexico. The seven platforms need to be protected from vessels operating outside the normal shipping channels and fairways. Placing safety zones around the platforms will significantly reduce the threat of allisions, oil spills, and releases of natural gas. The regulation prevents all vessels from entering or remaining in specified areas around the platforms except for the following: an attending vessel; a vessel under 100 feet in length overall not engaged in towing; or a vessel authorized by the Eighth District Commander. The safety zones are necessary to protect the safety of life, property, and environment.

DATES: This rule will become effective May 1, 2000.

ADDRESSES: The public docket and all documents referred to in this rule are available for inspection or copying at the Eighth Coast Guard District Marine Safety Division, 501 Magazine Street, room 1341, New Orleans, Louisiana 70130, between 8:30 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Roderick Walker, Project Manager for Eighth District Commander, telephone (504) 589-3043.

SUPPLEMENTARY INFORMATION:

Regulatory History

A notice of proposed rulemaking [CGD 08-99-023] was published on November 26, 1999.

One comment was received from Shell Exploration and Production Company requesting that the latitude and longitude for each referenced facility be added into the regulation. The Coast Guard agrees and has made the additions.

Background and Purpose

The safety zones established by this regulation are in the deepwater area of the Gulf of Mexico. For the purposes of this regulation the deepwater area is considered to be waters of 304.8 meters (1,000 feet) or greater depth extending to the limits of the Exclusive Economic Zone (EEZ) contiguous to the territorial sea of the United States and extending to a distance up to 200 nautical miles from the baseline from which the breadth of the sea is measured. Navigation in the area of the safety zones consists of large commercial shipping vessels, fishing vessels, cruise ships, tugs with tows and the occasional recreational vessel. The deepwater area

also includes an extensive system of fairways. The fairways include the Gulf of Mexico East-West fairway, the entrance and exit route of the Mississippi River, and the Houston-Galveston Safety Fairway. Significant amounts of vessel traffic occur in or near the various fairways in the deepwater area.

Shell Offshore, Inc. requested that the Coast Guard establish safety zones around the following Shell platforms in the Gulf of Mexico: the Boxer Platform, The Bulwinkle Platform, the Ursa Tension Leg Platform, the West Delta Platform, the Mars Tension Leg Platform, the Ram-Powell Tension Leg Platform, and the Auger Tension Leg Platform.

The request for the safety zones was made due to the high level of shipping activity around the platforms and the safety concerns for both the personnel aboard the platforms and the environment. Shell Offshore, Inc. indicated that the location, production level, and personnel levels on board the seven platforms make it highly likely that any allision with the platforms would result in a catastrophic event. Some of the platforms are located near the edge of a shipping safety fairway or fairway intersection. Others are located in open waters where no fixed structures previously existed. All are high production oil and gas drilling platforms producing from 100,000 to 250,000 barrels of oil per day, and are manned with crews ranging from approximately 130 to 156 people.

The Coast Guard has reviewed Shell Offshore Inc.'s concerns and agrees that the risk of allision to the platforms and the potential for loss of life and damage to the environment resulting from such an accident warrant the establishment of these safety zones. The West Delta 143 platform covered by this regulation did not meet the deepwater criteria; however, the Coast Guard believes its exposed location adjacent to a safety fairway and volume of throughput necessitated its inclusion into the rulemaking. The regulation would significantly reduce the threat of allisions, oil spills, and releases of natural gas and increase the safety of life, property, and the environment in the Gulf of Mexico.

Regulatory Evaluation

This rule is not a significant regulatory action under Executive Order 12866 and is not significant under the "Department of Transportation Regulatory Policies and Procedures" (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full

regulatory evaluation is unnecessary. The impacts on routine navigation are expected to be minimal.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism Assessment

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 13132 and has determined that it does not have federalism implications under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This rule would not impose an unfunded mandate.

Taking of Private Property

This rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environmental

The Coast Guard considered the environmental impact of this rule and concluded that under section 2-1, paragraph (34)(g) of Commandant Instruction M16475.1C this proposal is categorically excluded from further environmental documentation.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard

must consider whether this regulation will have a significant economic impact on a substantial number of small entities. "Small entities" include small business and not-for-profit organizations that are independently owned and operated, that are not dominant in their field, and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Since alternate routes are available for the small number of vessels to be affected by this regulation, the Coast Guard expects the impact of this regulation on small entities to be minimal. Therefore, the Coast Guard certifies under 5 U.S.C. 605 (b) that this regulation will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 147

Marine safety, Navigation (water), Outer Continental Shelf.

Regulation

In consideration of the foregoing, the Coast Guard amends part 147 of title 33, Code of Federal Regulations as follows:

PART 147—[AMENDED]

1. The authority citation for Part 147 continues to read as follows:

Authority: 14 U.S.C. 85; 43 U.S.C. 1333; and 49 CFR 1.46.

§ 147.1101 [Redesignated and revised]

2. Section 147.1101 is redesignated § 147.20 and revised to read as follows:

§ 147.20 Definitions.

Unless otherwise stated, the term "attending vessel" refers to any vessel which is operated by the owner or operator of an OCS facility located in the safety zone, which is used for the purpose of carrying supplies, equipment or personnel to or from the facility, which is engaged in construction, maintenance, alteration, or repair of the facility, or which is used for further exploration, production, transfer or storage of natural resources from the seabed beneath the safety zone.

3. New sections § 147.801 through § 147.813 are added to read as follows:

§ 147.801 Boxer Platform safety zone.

(a) *Description.* The Boxer Platform is located at position 27° 56' 48" N, 90° 59' 48" W. The area within 500 meters (1640.4 feet) from each point on the structure's outer edge, not to extend into the adjacent East—West Gulf of Mexico Fairway is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except:

- (1) An attending vessel;
- (2) A vessel under 100 feet in length overall not engaged in towing; or
- (3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.803 Bullwinkle Platform safety zone.

(a) *Description.* The Bullwinkle Platform is located at position 27° 53' 01" N, 90° 54' 04" W. The area within 500 meters (1640.4 feet) from each point on the structure's outer edge is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except:

- (1) An attending vessel;
- (2) A vessel under 100 feet in length overall not engaged in towing; or
- (3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.805 Ursa Tension Leg Platform safety zone.

(a) *Description.* The Ursa Tension Leg Platform (Ursa TLP) is located at position 28° 09' 14.497" N, 89° 06' 12.790" W. The area within 500 meters (1640.4 feet) from each point on the structure's outer edge is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except:

- (1) An attending vessel;
- (2) A vessel under 100 feet in length overall not engaged in towing; or
- (3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.807 West Delta 143 Platform safety zone.

(a) *Description.* The West Delta 143 Platform is located at position 28° 39' 42" N, 89° 33' 05" W. The area within 500 meters (1640.4 feet) from each point on the structure's outer edge, not to extend into the adjacent Mississippi River Approach Fairway, is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except: (1) An attending vessel;

- (2) A vessel under 100 feet in length overall not engaged in towing; or
- (3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.809 Mars Tension Leg Platform safety zone.

(a) *Description.* The Mars Tension Leg Platform (Mars TLP) is located at position 28° 10' 10.29" N, 89° 13' 22.35" W with two supply boat mooring buoys at positions 28° 10' 18.12" N, 89° 12' 52.08" W (Northeast) and 28° 09' 49.62" N, 89° 12' 57.48" W (Southeast). The

area within 500 meters (1640.4 feet) from each point on the structure's outer edge and the area within 500 meters (1640.4 feet) of each of the supply boat mooring buoys is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except:

- (1) An attending vessel;
- (2) A vessel under 100 feet in length overall not engaged in towing; or
- (3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.811 Ram-Powell Tension Leg Platform safety zone.

(a) *Description.* The Ram-Powell Tension Leg Platform (Ram-Powell TLP) is located at position 29° 03' 52.2" N, 88° 05' 30" W with two supply boat mooring buoys at positions 29° 03' 52.2" N, 88° 05' 12.6" W (Northeast) and 29° 03' 28.2" N, 88° 05' 10.2" W (Southeast). The area within 500 meters (1640.4 feet) from each point on the structure's outer edge and the area within 500 meters (1640.4 feet) of each of the supply boat mooring buoys is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except:

- (1) An attending vessel;
- (2) A vessel under 100 feet in length overall not engaged in towing; or
- (3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.813 Auger Tension Leg Platform safety zone.

(a) *Description.* The Auger Tension Leg Platform (Auger TLP) is located at position 27° 32' 45.4" N, 92° 26' 35.09" W with two supply boat mooring buoys at positions 27° 32' 38.1" N, 92° 26' 04.8" W (East Buoy) and 27° 32' 58.14" N, 92° 27' 04.92" W (West Buoy). The area within 500 meters (1640.4 feet) from each point on the structure's outer edge and an area within 500 meters (1640.4 feet) of each of the supply boat mooring buoys is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except:

- (1) an attending vessel;
- (2) A vessel under 100 feet in length overall not engaged in towing or fishing; or
- (3) A vessel authorized by the Commander, Eighth Coast Guard District.

Dated: March 14, 2000.

K. J. Eldridge,

Captain, U.S. Coast Guard, Acting Commander, Eighth Coast Guard District.

[FR Doc. 00-7637 Filed 3-29-00; 8:45 am]

BILLING CODE 4910-15-U

federal register

**Thursday
June 29, 2000**

Department of Transportation

Coast Guard

**Technical Amendments,
Organizational Changes,
Miscellaneous Editorial Changes and
Conforming Amendments; Final
Rule**

FR 217). We are adding a citation to entries for two American Petroleum Institute (API) Recommended Practices (RP) in the table of Documents Incorporated by Reference and correcting a section of the regulations to incorporate by reference the two documents.

EFFECTIVE DATE: February 3, 2000. The incorporation by reference of publications listed in the regulation is approved by the Director of the **Federal Register** as of February 3, 2000.

FOR FURTHER INFORMATION CONTACT: Alexis London, Rules Processing Team, Engineering and Operations Division, (703) 787-1600.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections updated one

API document incorporated by reference (API RP 500) and added a new document incorporated by reference (API RP 505). These regulations affect all operators and lessees on the Outer Continental Shelf.

The regulation at 30 CFR 250.410(e) on safety precautions in mud-handling areas currently incorporates by reference the out-of-date document "API RP 500B." The final regulations should have revised § 250.410(e) to reference "API RP 500" or "API RP 505" as it did for various other sections of our regulations. The list of citations for API RP 500 and API RP 505 in the table of documents incorporated by reference in § 250.198(e) should have then included § 250.410(e).

Need for Correction

As published, the final regulations contain errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations on January 4, 2000, which were the subject of FR Doc. 00-26, is corrected as follows:

§ 250.198 [Corrected]

On pages 218 and 219, in the table for § 250.198(e), the entries for API RP 500 and API RP 505 are corrected to read as follows:

§ 250.198 Documents incorporated by reference.

* * * * *
(e) * * *

| Title of document | Incorporated by reference at | | |
|--|--|------------------------------------|-----------------------------------|
| * * * * * | * | * | * |
| API RP 500, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Division 1 and Division 2, Second Edition, November 1997, API Stock No. C50002. | § 250.114(a); § 250.803(b)(9)(i); § 250.1629(b)(4)(i). | § 250.410(e); § 250.1628(b)(3); | § 250.802(e)(4)(i); (d)(4)(i); |
| API RP 505, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Zone 0, Zone 1, and Zone 2, First Edition, November 1997, API Stock No. C50501. | § 250.114(a); § 250.803(b)(9)(i); § 250.1629(b)(4)(i). | § 250.410(e); § 250.1628(b)(3); | § 250.802(e)(4)(i); (d)(4)(i); |
| * * * * * | * | * | * |

On page 219, in the 3rd column following the amendment to § 250.1629, an amendment to § 250.410 is added as follows:

9. In § 250.410, in paragraph (e), the title of the document incorporated by reference "API RP 500B" is revised to read "API RP 500 or API RP 505".

Dated: June 19, 2000.

E. P. Danenberger,
Chief, Engineering and Operations Division.
[FR Doc. 00-16250 Filed 6-28-00; 8:45 am]

BILLING CODE 4310-MR-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 1, 3, 20, 62, 66, 67, 70, 74, 80, 100, 114, 117, 118, 127, 144, 151, 153, 154, 157, 160, 161, 162, 165, 181, and 183

[USCG-2000-7223]

**Technical Amendments;
Organizational Changes;
Miscellaneous Editorial Changes and
Conforming Amendments**

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule makes editorial and technical changes throughout Title 33 of the Code of Federal Regulations (CFR) to update the title before it is recodified on July 1, 2000. It corrects addresses, updates cross-references, makes conforming amendments, and makes other technical corrections. This rule will have no substantive effect on the regulated public.

DATES: This final rule is effective June 30, 2000.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the Docket Management Facility, [USCG-2000-7223], U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC, 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: For questions on this rule, contact Ms. Janet Walton, Project Manager, Standards Evaluation and Development Division (G-MSR-2), Coast Guard, telephone 202-267-0257. For questions on

viewing, or submitting material to, the docket, contact Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202-366-9329.

SUPPLEMENTARY INFORMATION:

Discussion of the Rule

Each year Title 33 of the Code of Federal Regulations is recodified on July 1. This rule makes editorial changes throughout the title, corrects addresses, updates cross-references, and makes other technical and editorial corrections to be included in the recodification. Some editorial changes are discussed individually in the following paragraphs. This rule does not change any substantive requirements of existing regulations.

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. This rule consists only of corrections and editorial and conforming amendments to Title 33 of the Code of Federal Regulations. These changes will have no substantive effect on the public and publishing an NPRM and providing an opportunity for public comment is

unnecessary. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that, for the same reasons, good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Section 20.304

The Coast Guard published an Interim Rule, Rules of Practice, Procedure, and Evidence for Administrative Proceedings of the Coast Guard, on May 24, 1999 [USCG-1998-3472] [64 FR 28054]. We published a correction to the Interim Rule, on June 28, 1999, that corrected Table 20.304(D)—How To Serve Filed Documents. With the publication of the July 1, 1999, codification of 33 CFR, we discovered that the table was still printed incorrectly. This rulemaking sets out the table the way it was intended.

Sections 127.611, 127.1511, 154.500, Appendix A, B, and C to Part 154, and Sections 183.114, and 183.516

On December 1, 1999, the Coast Guard published a Direct Final Rule, Update of Standards from the American Society for Testing and Materials (ASTM) [USCG-1999-5151] [64 FR 67170]. On March 1, 2000, we published a confirmation of effective date for the rule [65 FR 10943]. Because we did not change the sections in the CFR where the standard numbers did not contain a year date, we are now adding a cross-reference back to the Incorporation by reference section in each part for each of the sections listed.

Section 151.19

The Frequency of Inspection Final Rule [USCG-1999-4976], published on February 9, 2000 (65 FR 6494), established a 5-year Certificate of Inspection cycle to harmonize the Coast Guard's inspections with internationally required certificates. We published the final rule to establish the frequency of inspection requirements to meet the International Convention for the Safety of Life at Sea, 1974, and the International Convention on Load Line compliance date of February 3, 2000. This rule changes section 151.19 to conform to the February final rule.

Section 153.205

This rule updates the addresses and telephone numbers in Table 1, Addresses and Telephone Numbers of Coast Guard District Offices and EPA Regional Offices.

Section 154.1035

This rule sets out paragraph (e)(3)(iii) with the correct location of the words "classified" and "classification". The

words are reversed in the current codification.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. As this rule involves internal agency practices and procedures, it will not impose any costs on the public.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

Federalism

We have analyzed this rule under E.O. 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety

Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We considered the environmental impact of this rule and concluded that, under figure 2-1, paragraph (34)(a) and (b) of Commandant Instruction M16475.IC, this rule is categorically excluded from further environmental documentation. This exclusion is in accordance with paragraphs (34)(a) and (b), concerning regulations that are editorial or procedural and concerning internal agency functions or organization. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

List of Subjects

33 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Penalties.

33 CFR Part 3

Organization and functions (Government agencies).

33 CFR Part 20

Administrative law judges, Administrative practice and procedure, Appeals, Discovery, Evidence, Hearings.

33 CFR Part 62

Navigation (water).

33 CFR Part 66

Intergovernmental relations, Navigation (water), Reporting and recordkeeping requirements.

33 CFR Part 67

Continental shelf, Navigation (water), Reporting and recordkeeping requirements.

33 CFR Part 70

Navigation (water), Penalties.

33 CFR Part 74

Navigation (water).

33 CFR Part 80

Navigation (water), Treaties, Waterways.

33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

33 CFR Part 114

Bridges.

33 CFR Part 117

Bridges.

33 CFR Part 118

Bridges.

33 CFR Part 127

Fire prevention, Harbors, Natural gas, Reporting and recordkeeping requirements, Security measures.

33 CFR Part 144

Continental shelf, Marine safety, Occupational safety and health.

33 CFR Part 151

Administrative practice and procedure, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 153

Hazardous substances, Oil pollution, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 154

Fire prevention, Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 157

Cargo vessels, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 160

Administrative practice and procedure, Harbors, Hazardous materials transportation, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Vessels, Waterways.

33 CFR Part 161

Harbors, Navigation (water), Reporting and recordkeeping requirements, Vessels, Waterways.

33 CFR Part 162

Navigation (water), Waterways.

33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

33 CFR Part 181

Labeling, Marine safety, Reporting and recordkeeping requirements.

33 CFR Part 183

Marine safety.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR parts 1, 3, 20, 62, 66, 67, 70, 74, 80, 100, 114, 117, 118, 127, 144, 151, 153, 154, 157, 160, 161, 162, 165, 181, and 183 as follows:

PART 1—GENERAL PROVISIONS

1. The authority citation for part 1 continues to read as follows:

Authority: 14 U.S.C. 633; Sec. 6079(d), Pub. L. 100-690, 102 Stat. 4181; 49 CFR 1.46.

2. In § 1.07-10, in paragraph (a), add after the word “Commander” and before the word “in” the words “or other designated official”; and revise paragraph (b) to read as follows:

§ 1.07-10 Reporting and investigation.

(b) Reports of any investigation conducted by the Coast Guard or received from any other agency which indicate that a violation may have occurred may be forwarded to a District Commander or other designated official for further action. This is normally the District Commander of the District in which the violation is believed to have occurred, or the District in which the reporting unit or agency is found. The report is reviewed to determine if there is sufficient evidence to establish a *prima facie* case. If there is insufficient evidence, the case is either returned for further investigation or closed if further action is unwarranted. The case is closed in situations in which the investigation has established that a violation did not occur, the violator is unknown, or there is little likelihood of discovering additional relevant facts. If it is determined that a *prima facie* case does exist, a case file is prepared and forwarded to the Hearing Officer, with a recommended action. A record of any prior violations by the same person or entity, is forwarded with the case file.

PART 3—COAST GUARD AREAS, DISTRICTS, MARINE INSPECTION ZONES, AND CAPTAIN OF THE PORT ZONES

3. The authority citation for part 3 continues to read as follows:

Authority: 14 U.S.C. 633; 49 CFR 1.45, 1.46.

§ 3.05-35 [Amended]

4. In § 3.05-35(b), remove the words “thence proceeds along a line northwesterly to 40°40’ N. latitude, 73°40’ W. longitude” and add, in their place, the words “thence proceeds along a line northeasterly to 40°40’ N. latitude, 73°40’ W. longitude”.

PART 20—RULES OF PRACTICE, PROCEDURE, AND EVIDENCE FOR FORMAL ADMINISTRATIVE PROCEEDINGS OF THE COAST GUARD

5. The authority citation for part 20 continues to read as follows:

Authority: 33 U.S.C. 1321; 42 U.S.C. 9609; 46 U.S.C. 7701, 7702; 49 CFR 1.46.

6. In § 20.304, in paragraph (d), revise Table 20.304(D) to read as follows:

§ 20.304 Service of documents.

* * * * *
(d) * * *

TABLE 20.304(D).—HOW TO SERVE FILED DOCUMENTS

| Type of filed document | Acceptable methods of service |
|-------------------------------|--|
| (1) Complaint | (i) Certified mail, return receipt requested. (ii) Personal delivery. (iii) Express-courier service that has receipt capability. |
| (2) Default Motion | (i) Certified mail, return receipt requested. (ii) Personal delivery. (iii) Express-courier service that has receipt capability. |
| (3) Answer | (i) Mail. (ii) Personal delivery. (iii) Express-courier service. (iv) Fax. (i) Mail. |
| (4) Any other filed document. | (ii) Personal delivery. (iii) Express-courier service. (iv) Fax. (v) Other electronic means (at the discretion of the ALJ). |

* * * * *

PART 62—UNITED STATES AIDS TO NAVIGATION SYSTEM

7. The authority citation for part 62 continues to read as follows:

Authority: 14 U.S.C. 85; 33 U.S.C. 1233; 43 U.S.C. 1333; 49 CFR 1.46.

§ 62.65 [Amended]

8. In § 62.65(c)(1), remove the words “listed in Chapter five, Section 500D of Radio Navigational Aids Publication, 117A and 117B” and add, in their place, the words “listed in Chapter four of Radio Navigation Aids Publication, 117”; remove paragraph (c)(2); and redesignate paragraph (c)(3) as (c)(2).

PART 66—PRIVATE AIDS TO NAVIGATION

9. The authority citation for part 66 continues to read as follows:

Authority: 14 U.S.C. 83, 85; 43 U.S.C. 1333; 49 CFR 1.46.

SW., Washington, DC 20593” and add, in their place, the words “Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC 20408 and at U.S. Coast Guard Headquarters, Office of Bridge Administration (G-OPB), room 3500, 2100 Second Street SW., Washington, DC 20593-0001”.

PART 127—WATERFRONT FACILITIES HANDLING LIQUEFIED NATURAL GAS AND LIQUEFIED HAZARDOUS GAS

45. The authority citation for part 127 continues to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

§ 127.611 [Amended]

46. In § 127.611, remove the words “ASTM F-1121” and add, in their place, the words “ASTM F 1121 (incorporated by reference, see § 127.003)”.

§ 127.1511 [Amended]

47. In § 127.1511, remove the words “ASTM F-1121” and add, in their place, the words “ASTM F 1121

(incorporated by reference, see § 127.003)”.

PART 144—LIFESAVING APPLIANCES

48. The authority citation for part 144 continues to read as follows:

Authority: 43 U.S.C. 1333d; 46 U.S.C. 3102(a); 46 CFR 1.46.

§ 144.20-5 [Amended]

49. In § 144.20-5(c), remove the words “46 CFR 160.071” and add, in their place, the words “46 CFR 160.171”.

PART 151—VESSELS CARRYING OIL, NOXIOUS LIQUID SUBSTANCES, GARBAGE, MUNICIPAL OR COMMERCIAL WASTE, AND BALLAST WATER

50. The authority citation for part 151, subpart A, continues to read as follows:

Authority: 33 U.S.C. 1321 and 1903; Pub. L. 104-227 (110 Stat. 3034), E.O. 12777, 3 CFR, 1991 Comp. p. 351; 49 CFR 1.46.

51. Revise the introductory text of § 151.19(e) to read as follows:

§ 151.19 International Oil Pollution Prevention (IOPP) Certificates.

(e) The IOPP Certificate for each U.S. inspected ship is valid for a period not to exceed five years from the date of issue, and for each U.S. uninspected ship the IOPP Certificate is valid for a period not to exceed five years from the date of issue, except as follows—

PART 153—CONTROL OF POLLUTION BY OIL AND HAZARDOUS SUBSTANCES, DISCHARGE REMOVAL

52. Revise the authority citation for part 153 to read as follows:

Authority: 14 U.S.C. 633; 33 U.S.C. 1321; 42 U.S.C. 9615; E.O. 12580, 3 CFR, 1987 Comp., p. 193; E.O. 12777, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.45 and 1.46.

53. In § 153.205, revise Table 1 to read as follows:

§ 153.205 Fines.

TABLE 1.—ADDRESSES AND TELEPHONE NUMBERS OF COAST GUARD DISTRICT OFFICES AND EPA REGIONAL OFFICES

| | Address | Telephone |
|-------------------------------------|--|--------------|
| EPA Regional Offices | | |
| Region: | | |
| 1 | 1 Congress St., Suite 1100, Boston, MA 02114-2023 | 617-918-1111 |
| 2 | 290 Broadway, New York, NY 10007-1866 | 212-637-3000 |
| 3 | 1650 Arch St., Philadelphia, PA 19103-2029 | 215-814-5000 |
| 4 | Atlanta Federal Center, 61 Forsyth St., SW, Atlanta, GA 30303-3104 | 404-562-9900 |
| 5 | 77 West Jackson Boulevard, Chicago, IL 60604-3507 | 312-353-2000 |
| 6 | Fountain Place 12th Floor, Suite 1200, 1445 Ross Avenue, Dallas, TX 75202-2733 | 214-665-2200 |
| 7 | 901 North 5th St., Kansas City, KS 66101 | 913-551-7003 |
| 8 | 999 18th St., Suite 500, Denver, CO 80202-2466 | 303-312-6312 |
| 9 | 75 Hawthorne St., San Francisco, CA 94105 | 415-744-1305 |
| 10 | 1200 Sixth Avenue, Seattle, WA 98101 | 206-553-1200 |
| Coast Guard District Offices | | |
| District: | | |
| 1st | 408 Atlantic Avenue, Boston, MA 02210-3350 | 617-223-8480 |
| 5th | Federal Building, 431 Crawford St., Portsmouth, VA 23704-5004 | 757-398-6638 |
| 7th | 909 S.E. First Avenue, Miami, FL 33131-3050 | 305-536-5651 |
| 8th | Hale Boggs Federal Bldg., 500 Camp Street, New Orleans, LA 70130-3396 | 504-589-6901 |
| 9th | 1240 E. 9th St., Cleveland, OH 44199-2060 | 216-902-6045 |
| 11th | Coast Guard Island, Building 50-6, Alameda, CA 94501-5100 | 510-437-2940 |
| 13th | Jackson Federal Bldg., 915 Second Avenue, Seattle, WA 98174-1067 | 206-220-7090 |
| 14th | Prince PJKK Federal Bldg., Room 9212, 300 Ala Moana Blvd., Honolulu, HI 96850-4982 | 808-541-2114 |
| 17th | P.O. Box 25517, Juneau, AK 99802-5517 | 907-463-2199 |

* * * * *

PART 154—FACILITIES TRANSFERRING OIL OR HAZARDOUS MATERIAL IN BULK

54. The authority citation for part 154 continues to read as follows:

Authority: 33 U.S.C. 1231, 1321(j)(1)(C), (j)(5), (j)(6), and (m)(2); sec. 2, E.O. 12777, 56 FR 54757; 49 CFR 1.46. Subpart F is also issued under 33 U.S.C. 2735.

§ 154.500 [Amended]

55. In § 154.500(d)(3), remove the words “ASTM F-1122” and add, in their place, the words “ASTM F 1122

(incorporated by reference, see § 154.106)”.

56. In § 154.1035(e)(3)(iii) introductory text, revise the second sentence to read as follows:

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Federal Register

Thursday,
February 7, 2002

Part V

Department of Transportation

Coast Guard

33 CFR Part 140

**Inspection Under, and Enforcement of,
Coast Guard Regulations for Fixed
Facilities on the Outer Continental Shelf
by the Minerals Management Service;
Final Rule**

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 140

[USCG-2001-9045]

RIN 2115-AG14

Inspection Under, and Enforcement of, Coast Guard Regulations for Fixed Facilities on the Outer Continental Shelf by the Minerals Management Service

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: We are authorizing the Minerals Management Service (MMS), on behalf of the Coast Guard, to perform inspections on fixed facilities engaged in Outer Continental Shelf activities and to enforce Coast Guard regulations applicable to those facilities. MMS already performs inspections on those facilities to determine whether they comply with MMS regulations. By authorizing MMS to also check for compliance with Coast Guard regulations, we avoid duplicating functions, reduce Federal costs, and increase oversight for Coast Guard compliance without increasing the frequency of inspections.

DATES: This final rule is effective June 7, 2002, except for § 140.103(c), which contains a collection-of-information requirement that has not been approved by the Office of Management and Budget. We will publish a document in the **Federal Register** announcing the effective date of that paragraph.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2001-9045 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, contact James M. Magill, Vessel and Facility Operating Standards Division (G-MSO-2), telephone 202-267-1082 or fax 202-267-4570. If you have questions on viewing the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202-366-5149.

SUPPLEMENTARY INFORMATION:**Regulatory History**

On May 10, 2001, we published a notice of proposed rulemaking (NPRM) entitled "Inspection Under, and Enforcement of, Coast Guard Regulations for Fixed Facilities on the Outer Continental Shelf by the Minerals Management Service" in the **Federal Register** (66 FR 23871). We received five letters commenting on the proposed rule. Three letters contained requests for a public meeting and two contained requests for an extension to the comment period.

Background and Purpose

This rule authorizes the Minerals Management Service (MMS) to perform inspections on fixed Outer Continental Shelf (OCS) facilities engaged in OCS activities and to enforce Coast Guard regulations applicable to those facilities in 33 CFR chapter I, subchapter N. The Coast Guard and MMS regulate safety on fixed OCS facilities. MMS regulates the structural integrity of fixed OCS facilities, in addition to enforcing all regulations pertaining to production, exploration, drilling, well workover, and well servicing operations for hydrocarbons and other minerals on the OCS. The Coast Guard regulates marine systems, such as lifesaving and navigation equipment and workplace safety and health.

At least annually, MMS visits all of the fixed OCS facilities to inspect for violations in the area of its responsibility. The Coast Guard, with fewer inspectors at its disposal, visits less than 10 percent of these facilities annually. On December 18, 1998, MMS and the Coast Guard agreed to review the regulations of both agencies to ensure consistency and to eliminate duplication. As part of this review, MMS and the Coast Guard decided that, because MMS was already visiting all of the fixed OCS facilities at least once a year, it would be beneficial to both agencies if MMS was authorized, on behalf of the Coast Guard, to inspect and enforce the Coast Guard's regulations for fixed OCS facilities. Such an authorization is allowed under the Outer Continental Shelf Lands Act, which, in 43 U.S.C. 1348(a), allows the Coast Guard to use the services and personnel of other Federal agencies for the enforcement of its OCS regulations.

Future Workshop

The Coast Guard and MMS are aware that industry has concerns regarding how this agreement between the Coast Guard and MMS will be implemented. To alleviate these concerns, the agencies have decided to hold a workshop after

the publication of this final rule. The workshop will be held to inform industry and the public of the implementation of MMS inspection and answer any questions that industry or the public may have. Notice of the workshop will be published in the **Federal Register**.

Discussion of Comments on and Changes to the Notice of Proposed Rulemaking (NPRM) of May 10, 2001

We received a total of five letters containing 23 comments in response to our notice of proposed rulemaking (NPRM) (66 FR 23871, May 10, 2001). Comments received in the five letters are discussed below. Non-substantive or editorial comments and comments concerning issues not related to this rulemaking are not discussed in this preamble.

I. General comments to the NPRM.

1. Three comments requested that a public meeting be held to answer questions related to the proposed rulemaking and to provide additional detailed information on the delegation of inspection responsibilities to MMS.

After consultation with MMS, the Coast Guard decided that a public meeting would not aid this rulemaking. There are no new standards proposed in this rulemaking, only an authorization for MMS to inspect fixed OCS facilities on behalf of the Coast Guard and to enforce the Coast Guard's regulations on those facilities. The process for handling civil penalties will not change, as the current process under 33 CFR 140.40 requires the Coast Guard to refer civil penalty proceedings to MMS for assessing and collecting penalties. There are no additional inspections required of the owner or operator by this rulemaking. The annual self-inspection by the owner or operator under 33 CFR 140.103 is still the main method for inspecting fixed facilities to ensure compliance with Coast Guard regulations. MMS will be acting on behalf of the Coast Guard to assist in performing spot inspections as required under 33 CFR 140.101. The only additional burden required by this rulemaking is for the owner or operator to retain copies of self-inspection form CG-5432 for each manned and unmanned fixed OCS facility for at least 2 years after the self-inspection.

2. Two commenters requested that the comment period be extended to allow for a public meeting.

Since we intend to hold a workshop shortly after the final rule is published, such an extension would not be needed.

3. One commenter was concerned that turning the enforcement of Coast Guard

lifesaving and firefighting regulations on fixed facilities over to another agency would remove the Coast Guard from any involvement over what occurs on the OCS and would endanger commercial mariners who work at, visit, tie to, use, or interact with fixed OCS facilities.

We disagree with the comment. The Coast Guard will still be conducting the initial inspection of all new fixed OCS facilities and, thereafter, will be conducting some spot inspections of these facilities as time and funds allow. By authorizing MMS to also check for compliance with Coast Guard regulations, the frequency of inspections will be increased to at least once a year. This should reduce the chance that lifesaving and firefighting equipment is not in compliance with the Coast Guard regulations and, thus, increase the safety of workers on fixed OCS facilities and associated vessels.

II. Comments to specific sections of the NPRM 33 CFR 140.101(f)

1. One commenter requested that the "June 27, 1988" be eliminated from § 140.101(f) since that date has already passed.

We agree with this comment and have deleted the date.

33 CFR 140.103

1. One commenter requested that § 140.103 on annual self-inspections of fixed OCS facilities by owners or operators be eliminated. No reason was given.

We disagree with this comment. By eliminating that section, we would be eliminating the self-inspection program. Such a recommendation is outside of the scope of this rulemaking.

33 CFR 140.103(c)

1. One commenter asked if the completed copy of form CG-5432 required to be kept on the facility was in addition to the copy required by 33 CFR 140.103(c) to be submitted to the Officer in Charge, Marine Inspections, (OCMI) within 30 days after completion of the inspection.

We have eliminated the requirement to submit a copy of form CG-5432 to the Coast Guard. Instead, we require that the latest 2 years of completed forms CG-5432 be kept onboard manned fixed OCS facilities and, for unmanned fixed OCS facilities, to be kept on the nearest manned fixed OCS facility or the nearest field office of the owner or operator. We have changed § 140.103(c) accordingly.

2. One commenter was concerned that, since MMS would only be furnished with a copy of form CG-5432 when on the facility, it would possibly

not have full and complete access to all CG-5432 forms generated.

As indicated in our response to comment 1 on § 140.103(c), we have eliminated the requirement that a copy of form CG-5432 be submitted to the Coast Guard. Instead, we require that the latest two forms be kept onboard the facility or in a specified location near the facility. MMS inspectors will now have access to all completed CG-5432 forms during their inspection visits and be able to readily compare the MMS inspection with the last 2 years of self-inspections by the owner or operator.

3. One commenter said that some platforms do not have storage facilities to keep self-inspection records and suggested that they should be allowed to keep the records in a field office close to the fixed platform.

We partially agree with this comment. Manned facilities should have no problem in storing the self-inspection records onboard. However, some small, unmanned platforms may not have facilities to store the records. We have modified § 140.103(c) to allow the self-inspection reports for unmanned platforms to be kept in a location close to the platform.

33 CFR 140.103(d)

1. One commenter pointed out that the "June 27, 1988" date should be removed because all fixed facilities installed before this rulemaking should have already had an initial inspection.

We agree with this comment. The entire paragraph is no longer needed, so it has been removed.

33 CFR 140.105(a)

1. One commenter was concerned that, if both the Coast Guard and MMS inspect facilities, a clear reporting chain-of-command might be lacking, which could lead to no one checking on important lifesaving and firefighting equipment.

We disagree with the comment. The initial Coast Guard inspection under § 140.101(f), and the annual self-inspection of fixed facilities by the owner or operator required under § 140.103 is the primary method of inspection to ensure compliance with Coast Guard regulations. This will be augmented by the Coast Guard and, now, by MMS spot inspections. This should increase the number of inspections and reduce the risk of lifesaving and firefighting equipment not being in compliance with the Coast Guard regulations.

2. One commenter commended MMS and the Coast Guard for working together to reduce the duplication of efforts and costs of inspections but

believed the proposed rulemaking to be overly broad and vague. The commenter asked when inspections will be conducted, how inspections will be conducted, and for details on the enforcement and appeal processes.

The purpose of this rulemaking is to authorize MMS to inspect fixed OCS facilities on behalf of the Coast Guard and to enforce Coast Guard regulations. No inspections, other than the annual self-inspection under § 140.103, will be required of the owner or operator. MMS will be acting on behalf of the Coast Guard in performing spot inspections under § 140.101(b). The Coast Guard will work with MMS to train its inspectors in Coast Guard inspection procedures. The awarding and enforcement of civil penalties will not change, as the current process under § 140.40 requires MMS to administer civil penalty proceedings. The appeal process will not change. Appeals relating to deficiencies or hazards remaining uncorrected after the expiration of the time period specified under 33 CFR 140.105 by Coast Guard marine inspectors will be handled by the Coast Guard under 33 CFR 140.25 and 140.105(d). Appeals relating to deficiencies found by MMS inspectors will be processed by MMS under 30 CFR part 290, and 30 CFR part 250, subpart N.

3. One commenter was unclear on when MMS inspections would occur and if only Coast Guard inspectors would conduct the initial inspection. The commenter suggested that MMS should conduct the initial inspection along with the initial MMS inspection so that double inspections would not occur.

The MMS inspectors may inspect fixed OCS facilities on behalf of the Coast Guard anytime they are on board and have time to perform Coast Guard inspections. Coast Guard inspectors will perform initial inspections of all fixed OCS facilities as required in § 140.101(f) and MMS inspectors may or may not accompany the Coast Guard inspectors on the initial inspection.

4. One commenter asked if MMS would conduct full annual inspections on all fixed OCS facilities or conduct enough inspections to provide oversight of the self-inspection program.

MMS does not plan on performing full inspections on a scheduled annual basis, but plans to conduct a sufficient number of inspections to provide oversight of the self-inspection program.

5. One commenter asked if the MMS would conduct the inspection on behalf of the Coast Guard at the same time it conducts the annual MMS inspection, at

anytime its inspectors were on board, or on a separate schedule.

MMS may perform spot inspections for violations of Coast Guard regulations anytime its inspectors are on board and have time available and not on a separate schedule. Since MMS visits all OCS fixed facilities at least annually to inspect for violations in the area of its regulatory responsibilities, it is likely that most of the MMS inspections will be conducted at that time.

6. One commenter recommended that the Coast Guard remain in charge of the self-inspection program and review all requests for extension of time to correct a deficiency.

The Coast Guard is not relinquishing its oversight authority. Since MMS conducts the majority of the inspections on fixed OCS facilities, MMS and the Coast Guard decided that it would enhance safety for MMS to receive and be responsible for self-inspection extension requests associated with deficiencies in lifesaving and firefighting equipment.

7. One commenter thought the rulemaking was not clear on what MMS was going to inspect and that this should be specified in the regulations.

Under §§ 140.101(b), (c), and (d), MMS will be inspecting fixed facilities to determine whether the requirements in 33 CFR chapter I, subchapter N, are met, just as if the inspection was conducted by the Coast Guard.

8. One commenter asked what inspection standards would be used for equipment, such as lifeboats or survival capsules, that is on board and in addition to the number required by regulations.

Section 144.01-1 of 33 CFR requires approved life floats and, under § 144.01-15(a), approved lifeboats, approved life rafts, or approved inflatable life rafts may be used instead of approved life floats. Extra lifeboats or other extra equipment would also have to meet the Coast Guard's regulations for that piece of equipment.

33 CFR 140.105(c)

1. One commenter thought the regulations on the correction of deficiencies and hazards was vague and asked whether MMS or Coast Guard would establish timeframes for correction of the deficiencies or hazards.

We agree that § 140.105(c), as proposed, may be confusing in that it does not plainly distinguish between the requirements for deficiencies for lifesaving and firefighting equipment and those for all other equipment. We have modified § 140.105 by moving the requirements for deficiencies in lifesaving and firefighting equipment

from paragraph (c) to new paragraph (d). Proposed paragraph (d) has been redesignated as new paragraph (e). Under § 140.105(c), MMS informs, by letter, the owner or operator of the fixed OCS facility of the deficiencies or hazards and the time period specified to correct or eliminate the deficiencies or hazards. Therefore, MMS would establish timeframes for correction of deficiencies or hazards.

2. One commenter recommended that the timeframes for correction of deficiencies or hazards continue to be established by the Coast Guard, since only the Coast Guard is set up to receive the form CG-5432 self-inspection report.

We disagree with the comment. Since MMS will be conducting the majority of the inspections on fixed OCS facilities, both agencies agree that MMS should be responsible for establishing self-inspection timeframes for the correction of deficiencies or hazards. The Coast Guard has decided to stop requiring that all CG-5432 forms be sent to the Coast Guard. After the effective date of this final rule, only those forms that contain outstanding deficiencies or hazards will be required to be sent to MMS. Sections 140.103(c) and 140.105(c) have been revised to reflect this change. Now that a copy of each form must be kept on the manned facility or in a convenient place ashore, there is no added value in having them sent to the Coast Guard. This should be more efficient than the previous process.

3. One commenter asked that, if MMS discovers a deficiency or hazard, will it issue its own Incident of Non Compliance (INC) or will it notify the Coast Guard to issue a Coast Guard form CG-835, Notice of Merchant Marine Inspection Requirements.

Deficiencies found by MMS during its inspections will be processed according to MMS regulations and INC's will be issued. Deficiencies found by the Coast Guard during its inspections will be processed according to Coast Guard regulations in 33 CFR 140.105, which involves the issuance of a CG-835 notice for correction.

4. One commenter recommended that MMS report all deficiencies it discovers to the Coast Guard for handling.

We disagree with this comment. The Coast Guard and MMS feel that deficiencies and hazards found during inspection by each agency should be processed by the agency conducting the inspection.

5. One commenter stated that the regulations do not provide for appeals of determinations of deficiencies or hazards.

Decisions by the Coast Guard are appealed under 33 CFR 140.25.

Decisions by MMS are appealed under 30 CFR parts 250 and 290.

6. One commenter recommended that all appeals be directed to the Coast Guard for action.

We disagree with this comment. Appeals are processed by the agency performing the inspection. MMS and Coast Guard decided it would be best for the agency performing the inspection to handle any deficiency violations, timeframes, and appeals stemming from a particular inspection.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

The net effect of this rule is not expected to result in additional costs to the owners of facilities being inspected. Owners or operators of each facility will be required to keep the self-inspection form CG-5432 on the facility or at another specified location for review by MMS inspectors, furthermore, the requirement that the self-inspection form be sent to the Coast Guard has been eliminated.

We expect the combined effect of both actions not to result in an increase of the collection of information burden placed on the affected entities. The impact of this rule is therefore different from the one described in the NPRM. The burden created by having to submit form CG-5432 to the Coast Guard has been eliminated.

Furthermore, authorizing MMS to check for compliance with Coast Guard regulations will avoid duplicating functions and enhance the enforcement of regulations.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit

organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The net effect of this rule is not expected to result in additional costs to the inspected facilities. This rule will authorize MMS to inspect the facilities for compliance with Coast Guard regulations. Coast Guard personnel currently perform these inspections, and authorizing MMS to do so does not reduce the number of inspections, nor increase the burden placed on the affected entities. Though this rule affects all small entities involved, we expect that the elimination of the requirement to submit form CG-5432 to the OCMI will result in a decrease of burden to each small entity.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

Collection of Information

This rule calls for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). This rule requires that copies of form CG-5432, the annual self-inspection report, be kept on each manned fixed OCS facility, or, for unmanned facilities, either at the nearest manned fixed OCS facility or, if there is no manned fixed OCS facility in the area, at the nearest field office of the owner or operator. This form is already required to be completed annually and be submitted to the Coast Guard. This rule also eliminates the currently approved requirement of submitting form CG-5432 to the Coast Guard.

We presented, for public comment, an estimate of the burden this rulemaking would have caused as proposed in the NPRM. We proposed that a copy of form CG-5432 be kept on the facility in addition to submitting the form to the Coast Guard.

In the NPRM, we estimated that the total annual burden of requiring that the forms be kept for two years would be 15 minutes per facility or 872 hours for all of the 3,489 fixed OCS facilities. However, the final rule will reduce the previous burden by eliminating the submission to the Coast Guard. The net effect of these actions do not result in an increase of the collection of information burden.

Three comments were received on the proposed collection of information. The comments are summarized in this preamble in the "Discussion of Comments on and Changes to the Notice of Proposed Rulemaking (NPRM) of May 10, 2001" section. We reconsidered the proposed collection and decided to eliminate the submission of form CG-5432 to the OCMI. Instead, facilities will only keep the form on board to be presented to MMS inspectors.

The information-collection requirements of the rule are addressed in the previously approved OMB collection titled "Self-Inspection of Fixed OCS Facilities" (OMB 2115-0569).

As required by 44 U.S.C. 3507(d), we submitted a copy of this rule to the Office of Management and Budget (OMB) for its review of the collection of information. OMB has not yet completed its review of, or approved, the collection. Therefore, § 140.103(c) in this final rule, will not become effective until approved by OMB. We will publish a document in the **Federal Register** announcing OMB's approval and the effective date of that section. In the meantime, § 140.103(c) as it appears in the current edition of title 33, Code of Federal Regulations, continues to apply and requires submission of forms CG-5432 to the Officer in Charge, Marine Inspection.

You are not required to respond to a collection of information unless it displays a currently valid OMB control number.

Federalism

We have analyzed this rule under Executive Order 13132, Federalism, and have determined that it does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires

Federal agencies to assess the effects of their regulatory actions not specifically required by law. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (34)(b), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. The rule is excluded under paragraph (34)(b) because it is administrative in nature and has no environmental effect. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 140

Continental shelf, Investigations, Marine safety, Occupational safety and health, Penalties, Reporting and record keeping requirements.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 140 as follows:

PART 140—GENERAL

1. The authority citation for part 140 continues to read as follows:

Authority: 43 U.S.C. 1333, 1348, 1350, 1356; 49 CFR 1.46.

2. In § 140.10, add, in alphabetical order, the definition of "Minerals Management Service inspector" to read as follows:

§ 140.10 Definitions.

* * * * *

Minerals Management Service inspector or *MMS inspector* means an individual employed by the Minerals Management Service who inspects fixed OCS facilities on behalf of the Coast Guard to determine whether the requirements of this subchapter are met.

* * * * *

3. In § 140.101—

a. Revise the section heading to read as set forth below;

b. Redesignate paragraphs (b) through (e) as paragraphs (c) through (f);

c. Add a new paragraph (b) to read as set forth below;

d. In newly redesignated paragraph (c), before the words "marine inspectors", add the words "Coast Guard"; following the words "OCS activities", add the words ", and MMS inspectors may inspect fixed OCS facilities,"; and, at the end of the second sentence, add the words ", or MMS";

e. In newly redesignated paragraph (d), remove the words "a marine inspector" and add, in their place, the

words "a Coast Guard marine inspector or an MMS inspector"; and remove the words "The marine inspector" and add, in their place, the words "The Coast Guard marine inspector or the MMS inspector"; and

f. In newly redesignated paragraph (f), remove the words "installed after June 27, 1988,";

§ 140.101 Inspection by Coast Guard marine inspectors or Minerals Management Service inspectors.

* * * * *

(b) On behalf of the Coast Guard, each fixed OCS facility engaged in OCS activities is subject to inspection by the Minerals Management Service (MMS).

* * * * *

4. In § 140.103—

a. In paragraph (b), remove "140.101(e)" and add, in its place, "140.101(f)"; and remove the words "Marine inspectors" and add, in their place, the words "marine inspectors and Minerals Management Service (MMS) inspectors";

b. Revise paragraph (c) as set forth below; and

c. Remove paragraph (d):

§ 140.103 Annual inspection of fixed OCS facilities.

* * * * *

(c) Except for initial inspections under § 140.101(f), the results of the inspection under paragraph (a) of this section must be recorded on form CG-5432. Forms CG-5432 may be obtained from the Officer in Charge, Marine Inspection. A copy of the completed form must be kept for 2 years after the inspection under paragraph (a) of this section is conducted and the form made available to the Coast Guard and MMS on request. For manned fixed OCS facilities, the copy of the completed form must be kept on the facility. For unmanned fixed OCS facilities, the copy of the completed form must be kept either at the nearest manned fixed OCS facility or, if there is no manned fixed OCS facility in the area, at the nearest field office of the owner or operator. In addition, the owner or operator must submit, to the appropriate MMS District office, a copy of each completed form CG-5432 that indicates outstanding deficiencies or hazards, within 30 days after completion of the inspection.

5. In § 140.105—

a. In paragraph (a), after the words "during an inspection", add the words "by a Coast Guard marine inspector or

a Minerals Management Service (MMS) inspector";

b. In paragraph (b), before the words "is reported to", add the words "or an MMS inspector"; and, after the words "time specified by the", remove the words "Coast Guard marine";

c. Revise paragraph (c) to read as set forth below;

d. Redesignate paragraph (d) as paragraph (e);

e. Add a new paragraph (d) to read as set forth below; and

f. In newly redesignated paragraph (e), after the words "Marine Inspection," add the words "or MMS (for deficiencies or hazards discovered by MMS during an inspection of a fixed OCS facility)";

§ 140.105 Correction of deficiencies and hazards.

* * * * *

(c) Deficiencies and hazards discovered during an inspection of a fixed OCS facility under § 140.103(a) must be corrected or eliminated, if practicable, before the form CG-5432 is completed. Deficiencies and hazards that are not corrected or eliminated by the time the form is completed must be indicated on the form as "outstanding" and the form submitted to the appropriate MMS District office. Upon receipt of a form CG-5432 indicating outstanding deficiencies or hazards, MMS informs, by letter, the owner or operator of the fixed OCS facility of the deficiencies or hazards and the time period specified to correct or eliminate the deficiencies or hazards.

(d) For lifesaving and fire fighting equipment deficiencies on fixed OCS facilities that cannot be corrected before the submission of form CG-5432, the owner or operator must contact the appropriate MMS District Supervisor to request a time period for repair of the item.

The owner or operator must include a description of the deficiency and the time period approved by MMS for correction of the deficiency in the comment section of form CG-5432.

* * * * *

Dated: January 4, 2002.

Paul J. Pluta,

Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 02-2757 Filed 2-6-02; 8:45 am]

BILLING CODE 4910-15-U

Federal Register

**Wednesday
June 23, 2004**

Department of Homeland Security

Coast Guard

**Navigation and Navigable Waters,
Technical, Organizational and
Conforming Amendments; Final
Rule**

Signed at Washington, DC, this 15th day of June, 2004.

Ann L. Combs,

Assistant Secretary, Employee Benefits Security Administration, Department of Labor.

[FR Doc. 04-13949 Filed 6-22-04; 8:45 am]

BILLING CODE 4510-29-C

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 4, 19, 84, 101, 104, 118, 127, 140, 154, 161, 164, 169, 174, 181, and 183

[USCG-2004-18057]

RIN 1625-ZA02

Navigation and Navigable Waters; Technical, Organizational, and Conforming Amendments

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: This rule makes non-substantive changes throughout the Code of Federal Regulations. The purpose of this rule is to update organization names and addresses and make conforming amendments and technical corrections to Coast Guard navigation and navigable water regulations. This rule will have no substantive effect on the regulated public.

DATES: This rule is effective June 30, 2004.

ADDRESSES: Any comments and material received from the public will be made part of docket, USCG-2004-18057, and will be available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL-401, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Robert S. Spears, Coast Guard, telephone 202-267-1099. If you have questions on viewing the docket, call Andrea M. Jenkins, Program Manager, Docket Operations, telephone 202-366-0271.

SUPPLEMENTARY INFORMATION:

Regulatory History

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under both 5 U.S.C.

553(b)(A) and (b)(B), the Coast Guard finds that this rule is exempt from notice and comment rulemaking requirements because some of these changes involve agency organization and practices, and good cause exists for not publishing an NPRM for all revisions in the rule because they are all non-substantive changes. This rule consists only of corrections and editorial, organizational, and conforming amendments. These changes will have no substantive effect on the public; therefore, it is unnecessary to publish an NPRM. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that, for the same reasons, good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Discussion of the Rule

Each year title 33 of the Code of Federal Regulations is updated on July 1. This rule, which becomes effective June 30, 2004, corrects organization names and addresses, and makes other technical and editorial corrections throughout title 33. This rule does not create any substantive requirements.

Some of the revisions in this rule are not necessarily self-explanatory changes. For example, in § 4.02 we updated the listing of approved collections of information based on information requirements in Title 33. In parts 101 and 104, we replaced SOLAS "Chapter XI" references with "Chapter XI-1 or Chapter XI-2" to conform these chapter references to the **Federal Register** approved reference, used in the relevant incorporation by reference section, § 101.115(b). In §§ 118.3, 127.003, 140.7, 154.106, 164.03, 181.4, and 183.5, we changed references to material incorporated by reference as being "available for inspection" rather than merely "on file" to align these sections with other incorporation by reference sections.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. As this rule involves internal agency practices and

procedures and non-substantive changes, it will not impose any costs on the public.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This rule does not require a general NPRM and, therefore, is exempt from the requirements of the Regulatory Flexibility Act. Although this rule is exempt, we have reviewed it for potential economic impact on small entities.

This rule will have no substantive effect on the regulated public. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). We note, however, that in 33 CFR 4.02, this rule updates the listing of approved collections of information based on information requirements contained in title 33.

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in an expenditure of this magnitude, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are

technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraphs (34)(a) and (b), of the Instruction from further environmental documentation because this rule involves editorial, procedural, and internal agency functions. A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" are available in the docket where indicated under **ADDRESSES**.

List of Subjects

33 CFR Part 4

Reporting and recordkeeping requirements.

33 CFR Part 19

Navigation (water), Vessels.

33 CFR Part 84

Navigation (water), Waterways.

33 CFR Part 101

Harbors, Maritime security, Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

33 CFR Part 104

Maritime security, Reporting and recordkeeping requirements, Security measures, Vessels.

33 CFR Part 118

Bridges.

33 CFR Part 127

Fire prevention, Harbors, Hazardous substances, Natural gas, Reporting and recordkeeping requirements, Security measures.

33 CFR Part 140

Continental shelf, Investigations, Marine safety, Occupational safety and health, Penalties, Reporting and recordkeeping requirements.

33 CFR Part 154

Alaska, Fire prevention, Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 161

Harbors, Navigation (water), Reporting and recordkeeping requirements, Waterways.

33 CFR Part 164

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

33 CFR Part 169

Endangered and threatened species, Marine mammals, Navigation (water), Radio, Reporting and recordkeeping requirements, Vessels, Water pollution control.

33 CFR Part 174

Intergovernmental relations, Marine safety, Reporting and recordkeeping requirements.

33 CFR Part 181

Labeling, Marine safety, Reporting and recordkeeping requirements.

33 CFR Part 183

Marine safety.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 4, 19, 84, 101, 104, 118, 127, 140, 154, 161, 164, 169, 174, 181, and 183.

PART 4—OMB CONTROL NUMBERS ASSIGNED PURSUANT TO THE PAPERWORK REDUCTION ACT

■ 1. The authority citation for part 4 is revised to read as follows:

Authority: 44 U.S.C. 3507; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 4.02 to read as follows:

§ 4.02 Display.

| 33 CFR part or section where identified and described | Current OMB control No. |
|---|-------------------------|
| Part 6 | 1625–0020 |
| Part 67 | 1625–0011 |
| Part 96 | 1625–0084 |
| Part 100 | 1625–0008 |
| Part 101 | 1625–0077 |
| Section 101.115 | 1625–0017 |
| Part 103 | 1625–0077 |
| Part 104 | 1625–0077 |
| Section 104.297 | 1625–0017 |
| Part 105 | 1625–0077 |
| Part 106 | 1625–0077 |
| Part 115 | 1625–0015 |
| Part 116 | 1625–0073 |
| Part 120 | 1625–0077 |
| Section 126.15(c) | 1625–0016 |
| Section 126.17 | 1625–0005 |
| Part 127 | 1625–0049 |

§ 127.003 [Amended]

■ 18. In § 127.003(a), remove the words “on file”, and add, in their place, the words “available for inspection”.

PART 140—GENERAL

■ 19. The authority citation for part 140 is revised to read as follows:

Authority: 43 U.S.C. 1333, 1348, 1350, 1356; Department of Homeland Security Delegation No. 0170.1.

§ 140.7 [Amended]

■ 20. In § 140.7(a), remove the words “on file”, and add, in their place, the words “available for inspection”.

PART 154—FACILITIES TRANSFERRING OIL OR HAZARDOUS MATERIAL IN BULK

■ 21. The authority citation for part 154 is revised to read as follows:

Authority: 33 U.S.C. 1231, 1321(j)(1)(C), (j)(5), (j)(6), and (m)(2); sec. 2, E.O. 12777, 56 FR 54757; Department of Homeland Security Delegation No. 0170.1. Subpart F is also issued under 33 U.S.C. 2735.

§ 154.106 [Amended]

■ 22. In § 154.106(a), remove the words “on file”, and add, in their place, the words “available for inspection”.

PART 161—VESSEL TRAFFIC MANAGEMENT

■ 23. The authority citation for part 161 continues to read as follows:

Authority: 33 U.S.C. 1223, 1231; 46 U.S.C. 70114, 70117; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

§ 161.12 [Amended]

■ 24. In § 161.12(c), in Table 161.12(c), in the third column of the three “New York Traffic” rows, insert the degree symbol, “°”, immediately after, “40” and “74”, wherever those numbers appear.

PART 164—NAVIGATION SAFETY REGULATIONS

■ 25. The authority citation for part 164 is revised to read as follows:

Authority: 33 U.S.C. 1222(5), 1223, 1231; 46 U.S.C. 2103, 3703; Department of Homeland Security Delegation No. 0170.1. Sec. 164.13 also issued under 46 U.S.C. 8502. Sec. 164.61 also issued under 46 U.S.C. 6101.

§ 164.03 [Amended]

■ 26. In § 164.03(a), remove the words “on file”, and add, in their place, the words “available for inspection”.

PART 169—SHIP REPORTING SYSTEMS

■ 27. The authority citation for part 169 is revised to read as follows:

Authority: 33 U.S.C. 1230(d), Department of Homeland Security Delegation No. 0170.1.

PART 169—[AMENDED]

■ 28. In the Table of Contents for part 169, insert the words, “Subpart A—General” immediately after the title of the part and before the listing of sections.

PART 174—STATE NUMBERING AND CASUALTY REPORTING SYSTEMS

■ 29. The authority citation for part 174 is revised to read as follows:

Authority: 46 U.S.C. 6101, 12302; Department of Homeland Security Delegation No. 0170.1.

§ 174.121 [Amended]

■ 30. In § 174.121, remove the abbreviation “(G–OCC)”, and add, in its place, the abbreviation “(G–OPB)”.

PART 181—MANUFACTURER REQUIREMENTS

■ 31. The authority citation for part 181 is revised to read as follows:

Authority: 46 U.S.C. 4302 and 4310; Pub. L. 103–206, 107 Stat. 2439; Department of Homeland Security Delegation No. 0170.1.

§ 181.4 [Amended]

■ 32. In § 181.4(a), remove the words “on file”, and add, in their place, the words “available for inspection”.

PART 183—BOATS AND ASSOCIATED EQUIPMENT

■ 33. The authority citation for part 183 continues to read as follows:

Authority: 46 U.S.C. 4302; Pub. L. 103–206, 107 Stat. 2439; Department of Homeland Security Delegation No. 0170.1.

§ 183.5 [Amended]

■ 34. In § 183.5(a), remove the words “on file”, and add, in their place, the words “available for inspection”.

Dated: June 17, 2004.

Howard L. Hime,

Acting Director of Standards, Marine Safety, Security and Environmental Protection, U.S. Coast Guard.

[FR Doc. 04–14199 Filed 6–22–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 165**

[CGD09–04–030]

RIN 1625–AA00

Safety Zone; Heart Island, Alexandria Bay, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the vicinity of Heart Island. This safety zone is necessary to ensure the safety of spectators and vessels from the hazards associated with fireworks displays. This safety zone is intended to restrict vessel traffic from a portion of the St. Lawrence River, Heart Island, Alexandria Bay, New York.

DATES: This rule is effective from 9:30 p.m. until 11:30 p.m. (local) on July 4, 2004.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD09–04–030) and are available for inspection or copying at: U.S. Coast Guard Marine Safety Office Buffalo, 1 Fuhrmann Blvd, Buffalo, New York 14203, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Craig A. Wyatt, U.S. Coast Guard Marine Safety Office Buffalo, at (716) 843–9570.

SUPPLEMENTARY INFORMATION:**Regulatory Information**

We did not publish a notice of rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The permit application was not received in time to publish an NPRM followed by a final rule before the effective date. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property. The Coast Guard has not received any complaints or negative comments previously with regard to this event.

Background and Purpose

Temporary safety zones are necessary to ensure the safety of vessels and spectators from the hazards associated with fireworks displays. Based on recent accidents that have occurred in other

Federal Register

**Wednesday
July 12, 2006**

Department of Homeland Security

Coast Guard

**Navigation and Navigable Waters,
Technical, Organizational and
Conforming Amendments; Final
Rule**

■ 2. Amend § 4281.14 by revising paragraphs (c)(1), (c)(2), (d)(1), (d)(2), and (e) to read as follows:

§ 4281.14 Mortality assumptions.

* * * * *

(c) *Mortality rates for healthy lives.*

* * *

(1) For male participants, the rates in Table 1 of Appendix A to part 4044 of this chapter projected from 1994 to the calendar year in which the valuation date occurs plus 10 years using Scale AA from Table 2 of Appendix A to part 4044 of this chapter; and

(2) For female participants, the rates in Table 3 of Appendix A to part 4044 of this chapter projected from 1994 to the calendar year in which the valuation date occurs plus 10 years using Scale AA from Table 4 of Appendix A part 4044 of this chapter.

(d) *Mortality rates for disabled lives (other than Social Security disability).*

* * *

(1) For male participants, the lesser of—

(i) The rate determined from Table 1 of Appendix A to part 4044 of this chapter projected from 1994 to the calendar year in which the valuation date occurs plus 10 years using Scale AA from Table 2 of Appendix A to part 4044 of this chapter and setting the resulting table forward three years, or

(ii) The rate in Table 5 of Appendix A to part 4044 of this chapter.

(2) For female participants, the lesser of—

(i) The rate determined from Table 3 of Appendix A to part 4044 of this chapter projected from 1994 to the calendar year in which the valuation date occurs plus 10 years using Scale AA from Table 4 of Appendix A to part 4044 of this chapter and setting the resulting table forward three years, or

(ii) The rate in Table 6 of Appendix A to part 4044 of this chapter.

(e) *Mortality rates for disabled lives (Social Security disability).* The mortality rates applicable to annuities in pay status on the valuation date that are being received as disability benefits and for which either eligibility for, or receipt of, Social Security disability benefits is a prerequisite, are—

(1) For male participants, the rates in Table 5 of Appendix A to part 4044 of this chapter; and

(2) For female participants, the rates in Table 6 of Appendix A to part 4044 of this chapter.

Issued in Washington, DC, this 6th day of July, 2006.

Vincent K. Snowbarger,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. E6-10919 Filed 7-11-06; 8:45 am]

BILLING CODE 7709-01-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 1, 64, 72, 81, 89, 100, 101, 104, 120, 135, 146, 148, 151, 153, 154, 155, 156, 157, 160, 164, and 165

[USCG-2006-25150]

RIN 1625-ZA08

Navigation and Navigable Waters; Technical, Organizational, and Conforming Amendments

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: This rule makes non-substantive changes throughout Title 33 of the Code of Federal Regulations. The purpose of this rule is to make conforming amendments and technical corrections to Coast Guard navigation and navigable water regulations. This rule will have no substantive effect on the regulated public.

DATES: This final rule is effective July 12, 2006.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2006-25150 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL-401, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Mr. Ray Davis, Coast Guard, telephone 202-372-1461. If you have questions on viewing the docket, call Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202-493-0402.

SUPPLEMENTARY INFORMATION:

Regulatory History

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under both 5 U.S.C. 553(b)(A) and (b)(B), the Coast Guard finds that this rule is exempt from

notice and comment rulemaking requirements because these changes involve agency organization and practices, and good cause exists for not publishing an NPRM for all revisions in the rule because they are all non-substantive changes. This rule consists only of corrections and editorial, organizational, and conforming amendments. These changes will have no substantive effect on the public; therefore, it is unnecessary to publish an NPRM. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that, for the same reasons, good cause exists for making this rule effective less than 30 days after publication in the *Federal Register*.

Background and Purpose

Each year Title 33 of the Code of Federal Regulations is updated on July 1. This rule, which becomes effective July 12, 2006, makes other technical and editorial corrections throughout Title 33. This rule does not create any substantive requirements.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. As this rule involves internal agency practices and procedures and non-substantive changes, it will not impose any costs on the public.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This rule does not require a general NPRM and, therefore, is exempt from the requirements of the Regulatory Flexibility Act. Although this rule is exempt, we have reviewed it for potential economic impact on small entities.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in an expenditure of this magnitude, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and

responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (34)(a) and (b), of the Instruction from further environmental documentation because this rule involves editorial, procedural, and internal agency functions. A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" are available in the docket where indicated under ADDRESSES.

List of Subjects**33 CFR Part 1**

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Penalties.

33 CFR Part 64

Navigation (water), Reporting and recordkeeping requirements.

33 CFR Part 72

Government publications, Navigation (water).

33 CFR Part 81

Navigation (water), Reporting and recordkeeping requirements, Treaties.

33 CFR Part 89

Navigation (water), Reporting and recordkeeping requirements, Waterways.

33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

33 CFR Part 101

Harbors, Maritime security, Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

33 CFR Part 104

Maritime security, Reporting and recordkeeping requirements, Security measures, Vessels.

33 CFR Part 120

Passenger vessels, Reporting and recordkeeping requirements, Security measures, Terrorism.

33 CFR Part 135

Administrative practice and procedure, Continental shelf, Insurance, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 146

Continental shelf, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements, Vessels.

33 CFR Part 148

Administrative practice and procedure, Environmental protection, Harbors, Petroleum.

33 CFR Part 151

Administrative practice and procedure, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 153

Hazardous substances, Oil pollution, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 154

Alaska, Fire prevention, Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 155

Alaska, Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 156

Hazardous substances, Oil pollution, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 157

Cargo vessels, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 160

Administrative practice and procedure, Harbors, Hazardous materials transportation, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Vessels, Waterways.

33 CFR Part 164

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

- For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 1, 64, 72, 81, 89, 100, 101, 104, 120, 135, 146, 148, 151, 153, 154, 155, 156, 157, 160, 164, and 165.

Title 33—Navigation and Navigable Waters**PART 1—GENERAL PROVISIONS**

- 1. The authority citation for part 1 continues to read as follows:

Authority: 14 U.S.C. 633; 33 U.S.C. 401, 491, 525, 1321, 2716, and 2716a; 42 U.S.C. 9615; 49 U.S.C. 322; 49 CFR 1.45(b), 1.46; section 1.01–70 also issued under the authority of E.O. 12580, 3 CFR, 1987 Comp., p. 193; and sections 1.01–80 and 1.01–85 also issued under the authority of E.O. 12777, 3 CFR, 1991 Comp., p. 351.

§ 1.08–5 [Amended]

- 2. In paragraph (d), remove the reference “1.07–9” and add, in its place, “1.07–10”.

PART 64—MARKING OF STRUCTURES, SUNKEN VESSELS AND OTHER OBSTRUCTIONS

- 3. The authority citation for part 64 continues to read as follows:

Authority: 14 U.S.C. 633; 33 U.S.C. 409, 1231; 42 U.S.C. 9118; 43 U.S.C. 1333; Department of Homeland Security Delegation No. 0170.

§ 64.11 [Amended]

- 4. At the end of the section, remove the Note.

PART 72—MARINE INFORMATION

- 5. The authority citation for part 72 continues to read as follows:

Authority: 14 U.S.C. 85, 633; 43 U.S.C. 1333; Department of Homeland Security Delegation No. 0170.1.

§ 72.01–25 [Amended]

- 6. In § 72.01–25, paragraph (b), remove “202–521–2250” and add, in its place, “202–512–2104”.

§ 72.05–5 [Amended]

- 7. In § 72.05–5, remove “202–521–2250” and add, in its place, “202–512–2104”.

PART 81—72 COLREGS: IMPLEMENTING RULES

- 8. The authority citation for part 81 continues to read as follows:

Authority: 33 U.S.C. 1607; E.O. 11964; 49 CFR 1.46.

- 9. Revise the last sentence of § 81.3 to read as follows:

§ 81.3 General.

* * * The information collection and recordkeeping requirements in §§ 81.5 and 81.18 have been approved by the Office of Management and Budget under OMB control No. 1625–0019.

- 10. Revise the parenthetical at the end of § 81.5 to read as follows:

§ 81.5 Application for a Certificate of Alternative Compliance.

* * * * *

(Approved by the Office of Management and Budget under control number 1625–0019)

- 11. Revise the parenthetical at the end of § 81.18 to read as follows:

§ 81.18 Notice and record of certification of vessels of special construction or purpose.

* * * * *

(Approved by the Office of Management and Budget under control number 1625–0019)

PART 89—INLAND NAVIGATION RULES: IMPLEMENTING RULES

- 12. The authority citation for part 89 continues to read as follows:

Authority: 33 U.S.C. 2071; 49 CFR 1.46(n)(14).

- 13. Revise the last sentence of § 89.3 to read as follows:

§ 89.3 General.

* * * The information collection and recordkeeping requirements in §§ 89.5 and 89.18 have been approved by the Office of Management and Budget under OMB control No. 1625–0019.

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

- 14. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; Department of Homeland Security Delegation No. 0170.

§ 100.519 [Amended]

- 15. In § 100.519 paragraph (a)(2), remove the word “Group” and add in its place, “SFO”.

§ 100.531 [Amended]

- 16. In § 100.531, in paragraph (a), in the definition of “Coast Guard Patrol Commander”, remove the word “Group” and add in its place, “SFO”.
- 17. In § 100.531, in paragraph (a), in the definition of “Official Patrol”, remove the word “Group” and add in its place, “SFO”.

PART 101—MARITIME SECURITY: GENERAL

- 18. The authority citation for part 101 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 192; Executive Order 12656, 3 CFR 1988 Comp., p. 585; 33 CFR 1.05–1, 6.04–11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.1.

§ 101.305 [Amended]

- 19. In § 101.305, in paragraph (a), remove “202–267–2675, fax: 202–267–1322” and add, in its place, “202–372–2428; Fax: 202–372–2920”.

PART 104—MARITIME SECURITY: VESSELS

- 20. The authority citation for part 104 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.1.

§ 104.115 Compliance.

- 21. In § 104.115—

- a. Revise the section heading to read as set forth above;
- b. In paragraph (a), remove "On July 1, 2004, and thereafter, vessel", and add, in its place, "Vessel".
- c. Remove paragraph (b), and redesignate paragraph (c) as paragraph (b).
- d. In newly designated paragraph (b), introductory text, remove "On July 1, 2004, and thereafter, owners" and add, in its place, "Owners".

§ 104.205 [Amended]

- 22. In § 104.205, in paragraph (b)(1), remove "202-267-2675, fax: 202-267-1322" and add, in its place, "202-372-2428; Fax: 202-372-2920".

PART 120—SECURITY OF PASSENGER VESSELS

- 23. The authority citation for part 120 continues to read as follows:

Authority: 33 U.S.C. 1231; Department of Homeland Security Delegation No. 0170.

§ 120.220 [Amended]

- 24. In § 120.220, in paragraph (a) remove "202-267-2675" and add, in its place, "202-372-2428; Fax: 202-372-2920".

PART 135—OFFSHORE OIL POLLUTION COMPENSATION FUND

- 25. The authority citation for part 135 continues to read as follows:

Authority: 33 U.S.C. 2701-2719; E.O. 12777, 56 FR 54757; 49 CFR 1.46.

§ 135.305 [Amended]

- 26. In § 135.305(b), remove the words "Subpart C" and add in their place "Subpart B".

PART 146—OPERATIONS

- 27. The authority citation for part 146 continues to read as follows:

Authority: 43 U.S.C. 1333(d)(1), 1348(c), 1356; 49 CFR 1.46.

- 28. Revise the parenthetical at the end of § 146.30 to read as follows:

§ 146.30 Notice of casualties.

* * * * *

(Approved by the Office of Management and Budget under control number 1625-0001)

- 29. Revise the parenthetical at the end of § 146.35 to read as follows:

§ 146.35 Written report of casualty.

* * * * *

(Approved by the Office of Management and Budget under control number 1625-0001)

- 30. Revise the parenthetical at the end of § 146.125 to read as follows:

§ 146.125 Emergency drills.

* * * * *

(Approved by the Office of Management and Budget under control number 1625-0018)

- 31. Revise the parenthetical at the end of § 146.303 to read as follows:

§ 146.303 Notice and written report of casualties.

* * * * *

(Approved by the Office of Management and Budget under control number 1625-0001)

PART 148—DEEPWATER PORTS: GENERAL

- 32. The authority citation for part 148 continues to read as follows:

Authority: 33 U.S.C. 1504; Department of Homeland Security Delegation No. 0170.1 (75).

§ 148.5 [Amended]

- 33. In § 148.5, in paragraph (3), of the definition for Administrator of the Maritime Administration, remove "202-366-4721" and add, in its place, "800-996-2723".

PART 151—VESSELS CARRYING OIL, NOXIOUS LIQUID SUBSTANCES, GARBAGE, MUNICIPAL OR COMMERCIAL WASTE, AND BALLAST WATER

- 34. The authority citation for part 151 continues to read as follows:

Authority: 33 U.S.C. 1321 and 1903; Public Law 104-227 (110 Stat. 3034), E.O. 12777, 3 CFR, 1991 Comp. p. 351.

§ 151.09 [Amended]

- 35. In 151.09, in paragraph (a)(4), remove the reference "§ 2.05-10" and add, in its place, "§ 2.22(a)(2)".

§ 151.15 [Amended]

- 36. In § 151.15, in paragraph (d)(2), remove "202-267-2675", fax number 202-479-7165" and add, in its place, "202-372-2428), fax number 202-372-2920".

- 37. Revise the parenthetical at the end of § 151.19 to read as follows:

§ 151.19 International Oil Pollution Prevention (IOPP) Certificates.

* * * * *

(Approved by the Office of Management and Budget under control number 1625-0041)

- 38. Revise the parenthetical at the end of § 151.21 to read as follows:

§ 151.21 Ships of countries not party to MARPOL 73/78.

* * * * *

(Approved by the Office of Management and Budget under control number 1625-0019)

- 39. Revise the parenthetical at the end of § 151.25 to read as follows:

§ 151.25 Oil Record Book.

* * * * *

(Approved by the Office of Management and Budget under control number 1625-0009)

- 40. Revise the parenthetical at the end of § 151.57 to read as follows:

§ 151.57 Waste management plans.

* * * * *

(Approved by the Office of Management and Budget under control number 1625-0072)

PART 153—CONTROL OF POLLUTION BY OIL AND HAZARDOUS SUBSTANCES, DISCHARGE REMOVAL

- 41. The authority citation for part 153 continues to read as follows:

Authority: 14 U.S.C. 633; 33 U.S.C. 1321, 1903, 1908; 42 U.S.C. 9615; 46 U.S.C. 6101; E.O. 12580, 3 CFR, 1987 Comp., p. 193; E.O. 12777, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1.

§ 153.203 [Amended]

- 42. In § 153.203, remove "202-267-2675" and add, in its place, "202-372-2428; fax number 202-372-2920".

PART 154—FACILITIES TRANSFERRING OIL OR HAZARDOUS MATERIAL IN BULK

- 43. The authority citation for part 154 continues to read as follows:

Authority: 33 U.S.C. 1231, 1321(j)(1)(C), (j)(5), (j)(6), and (m)(2); sec. 2, E.O. 12777, 56 FR 54757; Department of Homeland Security Delegation No. 0170.1. Subpart F is also issued under 33 U.S.C. 2735.

- 44. Revise the parenthetical at the end of § 154.310 to read as follows:

§ 154.310 Operations manual: Contents.

* * * * *

(Approved by the Office of Management and Budget under control number 1625-0093)

- 45. Revise the parenthetical at the end of § 154.740 to read as follows:

§ 154.740 Records.

* * * * *

(Approved by the Office of Management and Budget under control number 1625-0060)

- 46. Revise the parenthetical at the end of § 154.804 to read as follows:

§ 154.804 Review, certification, and initial inspection.

* * * * *

(Approved by the Office of Management and Budget under control number 1625-0060)

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Federal Register

Monday
March 16, 2009

Department of
Homeland Security

Coast Guard

**Consolidation of Merchant Mariner
Qualification Credentials; Final Rule**

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 1, 20, 70, 95, 101, 110, 141, 155, 156, 160, 162, 163, 164, and 165

46 CFR Parts 1, 4, 5, 10, 11, 12, 13, 14, 15, 16, 26, 28, 30, 31, 35, 42, 58, 61, 78, 97, 98, 105, 114, 115, 122, 125, 131, 151, 166, 169, 175, 176, 185, 196, 199, 401, and 402

[Docket No. USCG-2006-24371]

RIN 1625-AB02

Consolidation of Merchant Mariner Qualification Credentials

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard issues this final rule to consolidate the regulations covering issuance of merchant mariner qualification credentials, to reduce the burden on mariners by limiting the number of times they need to appear in person to provide fingerprints and proof of identity, and to address comments received from the public in response to the Supplemental Notice of Proposed Rulemaking, in some cases through revisions based on those comments. This final rule works in tandem with the joint final rule published by the Coast Guard and the Transportation Security Administration on January 25, 2007, entitled "Transportation Worker Identification Credential (TWIC) Implementation in the Maritime Sector; Hazardous Materials Endorsement for a Commercial Driver's License".

DATES: This final rule is effective April 15, 2009. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of April 15, 2009.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2006-24371 and are available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Mayte Medina, Coast Guard, telephone 202-372-1406. If you have questions on

viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

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I. Acronyms

- ADA Americans with Disabilities Act
- ARPA Automatic Radar Plotting Aid
- ATP Airline Transport Pilot
- CFR Code of Federal Regulations
- CBP Customs and Border Patrol
- COR Certificate of Registry
- EEOC Equal Employment Opportunity Commission
- FAA Federal Aviation Administration
- FR Final Rule
- GMDSS Global Maritime Distress and Safety System
- ILO International Labor Organization
- IMO International Maritime Organization
- MERPAC Merchant Marine Personnel Advisory Committee
- MMC Merchant Mariner Credential
- MMD Merchant Mariner Document
- MODU Mobile Offshore Drilling Unit

- NARA National Archives and Records Administration
- NDR National Driver Register
- NEPA National Environmental Policy Act
- NMC National Maritime Center
- NPRM Notice of Proposed Rulemaking
- NTTAA National Technology Transfer and Advancement Act
- NVIC Navigation and Inspection Circular
- OCMI Officer in Charge, Marine Inspection
- OICEW Officer in Charge of Engineering Watch
- OICNW Officer in Charge of Navigational Watch
- OMB Office of Management and Budget
- OSV Offshore Supply Vessels
- PVSA Passenger Vessel Safety Act of 1993
- QMED Qualified Member of the Engine Department
- REC Regional Examination Center
- RFPNW Rating Forming Part of a Navigational Watch
- SNPRM Supplemental Notice of Proposed Rulemaking
- SOLAS Convention for the Safety of Life at Sea
- SSN Social Security Number
- STCW International Convention on the Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended.
- TOAR Towing Officer's Assessment Record
- TSA Transportation Security Administration
- TWIC Transportation Worker Identification Credential
- US United States
- USC United States Code

II. Regulatory History

On May 22, 2006, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** titled "Consolidation of Merchant Mariner Qualification Credentials" (71 FR 29462). The NPRM included a 45-day comment period, and announced four public meetings that were held in Newark, NJ, Tampa, FL, St. Louis, MO, and Long Beach, CA. During the comment period for the NPRM, the Coast Guard received over 100 requests, both in writing and in person at the public meetings, for additional time to comment.

In response, on January 25, 2007, the Coast Guard published a Supplemental Notice of Proposed Rulemaking (SNPRM) under the same title in the **Federal Register** (72 FR 3605) providing an additional three months for comments. The SNPRM included a discussion of all comments received in response to the NPRM. We received 19 letters commenting on the SNPRM. No public meeting was requested and none was held.

III. Background and Purpose

A complete discussion of the background and purpose for this rule can be found in the preamble to the NPRM, 71 FR 29463. Under the current

regulations being amended in this rule, the Coast Guard may issue up to four credentials to a mariner: A Merchant Mariner's Document (MMD), Merchant Mariner's License (License), Certificate of Registry (COR), and an International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) Endorsement. Each credential serves a separate purpose, thus creating the possibility that a mariner might need all four.

The Maritime Transportation Security Act of 2002, 46 U.S.C. 70105, (MTSA) requires all merchant mariners

credentialed under 46 U.S.C. part E to undergo a security threat assessment and obtain a transportation security card. This provision has been implemented by the Transportation Security Administration (TSA), which has begun implementing the Transportation Worker Identification Credential (TWIC) into the maritime sector, and the Coast Guard. All mariners are required, under Coast Guard regulations, to obtain a TWIC by April 15, 2009.¹ This means that, without a regulatory change, a mariner would need up to five credentials.

This rule will minimize these redundant credentialing requirements, and ease the burden on merchant mariners. The Coast Guard is streamlining its mariner regulations and consolidating the four separate credentialing documents into one Merchant Mariner Credential (MMC). In addition to reducing the number of credentials a mariner will need to hold, this rule also eliminates redundant burdens and government processes.

IV. Summary of Changes From SNPRM

| Cite | Change | Reason |
|---|--|--|
| Throughout document | Changed the date by which a mariner must hold a TWIC from September 25, 2008 to April 15, 2009. | To reflect change in mariner compliance date published by DHS in a Final Rule on May 7, 2008 (73 FR 25562). |
| 46 CFR 10.209, 10.211, 10.214, 10.221, 10.223, 10.225, 10.227, 10.229, 10.231, 10.235, 12.02-7. | Added language to reflect that applications for MMC's prior to April 15, 2009 will still need to be made in person at an REC to provide fingerprints and proof of identity, and that for these applications, the Coast Guard will still conduct security threat assessments. After April 15, 2009, TSA will collect the fingerprints and proof of identity and forward that information to the Coast Guard (National Maritime Center (NMC)). | To allow the Coast Guard to begin issuing the MMC prior to the date that mariners are required to hold a TWIC, and prior to the date when TSA will begin sharing applicant information with the Coast Guard. |
| 33 CFR 164.13 | Changed the term from properly, to appropriately | In response to comments. |
| 46 CFR 10.107 | Added language to the definition of safe and suitable person to refer the reader to 46 CFR 10.211 and 10.213; and added definitions for large passenger ship, non-resident alien and steward's department. | In response to comments and changes to regulations. |
| 46 CFR 10.109 | Added the first class pilot endorsement, and in (b) added subcategories of able seaman for consistency as well as clarity with the requirements in Parts 12 and 15. | In response to comments. |
| 46 CFR 10.211 | Added language to specifically state responses that applicants need only provide written disclosure of convictions not previously disclosed on an application. | In response to comments. |
| 46 CFR 10.215 Table (a) | Revised the table to place the reg cites for the requirement. | In response to comments. |
| 46 CFR 10.215(c) | Revised to allow the medical examiner, if qualified, to conduct the appropriate examinations. | In response to comments. |
| 46 CFR 10.221(a)(2) | Added exception for large passenger vessel | In response to comments and Congress. |
| 46 CFR 10.225 | Removed the requirement that a mariner have proof of applying for a TWIC within the past 30 days. | In response to comments. Additionally, it provides more flexibility. |
| 46 CFR 10.237 | Added language to specify that the Coast Guard will provide the applicant the reason(s) for denial of an application directly to the applicant. | In response to comments. |
| 46 CFR 11.304(h)(7) | Removed the requirement for gathering the TWIC information. | In response to comments and realization that we had sufficient information to determine the identity of the officer conducting the assessment. |
| 46 CFR 11.518 | Added the abbreviation for Qualified Member of the Engine Department (QMED). | In response to comments. |
| 46 CFR 11.520 | Replaced qualified member of the engine department with QMED. | In response to comments. |
| 46 CFR 11.1005 | Removed the date | In response to comments and date is no longer necessary. |
| 46 CFR 12.02-11(d) | Revised to state that ratings endorsements will be issued if the holder or applicant is qualified for the endorsement. | In response to comments. |
| 46 CFR 12.02-17 | Revised section to remove reference to Officer in Charge Marine Inspection. In paragraph (g) revised section for clarity. | In response to comments and to provide clarity after the revisions. |
| 46 CFR 12.05-3(c) | Revised paragraph to remove the date and to provide clarity that the endorsement for Rating Forming Part of a Navigational Watch (RFPNW) will be issued upon meeting the requirements of STCW. | In response to comments and to provide clarity. |

¹The first TWIC Final Rule, published on January 25, 2007, required all mariners to have a TWIC by September 25, 2008. See 72 FR 3492. On May 7,

2008, the Department of Homeland Security published a Final Rule delaying the date by which

mariners must hold a TWIC until April 15, 2009. See 73 FR 25562.

| Cite | Change | Reason |
|---------------------|--|--|
| 46 CFR 12.05-7 | Removed the term Commanding Officer | In response to comments and for consistency with changes previously proposed. |
| 46 CFR 12.10-1 | Removed the term "United States collector or deputy collector of customs" and replaced it with the appropriate term with the DHS reorganization. | In response to comments and updating the regulations with current terminology. |
| 46 CFR 12.10-3 | Removed the term Commanding Officer | In response to comments and for consistency with changes previously proposed. |
| 46 CFR 12.15-1 | Removed the term "United States collector or deputy collector of customs" and replaced it with the appropriate term with the DHS reorganization. | In response to comments and updating the regulations with current terminology. |
| 46 CFR 12.15-3(d) | Removed the February 1, 2002 date | In response to comments and because that date is no longer necessary. |
| 46 CFR 12.15-7(c) | Revised the newly inserted word from engineer department to engine department. | Consistency with existing language and in response to comment. |
| 46 CFR 12.40 | Revised subpart for the requirements for non-resident aliens working on large passenger vessels. | In response to comments and new interim rule. |
| 46 CFR 15.401 | Spelled out the first use of TWIC | In response to comments. |
| 46 CFR 15.530 | Revised subpart for the requirements for non-resident aliens working on large passenger vessels. | In response to comments and new interim rule. |
| 46 CFR 15.701 | Removed the word Customs and replaced it with Customs and Border Protection. | In response to comments and updating the regulations with current terminology. |
| 46 CFR 15.812(b)(1) | Clarified the requirement to state that it is either a first class pilot's license or an MMC with a first class pilot's endorsement. | In response to comments and for clarification. |
| 46 CFR 15.815 | Revised radar endorsement language to make it consistent with language proposed in the NPRM for radar endorsements. | Consistency with other ongoing rulemaking project that is specifically on that requirement. |
| 46 CFR 15.915 | Revised header from "Engineer Licenses" to "Engineer Officer Endorsements". | In response to comment and to make consistent with the remainder of the proposed rule. |
| 46 CFR 42.05-70 | Renumbered section to 42.05-27 | In response to comment and because the definition was out of order. |
| 46 CFR 78.65-1 | Revised section to provide the option to post either license or merchant mariner credentials on a vessel. | In response to comment and to provide for the phase-in period when both documents will be in use. |
| 46 CFR 97.53-1 | Revised section to provide the option to post either license or merchant mariner credentials on a vessel. | In response to comment and to provide for the phase-in period when both documents will be in use. |
| 46 CFR 401.210 | Revised references to licensed service and added language to include the MMC requirement. | In response to comments and to correct oversights not addressed in the SNPRM. |
| 46 CFR 402.220 | Revised section to provide for mariners holding either a license or MMC. | In response to comments and to provide for the phase-in period when both documents will be in use. |

V. Discussion of Comments and Changes

The following comments were submitted to the docket for the MMC SNPRM. All written comments received are available for inspection in the public docket for this rulemaking, where indicated under **ADDRESSES**.

A. Comments Regarding the TWIC Rulemaking

We continued to receive comments to the docket regarding the TWIC. This rulemaking is limited to the consolidation of merchant mariner credentials, including the requirement for a TWIC as required by 46 U.S.C. 70105; however, comments regarding the TWIC rulemaking are inappropriate for discussion in this rulemaking. They are not addressed in this FR; they were forwarded to the appropriate office either at the Coast Guard or at TSA for consideration, and included in the discussion of comments in the TWIC final rule, published on January 25, 2007 (72 FR 3492).

B. General

The Coast Guard received a number of positive comments on the SNPRM. We received one comment commending the Coast Guard on recognizing the need to move forward on concurrent processing of a TWIC and MMC. We received one comment supporting the removal of language in § 12.01-1 that stated that the MMD was owned by the Coast Guard. We received one comment expressing support for the revised requirements in § 15.815(d) and (e) requiring mariners to either carry their radar certificate with them or have a copy on file with their company. We received one comment that specifically stated that all the credentials should be combined as proposed in the SNPRM. We received four comments supporting the issuance of MMCs through the mail. We received one comment applauding the removal of withholding the reason for the denial of a credential. We received numerous comments agreeing with the need for proper identification and credentialing of mariners, in order to ensure safe vessel operation and

national security. We received one comment commending the Coast Guard for allowing the mariner to take his/her oath before any person. We received one comment noting that the MMC represents an opportunity to make the mariner credentialing system more transparent, predictable and fair. We received one comment expressing appreciation of the Coast Guard's efforts to protect a mariner's privacy by removing the Social Security number on the form of payment.

We received one comment expressing concern that focusing the emphasis of the MMC on competency of the mariner would undermine the principle that the Coast Guard must be vigilant in its issuance of its credentials.

We disagree. While TSA is responsible for verifying identity and conducting security vetting for mariners, the Coast Guard will only issue credentials to those individuals who pass the security vetting and the safety and suitability check conducted by the Coast Guard. We will not ignore whether the individual is a security threat, though our focus will be

qualifying the mariner to be employed on vessels and ensuring the individual is not a threat to maritime safety.

We received one comment noting that the mariner would still be required to carry multiple credentials and documents and thus the synergetic effect of the Coast Guard's proposed consolidation of the mariner's credentials is somewhat diluted.

We agree. The Coast Guard recognizes that mariners will still be required to carry more than one credential; however, those issued by the Coast Guard will be reduced from as many as four to one.

We received one comment suggesting that this rulemaking should be used to remedy existing deficiencies in the licensing system.

We disagree. The purpose of this rulemaking is to streamline the existing merchant mariner credentialing process, to minimize redundant requirements, and simplify the credentialing program. While it is expected that this will remedy some of the existing deficiencies in the merchant mariner credentialing program, it is not the intent of this rulemaking. The Coast Guard has a number of initiatives in progress which are intended to improve the merchant mariner credentialing system, which include reorganization of the NMC and fully developing a quality standard system.

We received one comment asking the Coast Guard to address the deletions and additions of definitions, subsections, figures, and tables within the rulemaking.

In the NPRM, we provided a table showing where various subsections were moved between the various parts of Title 46 of the CFR (71 FR 29464-81). Additionally, when the definitions were consolidated we had no intention of removing definitions and have reviewed the list to ensure that all of the definitions within the subchapter have been retained, unless otherwise noted in this or previous regulatory documents. Within this preamble, we will discuss any changes from the SNPRM, which would not have been discussed in either the NPRM or the SNPRM.

We received one comment requesting that we readdress the comments they made to the NPRM.

The Coast Guard has determined that readdressing even some of the comments we received on the NPRM would be redundant, as those comments were already fully addressed in the "Discussion of Comments and Changes" section of the SNPRM (72 FR 3608). As such, we have not readdressed comments received on the NPRM; this

discussion will only address those comments received on the SNPRM.

We received one comment stating that the creation of an entirely new form of a credential to replace the traditional license would create more problems than it might solve.

We disagree. While we recognize that the transition to this new credential will not be without challenges, we believe it will result in a better credential accepted by more mariners than the credentials currently in place.

One commenter recommended that the MMC proposal be withdrawn.

We do not agree with this comment and are proceeding with this final rule. Without this final rule, mariners would face duplicative appearance requirements when applying for their TWIC and their Coast Guard issued License, MMD, COR, or STCW Endorsement.

We received one comment expressing concern with this rulemaking because it comes at an especially active period in maritime regulation and it was recommended that we proceed with caution.

We recognize that the Coast Guard is involved in multiple regulatory projects at this time, and that several of them touch upon the same regulatory provisions being amended by this final rule. All persons involved in this project are sensitive to this fact, and have been diligent in ensuring that the same approach and language is used in all projects. As a result of this diligence, recent changes, published in an interim rule for vessel security officer training and certification (May 20, 2008; 73 FR 29060) and in final rules on training and service requirements for merchant marine officers (September 11, 2008; 73 FR 52789) and technical amendments for 46 CFR (September 29, 2008; 73 FR 56505), have been incorporated into this final rule.

One commenter expressed concern that the SNPRM implied the MMC is an identity document in addition to being a proficiency document. They felt adding the identity concept to the MMC would introduce confusion and recommended that the TWIC remain the proof of identification.

We disagree. There have been numerous comments recommending the MMC be International Labor Organization (ILO) 185 compliant. In order to meet those requests, the Coast Guard must make this credential, in part, an identification credential. Identification will not be the primary function of the MMC, as the TWIC will be used as the primary identification document aboard U.S. vessels and at U.S. facilities. The MMC may be used as

an identity document in other places, as it will hold a digital photo of the mariner, which will be taken from the TWIC enrollment application during which time proof of identity is inspected.

We received one comment requesting the implementation of this rulemaking be delayed until there have been trials of the information sharing between the Coast Guard and TSA.

We agree, in part, with this comment. Before we fully implement this rulemaking we will be testing the transmission of information between the two agencies. If we are able to begin issuance of the MMC before the full implementation of TWIC, we may begin a partial implementation of those portions of the rule that do not require the information sharing.

We received one comment stating that the Coast Guard must educate other state and Federal agencies about the status of a merchant mariner credential, and the requirements to achieve them.

While not the purpose of this rulemaking, we agree we need to educate other agencies about the MMC. We will use all available channels to inform State and Federal agencies about the new credential.

We received one comment stating that the majority of licensed officers favor retaining the license as a separate document and as a certificate of qualifications at the licensed level.

We disagree. This statement is not represented by the comments received during this rulemaking.

We received one comment stating that the present documentation and licensing regulations should remain intact and should not be changed to a system of endorsements on a newly created MMC.

We disagree. Even before the MMC and TWIC rulemakings, the Coast Guard recognized the need to revise the current credentials, to make them less confusing. This need was further reinforced by comments received and responses made to Congress regarding the number of credentials being carried by mariners and the need to reduce that number.

We received one comment seeking clarification on a statement within the SNPRM preamble regarding delaying the final rule until "next year" to allow the Coast Guard to accept and apply additional public comments.

The intent of the statement within the SNPRM was to state that the Coast Guard was going to seek additional comments in conjunction with the rulemaking process. Because at that time mariners would not have been required to hold a TWIC until

September 25, 2008 (see TWIC final rule at 72 FR 3587–88), we recognized that there was ample time to allow for additional comment before needing to finalize this MMC rulemaking project. Providing a second round of comments has helped ensure that in consolidating the existing mariner credentialing regulations, we were not unintentionally changing any qualifications requirements.

We received one comment stating that not allowing mariners to serve prior to issuance of their MMC conflicted with the TWIC policy which allowed service for up to 30 days before they actually received their TWIC and that this Coast Guard policy would negate that advantage. We received two comments encouraging the Coast Guard to seek issuance of interim MMCs for mariners serving on passenger vessels that have been issued a TWIC, but are waiting on the processing of the MMC. We received one comment recommending issuance of interim credentials to persons who have had recent prior experience crewing on U.S.-flag vessels, or on other vessels that have evidence, issued by the Federal Maritime Commission, of compliance with sections 44102 and 44103 of Title 46 of the United States Code. In contrast, we received one comment stating that the issuance of interim credentials would be confusing and unnecessary, especially considering that we do not currently have interim credentials and everyone has managed to deal with it by planning ahead.

The Coast Guard has decided not to allow merchant mariners to serve prior to the issuance of their MMC. The U.S. Code provides that the Coast Guard may issue credentials to those applicants found qualified as to age, character, habits of life, experience, professional qualifications and physical fitness (46 U.S.C. 7101(c), 7306, and 7313). The law provides that the Coast Guard must ensure a mariner meets the aforementioned criteria before issuing a credential and the possession of such a credential is required to serve in a position on any vessel that requires a credential.

We received one comment that suggested the replacement of the phrase “* * * a properly endorsed license * * *” with “* * * an appropriately endorsed license * * *” in 33 CFR 164.13(b) and (c).

We concur with the suggestion and have made this change.

We received one comment seeking clarification regarding the listing of the Young Men's Christian Association (YMCA) but not the Young Women's Christian Association (YWCA) in 46 CFR 10.219(h)(2)(ii) and whether the

failure to include that organization was intentional, and if so for further rationale for not including the organization.

The YWCA was intentionally excluded from the current published list in the regulations. The list has been in place and unchanged since the establishment of fee regulations in 1993, and it is not our intention with this rulemaking to add or remove organizations from the existing list. An organization seeking to be added to the list may follow the procedure, unchanged by this rulemaking, laid out in paragraph (h)(2)(i).

We received one comment recommending that 46 CFR 11.502(b) be revised to reflect three propulsion modes: motor, steam, and gas turbine.

We agree, in part. There are three propulsion modes that should be included in the regulations; however, this change is being considered in a separate, larger Coast Guard rulemaking, titled “Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978” (RIN: 1625-AA16).

We received one comment that recommended 46 CFR 11.1105 be the same as § 11.1005: “To serve on a non-Ro-Ro passenger ship a person endorsed as master, mate, chief mate, engineer, or chief engineer shall meet the appropriate requirements of the International Convention on the Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (STCW) Regulation V/3 and of section A-V/E of the STCW Code.”

We disagree. It is not the purpose of this rule to revise the substantive qualifications requirements or even just the text of the requirements; this rule serves to reorganize the various parts, consolidate the various mariner credentials, and eliminate redundant appearance requirements in light of the new TWIC requirement. As noted in an earlier response, the Coast Guard has a number of ongoing regulatory projects that, if completed, would change portions of 46 CFR chapter I, subchapter B. Once these projects are completed, we will examine whether a complete revision of the regulations in subchapter B is warranted. The change suggested by the commenter could be incorporated into such a revision.

We received one comment recommending a revision to § 12.15–7(c) changing the phrase “engineer department” to “engine department”.

We agree with this suggestion and have made this change.

We received one comment noting that we did not correct the heading for

§ 15.915. That omission was an oversight on the part of the Coast Guard; we have corrected that heading in this final rule to “Engineer Officer Endorsements”.

One comment recommended §§ 78.65–1, 97.53–1, and 131.955 state that the page of the credential should show the information for officer credentials and include the license for the 5 year implementation period.

We agree, and have amended the sections to read “All officers on a vessel must have their license or officer endorsements conspicuously displayed”.

We received one comment recommending that § 401.210(a)(1) be revised to allow for the transition period when mariners will still hold licenses.

We agree; this entire paragraph has been revised in this final rule, in order to allow the Coast Guard to start issuing MMCs even before mariners are required to obtain TWICs. These changes mean that, until April 15, 2009, mariners applying for their MMC will need to appear at an REC in person to provide proof of identity, citizenship, and their fingerprints. After April 15, 2009, the Coast Guard will be able to obtain that information from the record TSA created when the mariner enrolled for his/her TWIC and will not have to appear at an REC.

We received one comment recommending that § 402.220(a)(1), (a)(2), & (a)(3) should state license and MMC endorsement.

We agree that these terms would provide clarity, and have made the suggested changes.

We received one comment recommending that we model the mariner licensing system after the Federal Aviation Administration (FAA) processes, based upon the Airline Transport Pilot (ATP) license for the FAA coupled with type-rating for a specific aircraft.

We disagree. While this would ensure that each mariner is qualified for each specific vessel upon which he or she serves, it would make the regulations much more difficult and confusing. Additionally, vessels are not as uniform as aircraft in their design and operation, thus using the FAA model would not be appropriate.

One commenter suggested that STCW endorsements should be issued when a person meets STCW requirements for their position instead of in response to a request to go on an international voyage.

We concur; however, we do not issue STCW endorsements unless requested by mariner. Thus, when the STCW

endorsement is issued relies upon when the mariner makes his/her request.

We received one recommendation that the CFRs should be drafted to provide a list of requirements as has been done in some of the license checklists.

We disagree. While this idea appears on the surface to be a good solution, it would actually result in more difficulties over time. Checklists exist as aids that provide guidance on these regulations and are available for review at: <http://www.uscg.mil/stcw/index.htm>. Including such checklists in the regulations would mean they could only be revised through a regulatory change, requiring notice and comment under the Administrative Procedure Act. By providing the checklists as aids to understanding the regulations, we are able to quickly update and clarify them as requirements are revised or confusion is discovered.

We received one comment noting that the safekeeping of the MMC would be easier if it were a passport-sized document.

We agree and have started the process of transitioning to this style of document.

C. Appeals

We received one comment seeking clarification to the revised language in § 12.03-1(c)(2).

We have removed specific references to the Commanding Officer of the National Maritime Center throughout this rulemaking. In our view, this will have no effect on the processes currently in place. Coast Guard policy requires that Commanding Officers sign official correspondence or delegate it, as appropriate, within their command. We do not envision course application appeals being delegated below the Commanding Officer, except in his or her absence to an Acting Commanding Officer.

D. Application Process

We received one comment recommending the Coast Guard implement a Web-based application system and two comments recommending the Coast Guard allow electronic submission of applications.

We agree. As resources are available, the Coast Guard intends to develop systems through which a mariner may apply for an MMC using various Web-based applications.

We received one comment recommending that §§ 10.223(c)(2) and 10.227(d)(2) read “* * * have a valid TWIC or show proof of applying for a TWIC * * *”.

We disagree. Mariners will not meet the TWIC requirement unless they actually hold the TWIC; completing the application process is not enough. Mariners need to plan to enroll with enough time to ensure their TWIC is available and able to be picked up prior to April 15, 2009 (the compliance date for the TWIC requirement for mariners). Therefore, this section only applies to those individuals who would already hold a valid TWIC and MMC.

We received one comment recommending the removal of the requirement of proof that a TWIC be obtained or applied for (within the past 30 days) in order to receive an original MMC from § 10.225(b)(2).

We agree that it would not be necessary to provide the 30-day limitation on the TWIC application for an original merchant mariner credential, and have made the suggested change.

One commenter expressed concern that the coordination of regulatory roles and administrative functions between two agencies within the same Department did not lead to development of one application and enrollment process, vetting of criminal or other records for safety, suitability, and terrorist security risks, determination of qualifications and issuance of a single combined Merchant Mariner Document (MMD)/TWIC.

We disagree. When the Coast Guard and TSA first began collaborating to issue regulations on TWIC, the issue of whether all credentials could be combined into a single MMC/TWIC was thoroughly explored. Unfortunately, this is not an option at this time. As the use of biometric and smart card technology becomes more wide-spread, this decision may be able to be revisited. However, at this time, it is simply not possible to combine the two credentials onto one card. We have, through this final rule, streamlined the application process for the MMC, to avoid duplicative appearance requirements and security vetting.

We received one comment recommending § 10.225(b)(5) be removed, since an applicant for an original MMC would not hold any of these credentials—cancelled or uncancelled.

We agree, and have made the suggested change.

We received one comment requesting that all mariners seeking renewals of towing vessel credentials be required to complete practical towing demonstrations, as well as for those mariners whose most recent credential has been suspended or revoked as stated in § 10.235(f).

We disagree. The towing vessel credential requirements were developed through a separate rulemaking, during which this requirement was presented to the public and they were provided an opportunity to comment on the requirement. To add this requirement to all other mariners would require notice and comment that is currently outside the scope of this rulemaking.

We received one comment recommending that § 10.237(a) clearly state that the written statement detailing the reason(s) for denial be provided to the applicant.

We agree. It is the intention of this rulemaking to clarify the MMC process and we will make the suggested change to provide additional clarity.

We received one comment questioning why we retained the Officer in Charge of Marine Inspection (OCMI) authority to make decisions about service and exam requirements in § 11.201.

This provision was retained because it provides the local Coast Guard official most familiar with the local area the ability to revise the requirements based upon that local knowledge.

We received one comment requesting that we reconsider allowing an expired passport as evidence of citizenship verification.

After reconsideration, we have decided to accept an expired passport, especially considering that the individual will undergo a thorough vetting for immigration status by the TSA during the security threat assessment, and a second vetting by the Coast Guard for suitability and safety qualifications.

We received one comment recommending the establishment of a process to identify delayed applications and require supervisory review, as well as a process to recoup lost salary.

We agree, in part. We have established a process within the quality standard system that will identify delayed applications and bring them to the attention of the leadership of the NMC. At present, there is no intention to develop a process to provide lost salary to applicants of a MMC.

E. Background Checks

We received one comment recommending the Coast Guard discontinue its duplicative background checks or the requirement to hold the TWIC, because it is unreasonable for both agencies to simultaneously examine a mariner's criminal background. We received three comments recommending that the TWIC and MMC data be incorporated into a single card. We received one comment

recommending that the MMD be retained in its present role and format, but with additional functionality that would allow it to serve, at the unlicensed level, as both a transportation security card and a certificate of qualifications.

We disagree. It is necessary for both the Coast Guard and TSA to review the criminal background, since both agencies are examining different issues to determine whether an individual should hold the credential issued by that agency. Also, it is not within the purview of the Coast Guard to change the requirement to hold the TWIC because that requirement is found in 46 U.S.C. 70105. The information in the applications for the MMD and TWIC are different with respect to the different focus of the two credentials. Additionally, to only make the MMD consistent for unlicensed personnel would create disconnect between the ratings and officers as well as those mariners serving on inland routes not required to have an MMD. This proposed scheme would create as many credentials as the current system, and frustrate the project's original purpose to consolidate credentials. However, this final rule does eliminate duplicative processes and requirements, such as the personal appearance and security background examinations requirements.

We received four comments recommending the Coast Guard limit criminal conviction disclosure to those not previously disclosed on an application for a Coast Guard credential. Similarly, we received one comment recommending that § 10.211 be revised to request full disclosure of criminal history only on the applicant's original application.

We agree and have made the suggested changes in this final rule.

We received one comment recommending that the self-disclosure of criminal history be eliminated from the application entirely.

We disagree. There should be some requirement for self-disclosure; however, we have agreed that the disclosure should only cover the period since the last application or any item not previously disclosed to the Coast Guard. This is a benefit for the mariner and provides the opportunity for supplemental information not otherwise available in the public record to be submitted to the Coast Guard for consideration during the evaluation period.

We received two comments stating that an unlimited review is counter to the Congressional intent regarding the National Driver Register (NDR).

We agree, and the statutory three year limit (found in 49 U.S.C. 30305) on such a review has been incorporated into this final rule (see § 10.213). This does not, however, limit the Coast Guard's ability to continue an unlimited review if the information obtained from the NDR is about a revocation or suspension still in effect on the date of the request.

F. Coast Guard Authority

We received two comments questioning whether the MMC with an officer endorsement will have the same significance as a license and whether the Coast Guard has authority to change the format of the license.

As noted in the SNPRM, the authority to revise the license is well within the broad authority provided to the Coast Guard under 46 U.S.C. Part E. Thus, the MMC with an officer endorsement will carry the same weight as a license.

G. Citizenship

We received one comment requesting clarification on § 10.231(d)(2) regarding the specific mention of naturalized citizens. This language was brought from the existing language in 46 CFR 10.207; it has not changed and carries the same meaning as it did prior to being moved by this final rule.

H. Consistency

We received one comment strongly recommending that the wording referencing mariner credential authority in parts covered by this regulation be changed by replacing the words "not more than" with the words "less than". This change was being sought to make the revisions more consistent with the provisions within STCW, as well as U.S. inspections language.

While we do not necessarily agree or disagree with the suggestion, this final rule is not the appropriate place to contemplate this change. The primary focus of this rulemaking is the development of a consolidated credential and a reorganization of subchapter B. This recommendation, however, is being contemplated for incorporation in a separate rulemaking, titled "Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978."

We received one comment recommending the rules be consistent in the use of the term QMED for "Qualified Member of the Engine Department."

We agree. It is appropriate to establish an abbreviation in the text that can then be used in subsequent sections of the rules. We have revised § 11.518 to provide the abbreviation, and then used

the term "QMED" for the remainder of that subpart.

We received one comment questioning the retention of the term Commanding Officer, National Maritime Center in §§ 12.05-7(b) and 12.10-3(a).

We have removed the term commanding officer from those sections.

We received two comments asking why the language referring to the United States collector or deputy collector of customs was left in the regulations in §§ 12.10-1 and 15.701(c), even though we removed the language referring to the shipping commissioner.

We removed the reference to the shipping commissioner because it was a function the Coast Guard previously performed, but no longer performs. The term United States Collector of Customs now falls under the responsibility of the Customs and Border Patrol (CBP) Port Director, and this change has been incorporated in this final rule.

We received one comment noting that we left out the shipping commissioner language in § 12.15-1. We have made this correction in this final rule.

We received one comment questioning why there was a difference in language between §§ 13.407 and 13.507, when it did not appear that there should be a difference in the language.

We agree with this comment, and have revised § 13.507 accordingly in this final rule.

We received one comment seeking clarification on § 401.210(a)(6), which allows a Great Lakes Pilot to have either an MMD or a TWIC.

This option was left in place because this final rule will go into effect before all mariners are required to hold a TWIC, therefore there will be a period where individuals might hold an MMD without a TWIC. We have revised the language to ensure that, on April 15, 2009, (the date when all mariners must hold a TWIC) only a TWIC will be acceptable.

I. Continuity Documents

We received one comment asking us to leave the decision whether to retain a continuity license and TWIC, or document of continuity without TWIC, to the license holder.

As an agency, we have decided not to continue to issue continuity licenses, but rather only documents of continuity. Should a mariner choose to obtain a TWIC, but seek to obtain an MMC for continuity purposes only, they will still receive a document of continuity. This decision is based on a desire to consolidate as many of our pre-existing credentials into the fewest number of mariner credentials as possible.

J. Definitions

We received two comments stating that the definition for “day” should not have been revised regarding 100-ton vessels and the service for Mobile Offshore Drilling Units (MODU) needed to be removed from the definition.

We disagree. The definition of “day” for vessels of 100 Gross Register Tons (GRT) or less was not significantly revised—we opted to use the more generic reference of Coast Guard rather than Officer in Charge, Marine Inspection. The definition of “day” for MODUs was already included in that definition in the pre-existing 46 CFR 10.103 under “service as.” We are including it in this definition in order to consolidate all definitions for “day” in one location.

We received two comments recommending that the definition for “safe and suitable person” should refer to 46 CFR 10.211.

While we do not believe it is necessary to make the connection between the definition and 46 CFR 10.211, we made the change to assist the mariner.

We received one comment stating the definition for “senior company official” needs clarification. This definition is consistent with the existing definition currently found in 46 CFR 10.103, therefore no change has been made.

We received one comment stating the Coast Guard should fully analyze the change of the application of the definition of “operate, operating or operation” to the entire Subchapter B.

We disagree. The definition is restricted to the manning requirements, and therefore analyzing its application throughout the entire subchapter would not be appropriate.

We received one comment recommending that a section be inserted at 46 CFR 12.01–6 to direct the reader to the definitions found in 46 CFR 10.107.

We disagree. This final rule is a consolidation of the pre-existing regulations, and as part of that consolidation, all definitions are found in the beginning of the subchapter. We believe that mariners and others who use these regulations will quickly adjust to looking in one spot (46 CFR 10.107) for definitions that apply throughout the subchapter.

We received one comment that stated that the definition for “credential” was out of order. We agree and have renumbered it at 46 CFR 42.05–27.

We received a comment stating that the definition for “merchant mariner credential” needs to be added to 46 CFR Parts 70, 91, 114, 125, 160, 169, 175, 188, and 199.

We disagree. The minimal addition of the phrase “merchant mariner credential” to those parts does not necessitate the addition of that definition. We note that those parts previously referenced either an MMD or a license (or both), with neither of those terms defined in those parts, without confusion.

We received one comment recommending the definition for “conviction” not refer to decisions made by a foreign country’s court of record.

We disagree. This definition is consistent with the existing definition for “conviction.” This rulemaking is about the MMC, not changing the qualifications for licensing, and it is therefore beyond the scope of this rulemaking to address the meaning of the term “conviction.”

We received one recommendation that the definition for “regional examination center” should be revised to incorporate upcoming changes to the National Maritime Center and Regional Examination Center system.

While we agree that the change is necessary, it is beyond the scope of this rulemaking as the change needs to be made in more places in the CFR than just those being amended by this final rule. Some of these changes were recently made as part of a series of technical amendments to Title 46 of the CFR. 73 FR 56505.

K. Fees

We received one comment stating that while the MMC rule might reduce cost to the mariners, the entire TWIC/MMC rulemaking increases costs to the mariners.

While we recognize that the new TWIC requirement carries a new fee, the regulatory analysis for that project considered that new fee as a part of its cost and benefit analysis, thus it is inappropriate for that cost to be counted again in this final rule. The regulatory analysis for this rulemaking only considers the costs and benefits associated with the changes made by this final rule.

L. Format

We received one comment asking that the Coast Guard make a certificate suitable-for-framing with the officer information printed upon it, in addition to the final MMC.

We disagree. While this was also the recommendation from Merchant Marine Personnel Advisory Committee (MERPAC), the Coast Guard has decided not to produce such a document at this time since this rulemaking’s purpose is to consolidate credentials.

We received one comment stating that MERPAC has gone on record opposing the MMC.

We disagree. We have reviewed the recommendations from MERPAC, and have found no facts which would support this statement.

We received one comment recommending the use of the term “license endorsement” rather than “officer endorsement”.

We disagree. “License” merely signifies permission granted from a government. In our view, “officer” is more the appropriate term as it signifies an individual who is in a position of authority.

We received one comment recommending a new certificate of qualification be developed for ratings, and that the Coast Guard continue to issue two separate credentials.

We disagree. We are seeking to develop a consolidated credential where an individual could have all of their qualifications in a single location.

We received four comments recommending the MMC be designed to meet the requirements of ILO 185.

We agree. This was one of the items taken into account during the style selection process, as well as one of the reasons we could not combine the MMC with the TWIC. While the initial MMCs may not be ILO 185 compliant, as it will take some time to ensure the new credential meets all of the requirements, the Coast Guard is working diligently to bring the MMC into full ILO 185 compliance.

We received one comment recommending the expiration dates of the MMC and TWIC be aligned.

We disagree. This is not necessary and in some cases may not be in the best interests of those impacted by the regulations. We considered the costs associated with both documents, and believe that it may be economically advantageous to some mariners if the MMC and TWIC expiration dates do not align. However, those mariners wishing to bring these expiration dates into alignment may do so under this final rule.

M. Large Passenger Vessels

We received one comment stating that the Coast Guard needed to incorporate the Large Passenger Vessel Crew Requirements (RIN: 1625–AB16) that were published in the Interim Rule on April 24, 2007 (72 FR 20278). We received one comment recommending that 46 CFR 10.211(a)(2) be amended to include new subsection (d) for aliens in the steward’s department on large passenger vessels. We received one comment recommending that we

incorporate the MMC language in 46 CFR Parts 12 and 15 relating to large passenger vessel crew requirements.

We agree with these suggestions and have incorporated the changes made by the interim rule into this final rule.

N. License Creep

We received four comments requesting the effective date of a mariner's renewed credential be the same as the expiration date (i.e. delayed issue of the credential).

We agree, in part. While the Coast Guard agrees with this comment, we are awaiting authority from Congress to make such a change. Currently, Congress requires that the Coast Guard issue credentials for five years. In order to take action on this comment, the Coast Guard requires statutory authority to issue a credential that is valid for a period beyond 5 years.

We received one comment stating that this rule does nothing to reduce license creep.

It is our hope that the streamlining features established by this rule will reduce license creep; additionally, the Coast Guard is moving forward with the reorganizations of the National Maritime Center and the Regional Examination Centers, both of which are more focused on improvement of processes.

O. Medical

We received one comment recommending that we require general medical exams for all mariners, including entry-level mariners.

We disagree. We do not have authority to require such exams.

We received two comments recommending Column 5 of table 46 CFR 10.215 be revised to read, "may be required to demonstrate physical ability".

We agree with the intent of this suggestion. However, we have opted to remove the "x" from the box and add, in its place, the appropriate paragraph which provides the specific requirement and applicability of the demonstration of physical ability. This should eliminate some confusion over who must "demonstrate physical ability".

We received one comment recommending revision to 46 CFR 10.215(c) to allow medical examiners to perform the audiometer/speech discrimination tests.

We agree and have made the suggested change. Medical examiners who are qualified to conduct the necessary hearing tests will be authorized to perform them.

We received one comment requesting an evaluation of 46 CFR 10.215(e) with regard to the Americans with

Disabilities Act (ADA), and to either revise the paragraph or state that the ADA does not apply. The commenter seems to be concerned that medical examiners will require the demonstration of physical ability in more places than necessary to avoid potential lawsuits.

While we agree that this requirement is only mandatory for those mariners who are not undergoing a medical examination or those whom the medical examiner believes are physically unable to perform the duties of a merchant mariner, we do not believe it is appropriate to add the suggested language into the regulations.

We received one comment stating that the demonstration of physical ability: (1) Fails to provide sufficient information to ensure consistent test results, (2) will result in increased cost per examination, and (3) will increase the time needed to obtain medical results.

We disagree. The regulations provide general statements of what is required of the mariner, and additional information is available in Navigation and Inspection Circular (NVIC) 04-08, which was issued by the Coast Guard on September 18, 2008. (NVIC 04-08 replaced NVIC 02-98, incorporating developments and advancements in modern medical practices as well as improvements in the medical evaluation process.) We encourage the public to review the discussions of physical ability, examiner alternatives and current industry practice in the September 29, 2008 notice of availability for the NVIC. 73 FR 56600.

Additionally, this requirement is not going to apply to all mariners. It will only apply to those mariners whose physical ability might negatively impact maritime safety, as determined by their medical examiner during the course of normal physical examination. This demonstration will save the applicant an investment of time and money when an unknown medical or physical condition may prevent the issuance of the credential sought based on ability. It will also assist the Coast Guard in issuing a credential with certain limitations instead of denying the credential altogether or requiring additional tests. Both medical exams and demonstrations of physical ability are currently practiced and required under STCW Code. This rule clarifies the STCW requirement for physical ability; it does not alter it in any way. Based on consultation with medical practitioners, the National Maritime Center, and the Merchant Marine Personnel Advisory Committee (MERPAC), the determination of need

for and demonstration of physical ability is part of common medical practice and will not result in a net change in baseline examination time and costs to industry.

We received one comment stating that the medical examiner is not the appropriate person to attest the mariner's ability to meet the demonstration of physical ability, since it is not a medical exam but a physical agility test.

We disagree. However, we note that it is not necessary for the actual medical examiner to conduct the demonstration of physical ability, only that he or she signs for ("attest to") evaluations conducted by those within their medical practice.

We received one comment stating that the medical examiner should not be required to attest in writing to the applicant's ability to perform non-medical tasks, rather it should be provided by the actual person performing the evaluation.

We disagree. Medical examiners routinely sign-off for the tests/exams performed by persons within their practice. This evaluation should not be different.

We received one comment requesting that language be added requiring mariners to report changes in their medical condition.

The Coast Guard does not believe it is appropriate to add that requirement in this rule, as it was not contemplated or proposed in the SNPRM. In the future, the Coast Guard intends to develop regulations specifically on the medical requirements for merchant mariners. This ensures that an adequate review of the requirements can be made by those impacted by the regulations.

We received two comments recommending 46 CFR 10.215 (b) be revised to require the color vision test for original issue only.

The Coast Guard does not believe it is appropriate to make this revision in this final rule. We are limiting the changes made by this final rule to those medical issues that were proposed in the SNPRM, to consolidate the various credentials issued by the Coast Guard to mariners, and to reorganize the regulations governing the applications for, issuance of, and qualifications for those credentials. As previously mentioned, the Coast Guard intends to develop regulations specifically addressing medical requirements for mariners. We will keep this comment in mind for future reference, as we develop regulations specifically on the medical requirements for merchant mariners.

We received two comments recommending table 10.215(a) be

clarified so that hearing, vision, and physical demonstration only be required if the medical practitioner has concerns.

We agree, in part. The requirements regarding vision will be checked at each examination, which is a requirement consistent with the other modes of transportation. The hearing and demonstration of physical ability will only be required if the medical examiner has concerns regarding the applicant's medical condition as it relates to a possible negative impact on maritime safety.

We received two comments recommending that 46 CFR 10.227 be revised to allow proof of physical proficiency to be submitted on an alternative to the 719K.

We disagree. At this time, we do not have an alternative form approved for such use. Those revisions will have to be completed in a rulemaking process which provides the public with adequate opportunity to comment.

We received one comment recommending 46 CFR 10.215 be revised to ensure that the vision and hearing requirements match those on any proposed medical NVIC.

We agree. Any NVIC must be based upon the regulations which they clarify, and therefore cannot include reference to requirements outside of those found in the regulations.

We received one comment recommending 46 CFR 12.05-5 provide a reference to 46 CFR 10.215.

We agree that such a reference would be appropriate and have made the suggested change.

P. National Maritime Center

We received one comment recommending 46 CFR 10.217 be revised to provide the address to the new medical branch of the NMC.

We disagree. Merchant mariner applications will continue to be submitted to the servicing Regional Examination Centers listed in the regulations until such time as those requirements are revised through appropriate notice and comment.

We received one comment stating that 46 CFR 10.217 seems to contradict the new reorganization of the Mariner Licensing and Documentation (MLD) Program.

We recognize the inconsistency. The Coast Guard is still in the process of reorganizing the MLD program. Some of these changes were recently made in a series of technical amendments to Title 46 of the CFR. 73 FR 56505.

We received one comment stating that 46 CFR 10.02-17(f) and (g) appear to give the Officer in Charge of Marine

Inspection (OCMI) the authority to refuse an examination.

This is true. Until the reorganization of the MLD program is complete, the OCMI will still retain that authority. However, in an effort to reduce confusion, and in preparation of the reorganization, we have revised "OCMI" to "Coast Guard".

Q. Oaths

We received one comment requesting that the oath not be required. At this time, the Coast Guard is not able to remove the oath requirement from the regulations, as it is also a statutory requirement (46 U.S.C. 7105).

R. Pilots

We received one comment stating that the MMC would result in lowering the standards for pilots.

We disagree. This final rule does not substantially change the requirements for pilots. The only changes made were based upon changes in terminology.

We received one comment stating that first class pilot endorsements were absent from the list of endorsements in 46 CFR 10.109.

We agree and have made the suggested change.

We received three comments stating that 46 CFR 15.812 is confusing, and possibly implies any officer can fulfill the requirements of a first class pilot.

We agree that portions of this section are confusing, and have revised it to ensure the language is consistent with the existing requirements and comprehensible.

S. Posting of Credential

We received one comment stating that 46 CFR 10.203(c) and (d) confuses the issue regarding the posting of the document.

We disagree. The posting of the credential is not inconsistent with this requirement, since the mariner is normally on the vessel with his or her credential. However, in order to clarify this, we have added a reference to the posting requirement in 10.203(c).

T. Social Security Numbers

We received one comment requesting that the Social Security Number (SSN) not be used for recordkeeping purposes as proposed in 46 CFR 10.207.

While we recognize the need to protect the SSN, it still remains the best method of correlating records on an individual. We will retain the SSN for internal recordkeeping purposes only.

U. International Convention on the Standards on Training, Certification, and Watchkeeping for Seafarers, 1978, as Amended (STCW)

We received one comment recommending 46 CFR 10.205(f) be deleted because it is unnecessarily confusing.

We disagree. This language is consistent with our existing requirements; changing it is outside the scope of this project. This change will be considered, in a separate rulemaking titled "Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978."

We received one comment recommending that the date, January 31, 1997, referenced in 46 CFR 11.1005 be removed. We agree with this comment and have made the suggested change.

We received one comment expressing concern that 46 CFR 12.02-7 may be in error and that there may be additional vessels greater than 200 GRT/1000 Hp to which STCW applies.

We disagree. This language was carried over exactly from the existing requirements located at 46 CFR 12.02-7.

We received two comments seeking clarification for why the dates were left in 12.05-3(b) and 12.15-3, and not in 12.05-3(c) and 12.15-3(e).

These dates were retained because removing them would have amounted to a substantive change to the regulations, which is outside the scope of this rulemaking. This revision will be considered, in a separate rulemaking titled "Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978."

V. Training

We received one comment stating there is an inconsistency in 46 CFR 11.304 between the requirements for Officer in Charge of Navigational Watch (OICNW) and Officer in Charge of Engineering Watch (OICEW) regarding onboard training.

While we agree there is an inconsistency, it is not accidental. These requirements are inconsistent because the requirements for OICNW and OICEW within the STCW are different.

W. Integration With TWIC

We received one comment asking why a TWIC was required in both 11.304(g) and (h).

While drafting the SNPRM, the TWIC requirement was added because it was

thought that an identity document would be necessary to determine the identity of each individual involved in the training process. However, upon reflection, there is no need to require the number of the TWIC be included for the identity of the individual, especially since not everyone involved in the training will hold a TWIC. We have, therefore, removed it from this final rule.

We received four comments expressing concern that the delay in the issuance of the TWIC could and should delay the issuance of the MMC.

We disagree. While there may be a delay in fully implementing all of the provisions within the MMC rule, such as the sharing of information between TSA and Coast Guard, once the credential is ready to be issued by the Coast Guard, it would be appropriate to move forward with the rule. As such, we have included language in this final rule that was not included in the SNPRM, that will allow the Coast Guard to issue MMCs, continue performing full background checks (for both safety and security), and require the appearance of the mariner in person for application of new and renewal MMCs, even before the regulatory requirement for mariners to obtain a TWIC is passed.

We received one comment stating that an automatic revocation of the MMC is inappropriate when the TWIC is invalidated and proposed a temporary suspension.

We agree. There will not be an automatic revocation of an MMC when the TWIC is denied or has been revoked. Any action against the MMC will be taken through the existing Suspensions and Revocations (S&R) procedure. However, because a mariner who lacks a valid TWIC will not be permitted escorted access to secure areas, this will likely preclude performance of normal job functions on a vessel regulated by 33 CFR part 104.

We received one comment stating that the TWIC should not be a requirement for the issue or reissue of an MMC.

We disagree. Statute requires all mariners who are credentialed by the Coast Guard to hold a transportation security card (46 U.S.C. 70105). Further, the statute specifically includes all mariners engaged on towing vessels, which would include the unlicensed deckhands on inland towing vessels.

We received one comment requesting that we wait a full 5 years before suspending or revoking a mariner's credential for failing to hold a TWIC.

We disagree. The TWIC final rule requires a mariner holding a credential issued by the Coast Guard to apply for and activate a TWIC prior to April 15,

2009. After this date, a mariner failing to hold a TWIC would be in violation of this requirement, and the Coast Guard may begin suspension and revocation (S&R) proceedings.

We received one comment asking us to ensure that S&R proceedings against an MMC would not begin until the appeals regarding the TWIC have been exhausted.

We disagree. Under normal circumstances, S&R proceedings will not begin until all appeals regarding the TWIC have been completed. However, if the Coast Guard is provided with information considered sufficient to justify a temporary suspension of the MMC, then that action will be started immediately.

We received one comment asking if mariners will be able to serve during times of national need without a TWIC. At this time, 46 U.S.C. 70105 does not provide flexibility to allow a mariner to serve without a TWIC.

We received one comment stating that 10.235(h) contradicted the preamble language for appeals.

While we note that the language in the rule is not the same as the language in the preamble, the preamble also states that, if the situation warrants, we would pursue temporary suspension under 46 U.S.C. 7702, which also is not specifically detailed in the regulations. See discussion under "4. Appeals" at 72 FR 3609.

We received one comment recommending that § 15.401 be amended to include the abbreviation for TWIC following the phrase. We have made the suggested edit.

We received one comment recommending that language be added to § 15.720(a) clearly stating that foreign persons would be subject to the escorting requirements in the TWIC regulations.

While we agree that these foreign individuals are only allowed to be used in foreign waters when U.S. citizens are unavailable to fill those positions, we have not made the suggested change. The appropriate revision would be to add a requirement that the crew be replaced with U.S. citizens with the appropriate credentials before returning to a United States port. Such a change, however, would go beyond what was included in either the NPRM or the SNPRM. We will keep this suggestion in mind for future rulemaking projects in this area.

We received one comment stating opposition to TSA being involved in the credentialing of mariners; this opposition included their involvement in the background checks.

This comment is beyond the scope of this rulemaking, as the function to administer 46 U.S.C. 70105 (the TWIC requirement) was delegated to TSA, not the Coast Guard.

We received one comment expressing opposition to the Coast Guard in not reviewing TSA's decisions regarding the TWIC.

We disagree. It is not appropriate for the Coast Guard to review or duplicate TSA's performance in conducting the security vetting, as well as the possible appeals associated with any TWIC denial. TSA has provided opportunity in its regulations for independent review, by an Administrative Law Judge, of any adverse decisions in regard to the TWIC.

X. Questions Outside the Scope of This Rulemaking

We received a number of comments that the Coast Guard determined to be outside the scope of this rulemaking. These comments were forwarded to the appropriate organizations for consideration in future regulatory actions.

VI. Regulatory Evaluation

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analysis based on 13 of these statutes or executive orders.

A. Executive Order 12866

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. A final Regulatory Evaluation follows:

This rule makes substantive changes to the requirements in 46 CFR parts 10, 12, 13, 14, and 15 for the form on which the mariner's qualifications appear and the credential that will serve as the mariner's primary identification credential, and makes many non-substantive nomenclature changes throughout Titles 33 and 46 of the Code of Federal Regulations. Title 46 lays out the standards for merchant mariners, including eligibility and training requirements to obtain credentials needed to serve in one of the many roles in the merchant marine; wherever possible, this rulemaking will not change these qualification requirements. This rulemaking will combine the elements of the Merchant Mariner's License, Merchant Mariner's Document

(MMD), Standards of Training, Certification and Watchkeeping (STCW) Endorsement, and Certificate of Registry (COR) into one document, called the Merchant Mariner Credential (MMC). Although it technically serves as a certificate of identification, practically, the MMC would serve as the mariner's qualification document.

This rulemaking project was developed in conjunction with a joint rulemaking project, published by the Coast Guard and the Transportation Security Administration, titled "Transportation Worker Identification Credential (TWIC) Implementation in the Maritime Sector; Hazardous Materials Endorsement for a Commercial Driver's License" (the "TWIC rule"; RIN: 1652-AA41). The final rule for that joint project was published on January 25, 2007, in the same issue of the *Federal Register* as the SNPRM for this project.

The TWIC rule implemented the requirements of 46 U.S.C. 70105 and requires all merchant mariners holding an active License, MMD, COR, or STCW Endorsement to hold a TWIC. The TWIC is a biometric identification card, and will serve as the mariner's primary identity document while in U.S. waters. With this final rule, the MMD, License, COR, and STCW Endorsement will be consolidated into the MMC, which will serve as the mariner's qualification document, as well as an identity document (though the latter primarily when the mariner is serving outside of U.S. waters). All current qualification and suitability requirements associated with Licenses, MMDs, STCW Endorsements, and CORs remain the same, with only minor exceptions.

Prior to the effective date of this final rule, all four credentials (MMD, License, COR, and STCW Endorsement) were issued at one of 17 Coast Guard Regional Examination Centers (RECs). For first time applicants, the process of obtaining an MMD, License, COR, or STCW Endorsement required at least two visits to an REC. During the first visit, an applicant had to be fingerprinted by, and establish his or her identity and legal presence in the U.S. to, an REC employee.

After the successful completion of a safety and security review, verification of an applicant's identity, and verification that the applicant had satisfied all other requirements for the particular credential sought, an REC issued the credential to the applicant. For first time applicants, this required a return trip to the REC to retrieve their credential and take an oath to faithfully perform all duties required of them by law. Individuals renewing credentials

did not need to restate the oath and could receive their renewed credentials by mail. However, all applicants, those seeking new credentials as well as those seeking to renew their credentials, had to travel to an REC once in the application process to be fingerprinted by, and show proof of identification to, an REC employee.

The requirements to receive a TWIC are similar to the requirements to receive an MMD, License, COR, or STCW Endorsement. In order for an applicant to receive a TWIC, the applicant is required to travel to a designated TWIC enrollment center to submit fingerprints, proof of identity, and legal presence in the U.S. A background check is conducted to determine that the applicant is not a security risk. Once an applicant has been approved, the applicant must return to the TWIC enrollment center to pick up the TWIC and prove their identity by a one-to-one match of the applicant's fingerprint against the electronic fingerprint template stored on the card.

Soon, TSA will submit to the Coast Guard the applicant's fingerprints, photograph, proof of citizenship, proof of legal presence in the U.S., and FBI number and any criminal record (if applicable) provided with the individual's TWIC application.

Since the applicant's fingerprints, photograph and proof of citizenship, and identity will have been verified by TSA and submitted to the Coast Guard, this final rule removes the requirement for a merchant mariner to travel to an REC to submit this information to an REC employee. In addition to allowing the merchant mariner to mail in their application, this rule will also allow new applicants to mail in their notarized oath, which would be a nominal cost to the applicant. This will remove the requirement for a second trip to the REC to pick up their card and take the oath. This rulemaking creates the possibility for a mariner to receive his or her MMC entirely through the mail.

Written examinations will still occur at RECs, and the RECs will remain accessible to mariners should they choose to seek their services in person.

This rulemaking will also remove the \$45 issuance fee for continuity licenses and MMDs. These documents are issued to applicants for renewal of licenses and MMDs that are endorsed with qualified ratings who are unwilling or otherwise unable to meet all the requirements to serve and allows the mariner to renew the license or MMD with the following restrictive endorsement placed on the license: "License renewed for continuity

purposes only; service under the authority of this license is prohibited." Merchant mariner's documents are issued with the following restrictive endorsement: "Continuity only; service under document prohibited."

The following sections discuss the baseline population of applicants that will be affected by this rulemaking and provides an assessment of the impacts to merchant mariners by this rulemaking.

Baseline Population

The Coast Guard data for the number of affected merchant mariners came from the NMC, which provides credentialing, training, and certification services to all merchant mariners. There are approximately 205,000 credentialed merchant mariners. The NMC also estimates that the current population of mariners with a continuity document is approximately 4,500. In addition to the current population of merchant mariners, there are a number of new applicants every year.

Assessment

Under the current rule, applicants pay a \$45 issuance fee for each credential that they apply for. Under this rulemaking the applicants will only apply for a single credential (the MMC) and as a result will only be required to pay one \$45 issuance fee regardless of the number of endorsements that they carry. This change is not a reduction in any fee that a mariner must pay, but a reduction in the number of fees that the mariner must pay. Any mariner that would, under the current rules, solicit multiple mariner qualifying documents (such as both an MMD and a License), will benefit from this change in the fee structure.

If the merchant mariner has not synchronized the expiration dates of his or her current credentials, then they may currently be traveling to an REC multiple times within a five-year span. The issuance of the MMC will require mariners to track and update only one document and will potentially eliminate the need to travel to an REC entirely. This will provide greater flexibility to the mariner. Currently, approximately 13,843 mariners have more than one credential and have not aligned their expiration dates. These mariners will not only receive a benefit from reduced application fees, but also from fewer, if any, trips to a REC.

In order to reduce the burden of traveling and having to apply for a new MMC before the mariner's current MMD, License, COR, or STCW Endorsement expires, this rulemaking will allow mariners to apply for an

MMC at the time that their current credentials expire, which will essentially phase in the MMC over a five-year period. Since all currently issued credentials are valid for five-year periods, all mariners will have to renew their credentials by the close of the five-year grace period. When a mariner applies to renew his or her MMD, License, COR, or STCW Endorsement, they will instead be issued an MMC, which will reflect all of their qualifications in the form of endorsements on the MMC. This will allow mariners to apply over a longer period of time and will not create an additional burden by requiring mariners to make an extra trip to the RECs. Mariners whose credentials do not expire simultaneously may choose to wait to renew the credentials that have yet to expire, but if the applicant later chooses to renew that credential, the expiration date of the MMC on which the endorsement would be added will not change unless the mariner also renews all other endorsements on the MMC.

Currently, mariners may only renew their credentials within 12 months of their expiration date. This rulemaking will allow mariners to apply for renewal anytime before their current credentials expire and up to one year after the expiration date. As a result, this rulemaking will provide greater flexibility to mariners by allowing them to apply for an MMC at the time they choose.

In a separate Coast Guard rulemaking document, published on January 13, 2006 (71 FR 2154), it was estimated that approximately 60 percent of current mariners live within one-day roundtrip travel to an REC, 30 percent live within overnight roundtrip travel (one night and two days) to an REC, and 10 percent live at a distance greater than overnight roundtrip travel (greater than one night and two days) to an REC. This was derived from national percentages for all mariners who have addresses on file with the NMC. In the TWIC rule, TSA and the Coast Guard estimated that there would be many more TWIC enrollment centers than Coast Guard RECs (we now know that number will be 149 vice 17 RECs). By allowing mariners to visit TWIC enrollment centers instead of RECs, this rule will provide a potential benefit for many mariners by reducing the travel costs and time currently required to receive a credential.

In the separate rulemaking document (referenced above), the cost for mariners to travel to and from one of 17 RECs was estimated. The travel cost to mariners for a one-day roundtrip travel to and

from an REC was given as \$387. The estimated cost to mariners for overnight roundtrip travel was \$911. Applicants who live distances greater than 200 miles and must travel for more than one night were determined to incur the maximum estimated cost of \$1,185.

The TWIC has the effect of transferring the cost of travel from an REC to the cost of travel to a TWIC enrollment center, but that cost is associated with the TWIC rule, not with this rule. The overall cost for mariners associated with this rulemaking will decrease or remain the same and will serve to provide more flexibility to mariners. As there will be more TWIC enrollment centers than RECs, the distance required and the amount of time spent traveling will be reduced for most mariners. Based on the percentages above, 60 percent of the mariners that live within one-day roundtrip travel will potentially receive the economic benefits of having a TWIC enrollment center located closer to them than one of the current RECs. The remaining 30 percent of mariners that live within an overnight round-trip travel and the 10 percent of mariners that live a distance greater than an overnight roundtrip travel have an increased likelihood of having a TWIC enrollment center located closer to them than one of the current RECs and will potentially receive an even greater benefit in travel cost savings from this rule.

In addition to these benefits, the removal of the issuance fee for continuity documents will provide mariners who choose to apply for a continuity document a savings of \$45.

B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule will have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

We do not expect this rule to have a significant impact on a large number of small entities. This rulemaking consolidates the number of credentials merchant mariners must carry and streamlines the application process in a way that would help prevent abuse, reduce cost, and assist the Coast Guard in its effort to help secure U.S. marine infrastructure, commercial activities, and the free flow of trade.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a

substantial number of U.S. small entities.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking. If this rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the individuals listed above in the section titled **FOR FURTHER INFORMATION CONTACT**.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

D. Collection of Information

This rule calls for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). This rulemaking will require the modification of one or more credentialing program collections of information currently approved by the Office of Management and Budget (OMB) under OMB Control Numbers 1625–0040, 1625–0012, 1625–0078, and 1625–0079. However, the changes from this rule which require modification of these collections of information will not go into effect until after April 15, 2009, when TSA begins sharing TWIC enrollment information with the Coast Guard. A number of policy decisions must be made before the changes to those collections can be finalized, such as how the information will be transferred from TSA to the Coast Guard, methods of submission for mariners, and the format of a new application form once Coast Guard is receiving information from TSA. Because these regulatory changes will not go into effect immediately, approval for revisions to these OMB Control Numbers will not be submitted to OMB

until these policy decisions have been made.

The changes made by this rule that go into effect in 30 days are burden neutral, and as such do not require immediate revision to the collections of information listed above.

You are not required to respond to a collection of information unless it displays a currently valid OMB control number.

E. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on state or local governments and would either preempt State law or impose a substantial direct cost of compliance on them.

We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a state, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

H. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or safety that may disproportionately affect children.

J. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments,

because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

L. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, the Coast Guard did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 0023.1 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded under section 2.B.2 Figure 2–1, paragraph (34)(c) of the Instruction. This rule involves the training, qualifying, licensing, and disciplining of maritime personnel and involves matters of procedure only; it consolidates the credentials issued to merchant mariners and revises the application process for issuing those

credentials. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects

33 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Penalties.

33 CFR Part 20

Administrative practice and procedure, Hazardous substances, Oil pollution, Penalties, Water pollution control.

33 CFR Part 70

Navigation (water) and Penalties.

33 CFR Part 95

Alcohol abuse, Drug abuse, Marine safety, and Penalties.

33 CFR Part 101

Harbors, Maritime security, Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

33 CFR Part 110

Anchorage grounds.

33 CFR Part 141

Citizenship and naturalization, Continental shelf, Employment, Reporting and recordkeeping requirements.

33 CFR Part 155

Alaska, Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 156

Hazardous substances, Oil pollution, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 160

Administrative practice and procedure, Harbors, Hazardous materials transportation, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Vessels, Waterways.

33 CFR Part 162

Navigation (water) and Waterways.

33 CFR Part 163

Cargo vessels, Harbors, Navigation (water), Waterways.

33 CFR Part 164

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

46 CFR Part 1

Administrative practice and procedure, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

46 CFR Part 4

Administrative practice and procedure, Drug testing, Investigations, Marine safety, Nuclear vessels, Radiation protection, Reporting and recordkeeping requirements, Safety, Transportation.

46 CFR Part 5

Administrative practice and procedure, Alcohol abuse, Drug abuse, Investigations, Seamen.

46 CFR Part 10

Incorporation by reference, Penalties, Reporting and recordkeeping requirements, Seamen, Transportation Worker Identification Card.

46 CFR Part 11

Incorporation by reference, Penalties, Reporting and recordkeeping requirements, Schools, Seamen.

46 CFR Part 12

Incorporation by reference, Penalties, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 13

Cargo vessels, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 14

Oceanographic research vessels, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 15

Reporting and recordkeeping requirements, Seamen, Vessels.

46 CFR Part 16

Drug testing, Marine safety, Reporting and recordkeeping requirements, Safety, Transportation.

46 CFR Part 26

Marine safety, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 28

Alaska, Fire prevention, Fishing vessels, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 30

Cargo vessels, Foreign relations, Hazardous materials transportation, Penalties, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 31

Cargo vessels, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 35

Cargo vessels, Marine safety, Navigation (water), Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 42

Penalties, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 58

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 61

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 78

Marine safety, Navigation (water), Passenger vessels, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 97

Cargo vessels, Marine safety, Navigation (water), Reporting and recordkeeping requirements.

46 CFR Part 98

Cargo vessels, Hazardous materials transportation, Marine safety, Reporting and recordkeeping requirements, Water pollution control.

46 CFR Part 105

Cargo vessels, Fishing vessels, Hazardous materials transportation, Marine safety, Petroleum, Seamen.

46 CFR Part 114

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 115

Fire prevention, Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 122

Marine safety, Passenger vessels, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 125

Administrative practice and procedure, Cargo vessels, Hazardous materials transportation, Marine safety, Seamen.

46 CFR Part 131

Cargo vessels, Fire prevention, Marine safety, Navigation (water), Occupational safety and health, Reporting and recordkeeping requirements.

46 CFR Part 151

Cargo vessels, Hazardous materials transportation, Marine safety, Reporting and recordkeeping requirements, Water pollution control.

46 CFR Part 166

Schools, Seamen, Vessels.

46 CFR Part 169

Fire prevention, Marine safety, Reporting and recordkeeping requirements, Schools, Vessels.

46 CFR Part 175

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 176

Fire prevention, Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 185

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 196

Marine safety, Oceanographic research vessels, Reporting and recordkeeping requirements.

46 CFR Part 199

Cargo vessels, Marine safety, Oil and gas exploration, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 401

Administrative practice and procedure, Great Lakes, Navigation (water), Penalties, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 402

Great Lakes, Navigation (water), Seamen.

■ For the reasons listed in the preamble, the Coast Guard amends 33 CFR parts 1, 20, 70, 95, 101, 110, 141, 155, 156, 160, 162, 163, 164, and 165; 46 CFR parts 1, 4, 5, 10, 12, 13, 14, 15, 16, 26, 28, 30, 31, 35, 42, 58, 61, 78, 97, 98, 105, 114, 115, 122, 125, 131, 151, 166, 169, 175, 176, 185, 196, 199, 401 and 402; and in 46 CFR, add a new part 11 as follows:

33 CFR CHAPTER I**PART 1—GENERAL PROVISIONS**

■ 1. The authority citation for part 1 continues to read as follows:

PART 110—ANCHORAGE REGULATIONS

- 18. Revise the authority citation for part 110 to read as follows:

Authority: 33 U.S.C. 471, 1221 through 1236, 2030, 2035, 2071; 33 CFR 1.05–1(g); Department of Homeland Security Delegation No. 0170.1.

§ 110.186 [Amended]

- 19. In § 110.186(b)(3), after the word “licensed”, add the words “or credentialed”.

§ 110.188 [Amended]

- 20. In § 110.188(b)(10), after the word “licensed”, add the words “or credentialed”.

§ 110.214 [Amended]

- 21. In § 110.214(a)(3)(i), after the word “licensed” add the words “or credentialed”.

PART 141—PERSONNEL

- 22. Revise the authority citation for part 141 to read as follows:

Authority: 43 U.S.C. 1356; 46 U.S.C. 70105; 49 CFR 1.46(z).

§ 141.5 [Amended]

- 23. In § 141.5(b)(1) remove the words “licensed officers, and unlicensed crew” and add, in their place, the words “crew, and officers holding a valid license or MMC with officer endorsement”.

- 24. In § 141.10, add a definition for the term “Transportation Worker Identification Credential or TWIC”, in alphabetical order, to read as follows:

§ 141.10 Definitions.

* * * * *

Transportation Worker Identification Credential or TWIC means an identification credential issued by the Transportation Security Administration according to 49 CFR part 1572.

§ 141.25 [Amended]

- 25. In § 141.25—
 - a. In paragraph (a) introductory text, remove the word “The” and add, in its place, the words “For the purposes of this part, the”; and
 - b. In paragraph (a)(1), before the words “merchant mariner’s document”, add the word “valid”, and remove the words “under 46 CFR Part 12”.
- 26. In § 141.30—
 - a. In the introductory text, remove the first appearance of the word “The” and add, in its place, the words “For the purposes of this part, the”;
 - b. In paragraph (a), before the words “merchant mariner’s document”, add

the word “valid”, and remove the words “under 46 CFR Part 12”; and

- c. In paragraph (b), remove the words “Immigration and Naturalization Service” and add, in their place, the words “Immigration and Customs Enforcement Agency”; and
- d. Add a new paragraph (d) to read as follows:

§ 141.30 Evidence of status as a resident alien.

* * * * *

(d) A valid Transportation Worker Identification Credential.

§ 141.35 [Amended]

- 27. In § 141.35(a)(1), after the words “merchant mariner’s document”, add the words “, Transportation Worker Identification Credential,”.

PART 155—OIL OR HAZARDOUS MATERIAL POLLUTION PREVENTION REGULATIONS FOR VESSELS

- 28. The authority citation for part 155 continues to read as follows:

Authority: 33 U.S.C. 1231, 1321(j); E.O. 11735, 3 CFR, 1971–1975 Comp., p. 793. Sections 155.100 through 155.130, 150.350 through 155.400, 155.430, 155.440, 155.470, 155.1030(j) and (k), and 155.1065(g) are also issued under 33 U.S.C. 1903(b). Sections 155.480, 155.490, 155.750(e), and 155.775 are also issued under 46 U.S.C. 3703. Section 155.490 also issued under section 4110(b) of Public Law 101–380.

- 29. Revise § 155.110 to read as follows:

§ 155.110 Definitions.

Except as specifically stated in a section, the definitions in part 151 of this chapter, except for the word “oil”, and in part 154 of this chapter, apply to this part. The following definition also applies to this part:

Merchant mariner credential or MMC means the credential issued by the Coast Guard under 46 CFR part 10. It combines the individual merchant mariner’s document, license, and certificate of registry enumerated in 46 U.S.C. subtitle II part E as well as the STCW endorsement into a single credential that serves as the mariner’s qualification document, certificate of identification, and certificate of service.

- 30. In § 155.710—
 - a. In paragraph (a)(2), after the word “license”, add the words “or officer endorsement”;
 - b. Revise paragraph (e)(1) to read as set out below;
 - c. In paragraph (f), after the word “MMD”, add the words “ or merchant mariner credential”; and after the words “either a license”, add the words “, officer endorsement,”; and

- d. In paragraph (g), after the words “need not hold any of the”, add the words “merchant mariner credentials,”.

§ 155.710 Qualifications of person in charge.

* * * * *

(e) * * *

(1) On each inspected vessel required by 46 CFR chapter I to have an officer aboard, holds a valid license or merchant mariner credential issued under 46 CFR chapter I, subchapter B, authorizing service as a master, mate, pilot, engineer, or operator aboard that vessel, or holds a valid merchant mariner’s document or merchant Mariner credential endorsed as Tankerman-PIC;

* * * * *

§ 155.815 [Amended]

- 31. In § 155.815(b), after the word “licensed” add the words “or credentialed”.

PART 156—OIL AND HAZARDOUS MATERIAL TRANSFER OPERATIONS

- 32. The authority citation for part 156 continues to read as follows:

Authority: 33 U.S.C. 1231, 1321(j); 46 U.S.C. 3703a, 3715; E.O. 11735, 3 CFR 1971–1975 Comp., p. 793. Section 156.120(bb) and (ee) are also issued under 46 U.S.C. 3703.

§ 156.210 [Amended]

- 33. In § 156.210(d), remove the words “a licensed individual” and add, in their place, the words “an officer”.

PART 160—PORTS AND WATERWAYS SAFETY—GENERAL

- 34. The authority citation for part 160 continues to read as follows:

Authority: 33 U.S.C. 1223, 1231; 46 U.S.C. Chapter 701; Department of Homeland Security Delegation No. 0170.1. Subpart C is also issued under the authority of 33 U.S.C. 1225 and 46 U.S.C. 3715.

§ 160.113 [Amended]

- 35. In § 160.113(b)(4), remove the word “licensed”.

PART 162—INLAND WATERWAYS NAVIGATION REGULATIONS

- 36. Revise the authority citation for part 162 to read as follows:

Authority: 33 U.S.C. 1231; Department of Homeland Security Delegation No. 0170.1.

- 37. Add a new § 162.5 to read as follows:

§ 162.5 Definitions.

The following definition applies to this part:

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Federal Register

**Friday
June 25, 2010**

Department of Homeland Security

Coast Guard

**Navigation and Navigable Waters,
Technical, Organizational and
Conforming Amendments; Final
Rule**

compensation for the referrals of business, splits of fees or unearned fees.

In analyzing whether a particular payment or fee bears a reasonable relationship to the value of the goods or facilities actually furnished or services actually performed, HUD believes that payments must be commensurate with that amount normally charged for similar services, goods or facilities * * *. If the payment or a portion thereof bears no reasonable relationship to the market value of the goods, facilities or services provided, the excess over the market rate may be used as evidence of a compensated referral or an unearned fee in violation of Section 8(a) or (b) of RESPA. (See 24 CFR 3500.14(g)(2).) Moreover, HUD also believes that the market price used to determine whether a particular payment meets the reasonableness test may not include a referral fee or unearned fee, because such fees are prohibited by RESPA. Congress was clear that for payments to be legal under Section 8, they must bear a reasonable relationship to the value received by the person or company making the payment. (S. Rep. 93-866, at 6551.) 64 FR 10086.

D. Conclusion

Accordingly, HUD interprets section 8 of RESPA and HUD's regulations as these authorities apply to the compensation provided by home warranty companies to real estate brokers and agents as follows:

(1) A payment by an HWC for marketing services performed by real estate brokers or agents on behalf of the HWC that are directed to particular homebuyers or sellers is an illegal kickback for a referral under section 8;

(2) Depending upon the facts of a particular case, an HWC may compensate a real estate broker or agent for services when those services are actual, necessary and distinct from the primary services provided by the real estate broker or agent, and when those additional services are not nominal and are not services for which there is a duplicative charge; and

(3) The amount of compensation from the HWC that is permitted under section 8 for such additional services must be reasonably related to the value of those services and not include compensation for referrals of business.

F. Solicitation of Comment

This interpretive rule represents HUD's interpretation of its existing regulations and is exempt from the notice and comment requirements of the Administrative Procedure Act. (See 5 USC 553(b)(3)(A)). Nevertheless, HUD is interested in receiving feedback from the public on this interpretation, specifically with respect to clarity and scope.

Dated: June 18, 2010.

Helen R. Kanovsky,
General Counsel.

[FR Doc. 2010-15355 Filed 6-24-10; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 1, 3, 8, 13, 19, 23, 25, 26, 27, 51, 67, 81, 84, 89, 96, 101, 104, 105, 110, 114, 116, 118, 120, 126, 127, 128, 135, 140, 141, 144, 148, 149, 150, 151, 153, 154, 155, 156, 157, 158, 159, 160, 164, 165, 167, 169, 174, 179, 181, and 183

[Docket No. USCG-2010-0351]

RIN 1625-ZA25

Navigation and Navigable Waters; Technical, Organizational, and Conforming Amendments

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: This rule makes non-substantive changes throughout Title 33 of the Code of Federal Regulations. The purpose of this rule is to make conforming amendments and technical corrections to Coast Guard navigation and navigable waters regulations. This rule will have no substantive effect on the regulated public. These changes are provided to coincide with the annual recodification of Title 33 on July 1.

DATES: This final rule is effective June 25, 2010.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2010-0351 and are available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to <http://www.regulations.gov>, inserting USCG-2010-0351 in the "Keyword" box, and then clicking "Search."

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Diane LaCumsky, Coast Guard; telephone 202-372-1025, e-mail Diane.M.LaCumsky@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

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I. Regulatory History

We did not publish a notice of proposed rulemaking (NPRM) for this rule. Under 5 U.S.C. 553(b)(3)(A), the Coast Guard finds this rule is exempt from notice and comment rulemaking requirements because these changes involve rules of agency organization, procedure, or practice. In addition, the Coast Guard finds notice and comment procedure are unnecessary under 5 U.S.C. 553 (b)(3)(B) as this rule consists only of corrections and editorial, organizational, and conforming amendments and these changes will have no substantive effect on the public. This rulemaking also implements the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, by revising the Penalty Adjustment Table published in 33 CFR 27.3. This revision reflects statutorily prescribed adjustments of civil monetary penalties (CMP) for 2010. These statutes do not allow for discretion in implementation, rendering prior notice and comment unnecessary and contrary to the public interest.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that, for the same reasons, good cause exists for making this rule effective upon publication in the **Federal Register**.

II. Background

Each year the printed edition of Title 33 of the Code of Federal Regulations is recodified on July 1. This rule, which becomes effective June 25, 2010, makes technical and editorial corrections throughout Title 33 in time to be reflected in the recodification. This rule does not create any substantive requirements.

III. Discussion of Rule

This rule amends 33 CFR Part 1 by adding a new paragraph to clarify the Coast Guard's District Commanders' authority to redelegate signature of

temporary deviations for bridge operating schedules. This rule clarifies existing practice which allows the District Commander to give the District Bridge Chief the authority to sign temporary deviations.

This rule revises 33 CFR Part 3 to designate Sector Honolulu Marine Inspection Zone and Captain of the Port Zone boundaries to accurately reflect current agency practice. We also add a new section to 33 CFR Part 3, to reflect internal agency organization providing for Officer in Charge, Marine Inspection (OCMI) authority in the Far East Maritime Inspection Zone. Additionally, we are adding a new paragraph to Part 3 to establish agency procedure and practice in execution of Search and Rescue in the Atlantic Area Search and Rescue Regions (SRR).

In this rule, the Coast Guard is publishing the 2010 Civil Monetary Penalty Inflation Adjustments. These adjustments, in 33 CFR Part 27, are made in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, and implement the provisions of these statutes. These statutes require the Coast Guard to periodically adjust the civil monetary penalties for inflation by a method that is specifically prescribed within these statutes and which allows no discretion. The statutory method specifies the inflation measure to be used, the method for the calculation of the inflation adjustment, and the method for the numerical rounding of the results.

The publication in this final rule of the adjustments for 2010 establishes agency procedure for publishing the annual prescribed adjustment of civil penalties as a part of the Coast Guard's annual technical amendment to 33 CFR, as opposed to publishing separate rulemakings for the annual adjustments.

The last inflation adjustments were made in 2009. 74 FR 68150, December 23, 2009. The 2010 adjustments are based on the change in the Consumer Price Index for All Urban Consumers (CPI-U) from June 2008 to June 2009. The recorded change in CPI-U during that period was -1.43 percent. Because of the small change in CPI-U and the required rules for rounding, there was no change to any of the maximum penalty amounts from the previous adjustment and the 2010 amounts are therefore identical to the 2009 amounts.

This rule revises 33 CFR Part 155 to correct a typographical error found in 33 CFR 155.4030(g), which erroneously states the pumping rate factor as 0.16 gpm/ft² instead of 0.016 gpm/ft². In the preamble to the salvage and marine

firefighting final rule, the Coast Guard expressly disagreed with the suggestion that the application rates for foam be made consistent with National Fire Protection Association (NFPA) 11 and 11A which require a minimum application rate of 0.16 gallons per minute per square foot (gpm/ft²) for a fuel spill involving flammable liquids in depth. 73 FR 80618, December 31, 2008. Instead, as reflected in the preamble of that rule, § 155.4030(g) was intended to meet the quantity of foam requirements in the existing 46 CFR 34.20-5, and Coast Guard NVIC 06-72 "Guide to Fixed Fire-Fighting Equipment Aboard Merchant Vessels." These standards require a quantity of foam large enough to supply foam to one tenth of the surface over the cargo tanks, or the horizontal sectional area of the single largest tank. However, this minimum application rate was not reflected correctly in § 155.4030(g) due to a typographical error in the final rule. Thus, the pumping rate factor is corrected from 0.16 gpm/ft² to 0.016 gpm/ft². As discussed in the preamble to the salvage and marine firefighting final rule, the Coast Guard clearly intended to use the extinguishing agent application rate of 0.016 gpm/ft² to calculate the amount necessary to address a contained fire involving 10 percent of the deck area of the vessel for 20 minutes. If this typographical error was not corrected and the application rate remained at 0.16 gpm/ft², industry would be required to use 10 times the amount of foam than was considered in the final rule, resulting in increased cost and burden to industry.

This rule also revises 33 CFR Part 155 to correct an omission in the wording of 33 CFR 155.4035(b)(1). This technical amendment changes the salvage and marine firefighting final rule to align with the Coast Guard's intent that either the NFPA pre-fire plan or an alternative fire plan are acceptable for meeting the requirement for a marine firefighting pre-fire plan. In the preamble to the salvage and marine firefighting final rule, the Coast Guard said, "We added wording to allow SOLAS vessels to use their SOLAS fire plans in lieu of a fire plan developed under NFPA 1405 to § 155.4035(b)(1)." 73 FR 80624, December 31, 2008. However, this was inadvertently not added to § 155.4035(b)(1) in the final rule. We are correcting this omission by revising § 155.4035(b)(1) to reflect modification to this section as it was originally intended and stated in the preamble to the final rule. Additionally, although the preamble used the term "SOLAS fire plans," there is no such document under

the International Convention for the Safety of Life at Sea, 1974, as amended, (SOLAS). The revision to § 155.4035(b)(1) uses the correct reference: "SOLAS Chapter II-2, Regulation 15."

This rule revises 33 CFR Part 158 to implement non-discretionary provisions in the Act to Prevent Pollution from Ships (APPS) (33 U.S.C. 1901, *et al.*). APPS mandates pollution reception facilities' certificates issued under 33 U.S.C. 1905(c) are valid for a 5-year period or until certain conditions are met. We are revising 33 CFR Part 158 to incorporate this change to APPS as prescribed by the Coast Guard Authorization Act of 1996 (Pub. L. 104-324).

This rule removes an unnecessary note explaining LORAN-C functions in 33 CFR Part 167. The note provides no substantive guidance or requirement and is no longer applicable to the description of traffic separation schemes and precautionary areas in Sector New York.

This rule corrects latitude/longitude coordinates of certain Coast Guard Sector Marine Inspection Zones, Captain of the Port Zones, and other areas in 33 CFR Parts 110 and 167.

This rule updates various addresses for Coast Guard offices throughout Title 33 of the Code of Federal Regulations in order to conform to new mailing addresses and mailing address formats that came into use June 15, 2009. This rule also updates internal Coast Guard office designators, as well as certain personnel titles throughout Title 33. Changes in personnel titles included in this rule are only technical revisions reflecting changes in agency procedure and organization, and do not indicate new authorities.

Finally, this rule corrects non-substantive, typographical errors throughout Title 33.

IV. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

A. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. Because this rule involves non-substantive changes and internal agency

practices and procedures, it will not impose any additional costs on the public.

B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

We estimate this rule will not impose any additional costs and should have little or no impact on small entities because the provisions of this rule are technical and non-substantive, and will have no substantive effect on the public and will impose no additional costs. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

C. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and

Interference with Constitutionally Protected Property Rights.

G. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

H. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

I. Indian Tribal Governments

This rule does not have Tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

J. Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

K. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or

adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

L. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded under section 2.B.2, figure 2–1, paragraph (34) (a) of the Instruction. This rule involves regulations which are editorial and/or procedural, such as those updating addresses or establishing application procedures. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects

33 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Penalties.

33 CFR Part 3

Organization and functions (Government agencies).

33 CFR Part 8

Armed forces reserves.

33 CFR Part 13

Decorations, medals, awards.

33 CFR Part 19

Navigation (water), Vessels.

33 CFR Part 23

Aircraft, Signs and symbols, Vessels.

33 CFR Part 25

Authority delegations (Government agencies), Claims.

33 CFR Part 26

Communications equipment, Marine safety, Radio, Telephone, Vessels.

33 CFR Part 27

Administrative practice and procedure, Penalties.

33 CFR Part 51

Administrative practice and procedure, Military personnel.

33 CFR Part 67

Continental shelf, Navigation (water), Reporting and recordkeeping requirements.

33 CFR Part 81

Navigation (water), Reporting and recordkeeping requirements, Treaties.

33 CFR Part 84

Navigation (water), Waterways.

33 CFR Part 89

Navigation (water), Reporting and recordkeeping requirements, Waterways.

33 CFR Part 96

Administrative practice and procedure, Marine safety, Reporting and recordkeeping requirements, Vessels.

33 CFR Part 101

Harbors, Maritime security, Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

33 CFR Part 104

Maritime security, Reporting and recordkeeping requirements, Security measures, Vessels.

33 CFR Part 105

Maritime security, Reporting and recordkeeping requirements, Security measures.

33 CFR Part 110

Anchorage grounds.

33 CFR Parts 114, 116, and 118

Bridges.

33 CFR Part 120

Passenger vessels, Reporting and recordkeeping requirements, Security measures, Terrorism.

33 CFR Part 126

Explosives, Harbors, Hazardous substances, Reporting and recordkeeping requirements.

33 CFR Part 127

Fire prevention, Harbors, Hazardous substances, Natural gas, Reporting and recordkeeping requirements, Security measures.

33 CFR Part 128

Harbors, Reporting and recordkeeping requirements, Security measures, Terrorism.

33 CFR Part 135

Administrative practice and procedure, Continental shelf, Insurance, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 140

Continental shelf, Investigations, Marine safety, Occupational safety and health, Penalties, Reporting and recordkeeping requirements.

33 CFR Part 141

Citizenship and naturalization, Continental shelf, Employment, Reporting and recordkeeping requirements.

33 CFR Part 144

Continental shelf, Marine safety, Occupational safety and health.

33 CFR Part 148

Administrative practice and procedure, Environmental protection, Harbors, Petroleum.

33 CFR Part 149

Fire prevention, Harbors, Marine safety, Navigation (water), Occupational safety and health, Oil pollution.

33 CFR Part 150

Harbors, Marine safety, Navigation (water), Occupational safety and health, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 151

Administrative practice and procedure, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Parts 153

Oil pollution, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 154

Alaska, Fire prevention, Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 155

Alaska, Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 156

Hazardous substances, Oil pollution, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 157

Cargo vessels, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 158

Administrative practice and procedure, Harbors, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 159

Alaska, Reporting and recordkeeping requirements, Sewage disposal, Vessels.

33 CFR Part 160

Administrative practice and procedure, Harbors, Hazardous materials transportation, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Vessels, Waterways.

33 CFR Part 164

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

33 CFR Part 167

Harbors, Marine safety, Navigation (water), Waterways.

33 CFR Part 169

Endangered and threatened species, Marine mammals, Navigation (water), Radio, Reporting and recordkeeping requirements, Vessels, Water pollution control.

33 CFR Part 174

Intergovernmental relations, Marine safety, Reporting and recordkeeping requirements.

33 CFR Part 179

Marine safety, Reporting and recordkeeping requirements.

33 CFR Part 181

Labeling, Marine safety, Reporting and recordkeeping requirements.

33 CFR Part 183

Marine safety.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 parts 1, 3, 8, 13, 19, 23, 25, 26, 27, 51, 67, 81, 84, 89, 96, 101, 104, 105, 110, 114, 116, 118, 120, 126, 127, 128, 135, 140, 141, 144, 148, 149, 150, 151, 153, 154, 155, 156, 157, 158, 159, 160, 164, 165, 167, 169, 174, 179, 181, and 183.

PART 1—GENERAL PROVISIONS

■ 1. The authority citation for part 1 continues to read as follows:

Authority: 14 U.S.C. 633; 33 U.S.C. 401, 491, 525, 1321, 2716, and 2716a; 42 U.S.C. 9615; 49 U.S.C. 322; Department of Homeland Security Delegation No. 0170.1; section 1.01–70 also issued under the authority of E.O. 12580, 3 CFR, 1987 Comp., p. 193; and sections 1.01–80 and 1.01–85 also issued under the authority of E.O. 12777, 3 CFR, 1991 Comp., p. 351.

§ 114.50 [Amended]

■ 55. In § 114.50, remove the phrase “2100 Second Street SW., Washington, DC 20593-0001” and add, in its place, the phrase “(CG-5411), 2100 2nd St. SW., Stop 7581, Washington, DC 20593-7581”.

PART 116—ALTERATION OF UNREASONABLY OBSTRUCTIVE BRIDGES

■ 56. The authority citation for part 116 continues to read as follows:

Authority: 33 U.S.C. 401, 521; 49 U.S.C. 1655(g); 49 CFR 1.4, 1.46(c).

§ 116.55 [Amended]

■ 57. Amend § 116.55 as follows:

■ a. In paragraph (a) and (b), remove the phrase “Assistant Commandant for Operations” and add, in its place, the phrase “Deputy Commandant for Operations”; and

■ b. In paragraph (b), remove the phrase “2100 Second Street, SW., Washington, DC 20593-0001” and add, in its place, the phrase “(CG-3), 2100 2nd St. SW., Stop 7238, Washington, DC 20593-7238”.

PART 118—BRIDGE LIGHTING AND OTHER SIGNALS

■ 58. The authority citation for part 118 continues to read as follows:

Authority: 33 U.S.C. 494; 14 U.S.C. 85, 633; Department of Homeland Security Delegation No. 0170.1.

§ 118.3 [Amended]

■ 59. In § 118.3(b), remove the phrase “room 3500, 2100 Second Street, SW., Washington, DC 20593-0001” and add, in its place, the phrase “(CG-5411), 2100 2nd St. SW., Stop 7581, Washington, DC 20593-7581”.

PART 120—SECURITY OF PASSENGER VESSELS

■ 60. The authority citation for part 120 continues to read as follows:

Authority: 33 U.S.C. 1231; Department of Homeland Security Delegation No. 0170.

§ 120.120 [Amended]

■ 61. In § 120.120(a), remove the phrase “(G-MES), 2100 Second Street SW., Washington, DC” and add, in its place, the phrase “(CG-521), 2100 2nd St. SW., Stop 7126, Washington, DC 20593-7126”.

§ 120.220 [Amended]

■ 62. In § 120.220(b), remove the phrase “(G-MOR), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001” and add, in its place, the phrase “(CG-533), 2100 2nd St. SW., Stop 7363, Washington, DC

20593-7363”; and remove the phrase “(G-MOR) by fax” and add, in its place, the phrase “(CG-533) by fax”.

§ 120.305 [Amended]

■ 63. In § 120.305(a), remove the phrase “JR10-0525, 2100 2nd Street, SW., Washington, DC 20593” and add, in its place, the phrase “2100 2nd St. SW., Stop 7102, Washington, DC 20593-7102”.

PART 126—HANDLING OF DANGEROUS CARGO AT WATERFRONT FACILITIES

■ 64. The authority citation for part 126 continues to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

§ 126.5 [Amended]

■ 65. In § 126.5(a), remove the phrase “(G-MSO-2), room 1210, 2100 Second Street SW., Washington, DC 20593-0001” and add, in its place, the phrase “(CG-522), 2100 2nd St. SW., Stop 7126, Washington, DC 20593-7126”.

PART 127—WATERFRONT FACILITIES HANDLING LIQUEFIED NATURAL GAS AND LIQUEFIED HAZARDOUS GAS

■ 66. The authority citation for part 127 continues to read as follows:

Authority: 33 U.S.C. 1231; Department of Homeland Security Delegation No. 0170.1.

§ 127.003 [Amended]

■ 67. In § 127.003(a), remove the phrase “(G-MOC), Room 1108, 2100 Second Street SW., Washington, DC 20593-0001” and add, in its place, the phrase “(CG-543), 2100 2nd St., SW., Stop 7581, Washington, DC 20593-7581”.

§ 127.015 [Amended]

■ 68. In § 127.015(c)(1), remove the phrase “Washington, DC 20593-0001” and add, in its place, the phrase “(CG-5), 2100 2nd St., SW., Stop 7355, Washington, DC 20593-7355”.

PART 128—SECURITY OF PASSENGER TERMINALS

■ 69. The authority citation for part 128 continues to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

§ 128.120 [Amended]

■ 70. In § 128.120(a), remove the phrase “(G-MSE), 2100 Second Street, SW., Washington, DC” and add, in its place, the phrase “(CG-521), 2100 2nd St., SW., Stop 7126, Washington, DC 20593-7126”.

PART 135—OFFSHORE OIL POLLUTION COMPENSATION FUND

■ 71. The authority citation for part 135 continues to read as follows:

Authority: 33 U.S.C. 2701-2719; E.O. 12777, 56 FR 54757; Department of Homeland Security Delegation No. 0170.1, para. 2(80).

§ 135.305 [Amended]

■ 72. In § 135.305(a)(1), remove the phrase “Room 2111, 2100 Second Street, SW., Washington, DC 20593-0001” and add, in its place, the phrase “(CG-3112), 2100 2nd St. SW., Stop 7238, Washington, DC 20593-7238”.

PART 140—GENERAL

■ 73. The authority citation for part 140 continues to read as follows:

Authority: 43 U.S.C. 1333, 1348, 1350, 1356; Department of Homeland Security Delegation No. 0170.1.

§ 140.7 [Amended]

■ 74. In § 140.7(a), remove the phrase “(G-MOC), 2100 Second Street, SW., Washington, DC 20593-0001” and add, in its place, the phrase “(CG-543), 2100 2nd St. SW., Stop 7581, Washington, DC 20593-7581”.

§ 140.15 [Amended]

■ 75. In § 140.15(b), remove the phrase “(G-MSE), U.S. Coast Guard, Washington, DC 20593-0001” and add, in its place, the phrase “(CG-521), 2100 2nd St., SW., Stop 7126, Washington, DC 20593-7126”.

PART 141—PERSONNEL

■ 76. The authority citation for part 141 continues to read as follows:

Authority: 43 U.S.C. 1356; 46 U.S.C. 70105; 49 CFR 1.46(z).

§ 141.20 [Amended]

■ 77. In § 141.20(c), remove the phrase “(G-MOC), U.S. Coast Guard Headquarters, 2100 2nd Street, SW., Washington, D.C. 20593” and add, in its place, the phrase “(CG-543), 2100 2nd St. SW., Stop 7581, Washington, DC 20593-7581”.

PART 144—LIFESAVING APPLIANCES

■ 78. The authority citation for part 144 continues to read as follows:

Authority: 43 U.S.C. 1333d; 46 U.S.C. 3102(a); 46 CFR 1.46.

§ 144.30-5 [Amended]

■ 79. In § 144.30-5(a), remove the phrase “(G-MSE), Washington, DC 20593-0001” and add, in its place, the phrase “(CG-521), 2100 2nd St. SW., Stop 7126, Washington, DC 20593-7126”.

Federal Register

Thursday
January 13, 2011

Department of Homeland Security

Coast Guard

**Notice of Arrival on the Outer
Continental Shelf; Final Rule**

■ E. Adding paragraph (e)(26)(ii)(B)(1)(v); and

■ F. Adding a new paragraph (e)(26)(ii)(B)(2) to read as follows:

§ 199.4 Basic program benefits.

* * * * *

(e) * * *

(26) * * *

(ii) * * *

(B) * * * Additionally, Phase I studies may be approved on a case by case basis when the requirements below are met.

(1) * * *

(ii) Such treatments are NCI sponsored Phase I, Phase II or Phase III protocols; and

* * * * *

(iv) The institutional and individual providers are CHAMPUS authorized providers; and,

(v) The requirements for Phase I protocols in paragraph (e)(26)(ii)(B)(2) of this section are met:

(2) Requirements for Phase I protocols are:

(i) Standard treatment has been or would be ineffective, does not exist, or there is no superior non-investigational treatment alternative; and,

(ii) The available clinical or preclinical data provide a reasonable expectation that the treatment will be at least as effective as the non-investigational alternative; and,

(iii) The facility and personnel providing the treatment are capable of doing so by virtue of their experience, training, and volume of patients treated to maintain expertise; and,

(iv) The referring physician has concluded that the enrollee's participation in such a trial would be appropriate based upon the satisfaction of paragraphs (e)(26)(ii)(B)(2)(i) through (iii) of this section.

* * * * *

Dated: January 4, 2011.

Patricia L. Toppings,

*OSD Federal Register, Liaison Officer,
Department of Defense.*

[FR Doc. 2011-621 Filed 1-12-11; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 146

[Docket No. USCG-2008-1088]

RIN 1625-AB28

Notice of Arrival on the Outer Continental Shelf

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard revises its regulations on Outer Continental Shelf (OCS) Activities to enhance maritime domain safety and security awareness on the OCS by issuing regulations which will require notice of arrival for floating facilities, mobile offshore drilling units (MODUs), and vessels planning to engage in OCS activities. This final rule implements provisions of the Security and Accountability for Every Port Act of 2006 and increases overall maritime domain awareness by requiring owners or operators of United States and foreign flag floating facilities, MODUs, and vessels to submit notice of arrival information to the National Vessel Movement Center prior to engaging in OCS activities.

DATES: This final rule is effective February 14, 2011.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2008-1088 and are available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to <http://www.regulations.gov>, inserting USCG-2008-1088 in the "Keyword" box, and then clicking "Search."

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mr. Kevin Pekarek, Vessel and Facility Operating Standards Division (CG-5222), Coast Guard; telephone 202-372-1386, e-mail Kevin.Y.Pekarek2@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

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I. Abbreviations

BOEMRE Bureau of Ocean Energy Management, Regulation and Enforcement.
CFR Code of Federal Regulations.
DHS Department of Homeland Security.
FR **FEDERAL REGISTER.**
ISM International Safety Management.
ISSC International Ship Security Certificate.
MMS Minerals Management Service.
MODU Mobile Offshore Drilling Unit.
NAICS North American Industry Classification System.
NOA Notice of Arrival.
NOA OCS Notice of Arrival on the Outer Continental Shelf.
NPRM Notice of Proposed Rulemaking.
NTTAA National Technology Transfer and Advancement Act, 15 U.S.C. 272 note.
NVMC National Vessel Movement Center.
OCS Outer Continental Shelf.
OCSLA Outer Continental Shelf Lands Act.
OIRA Office of Information and Regulatory Affairs.
OMB Office of Management and Budget.
RFA Regulatory Flexibility Act, 5 U.S.C. 601-612.
SAFE Port Act Security and Accountability for Every Port Act of 2006, Pub. L. 109-347, 120 Stat. 1884 (2006).
U.S.C. United States Code.
U.S.C.A. United States Code Annotated.

II. Regulatory History

On June 22, 2009, we published a notice of proposed rulemaking (NPRM) entitled Notice of Arrival (NOA) on the Outer Continental Shelf in the **Federal Register** (74 FR 29439). We received two sets of comments on the proposed rule prior to the close of the comment period. One additional set of comments was received after the close of the

comment period, responding to comments submitted earlier. No public meeting was requested and none was held.

III. Basis and Purpose

Congress and the President enacted the Security and Accountability for Every Port Act of 2006 (SAFE Port Act), Public Law 109–347, 120 Stat. 1884, on October 13, 2006. This rule is in response to Section 109 of the SAFE Port Act,¹ which requires publication, within 180 days of enactment, of regulations that “update and finalize” NOA procedures for foreign vessels² on the OCS. As required by the SAFE Port Act, this final rule makes our regulations “consistent with information required under the Notice of Arrival § 160.206 of title 33, Code of Federal Regulations as in effect on the date of enactment of the Act.” It adds NOA requirements for foreign vessels on the OCS. It also extends those requirements to U.S. floating facilities, MODUs, and vessels arriving on, and engaging in, OCS activities from foreign ports or places, and moving from one OCS block area to another. In addition to implementing the SAFE Port Act and expanding NOA requirements, this rule enhances security by requiring U.S. and foreign vessels, floating facilities, and MODUs arriving on and engaging in OCS activities to report their arrival times and locations and information regarding the vessels, voyage, cargo, and crew. Such information is critical to maritime domain safety and security awareness and will enable the Coast Guard to more effectively prevent or respond to a safety or security concern on the OCS.

IV. Background

The legislative history for the SAFE Port Act relating to the “update and finalize” language found in section 109 provides no specific direction for implementing that section. The Senate version of the bill contains the section 109 provisions, and the House of Representatives bill does not. The Congressional record does not otherwise elucidate the requirement. The House of Representatives Conference Report reveals only that both houses of Congress adopted section 109 without additional discussion.³

Other Coast Guard NOA OCS Regulations, 33 CFR 146.202

The Coast Guard does, however, have existing OCS NOA regulations, which cover only MODUs. These were established on March 4, 1982, as part of a final rule entitled, Outer Continental Shelf Activities (47 FR 9366). The Outer Continental Shelf Activities rule was in response to enactment of the Outer Continental Shelf Lands Act Amendments of 1978 and impacted requirements for design, equipment, operations, manning, inspections, and investigations for facilities, vessels, and other units (domestic and foreign) engaged in OCS activities.

However, the rule also had provisions specifically regarding MODUs. Those provisions ensured that foreign MODUs operating on the OCS meet the manning and safety standards comparable to those met by U.S. MODUs. A provision of that rule, 33 CFR 146.202, specifically addresses NOA and relocation of any MODU on the OCS. That section provides that an owner of any MODU engaged in OCS activities must, 14 days before arrival of the MODU on the OCS or as soon thereafter as practicable, notify the District Commander for the area in which the MODU will operate of: (1) The MODU’s name, nationality, and designation assigned for identification under 30 CFR 250.37; (2) the location and year that the MODU was built; (3) the name and address of the owner, and the owner’s local representative, if any; (4) classification or inspection certificates currently held by the MODU; (5) the location and date that operations are expected to commence, and their anticipated duration; and (6) the location and date that the MODU will be available and ready for inspection by the Coast Guard. In addition, once a MODU is located on the OCS, the owner must notify the District Commander before relocating the MODU. The purpose of 33 CFR 146.202 is to assist District Commanders in gathering information on MODUs prior to inspection of those units.

Consistency With 33 CFR 160.206

The Coast Guard also has recently updated NOA rules. In response to the terrorist attacks of September 11, 2001, the Coast Guard published, on February 28, 2003, the final rule entitled Notification of Arrival in U.S. Ports (68 FR 9537). The rule enhanced notification of arrival and departure requirements for U.S. and foreign vessels bound for, or departing from, ports or places in the United States. The rule also increased, from 24 hours to 96 hours, the advance notice a vessel must

submit to the National Vessel Movement Center (NVMC); described the timeframes for updating an NOA; and added more information to the list of items that must be submitted, as part of the NOA, to the NVMC. Pursuant to that rule, specifically 33 CFR 160.206, the information items submitted to the NVMC include: Vessel information; voyage information; cargo information; information for each crewmember onboard; information for each person onboard in addition to the crew; operational condition of equipment; International Safety Management (ISM) code notice; Cargo Declaration; and International Ship and Port Facility code (ISPS) notice. The Coast Guard collects this information to ensure, to the extent practicable, public safety, security, and the uninterrupted flow of commerce.

Coast Guard Action

After considering section 109 of the SAFE Port Act and current NOA rules, the Coast Guard has determined that section 109 of the SAFE Port Act requires finalizing NOA OCS rules by adding to those requirements found at § 146.202 for MODUs. This new final rule is designed to be consistent with the NOA requirements of § 160.206 for vessels bound for, or departing from, ports, or places in the United States.

This rulemaking is intended to comply with the section 109 mandate. It also extends those NOA OCS requirements to U.S. floating facilities, MODUs, and vessels (arriving on, and engaging in, OCS activities from foreign ports or places) under the authority of the Outer Continental Shelf Lands Act, 43 U.S.C. 1356 (2007), and the Ports and Waterways Safety Act, 33 U.S.C. 1226 (2007). Extending the NOA OCS requirements is essential for overall maritime domain safety and security awareness. Moreover, obtaining knowledge of all individuals, floating facilities, MODUs, and vessels engaging in OCS activities will better equip the Coast Guard to prevent and respond to a safety or security incident on the OCS. If the Coast Guard receives specific threat information for an area, the knowledge obtained from these requirements will enable it to know who is in the area, what they are doing, and how to contact them. In addition, if a floating facility, MODU, or vessel has an incident, the Coast Guard will be able to use this knowledge to better assess the potential impacts of the event, respond to it, and seek additional assistance in that or a nearby area when needed.

¹ 33 U.S.C. 1223 note (West 2009).

² As defined in 1 U.S.C. 3 (and reiterated in part 140 of this subchapter) a vessel is “every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.” This definition includes those units we propose to regulate with this rulemaking (i.e., floating facilities, MODUs, and vessels engaging in OCS activities).

³ H.R. 4954, 152nd Cong. (2006).

V. Discussion of Comments and Changes

The Coast Guard received two sets of comments from trade associations in response to the NPRM. The Coast Guard considered all comments filed. Below, we discuss in detail the public comments addressing issues raised in the NPRM and our responses to those comments.

1. Definition of "OCS Activity" and the Energy Policy Act

Two separate commenters suggested that the definition of "OCS activity," as used in the rule, be revised in light of amendments to the Outer Continental Shelf Lands Act (OCSLA), particularly those amendments created by Section 388 of the Energy Policy Act of 2005.

Coast Guard Response. The definition of "OCS activity" is found in the regulations at 33 CFR 140.10. Section 140.10 defines "OCS activity" as "any offshore activity associated with exploration for, or development or production of, the minerals of the Outer Continental Shelf." 33 CFR 140.10. This rulemaking was intended to implement the SAFE Port Act and not the Energy Policy Act of 2005, which permits leases, easements, or rights-of-way on the OCS for activities not otherwise authorized under other laws, including: (1) Exploration, development, production, or storage of oil or natural gas except in areas prohibited by a moratorium; (2) transportation of oil or natural gas, excluding shipping activities; (3) production, transportation, or transmission of energy from sources other than oil or gas; and (3) use of facilities for activities authorized under the Act. Energy Policy Act of 2005 section 388, Public Law 109-58, 119 Stat. 744. Because the goal of this rule was directed by the SAFE Port Act and was not to alter the definition of "OCS activity," as established in Title 33 of the CFR, doing so would be beyond the scope of this rule.

2. NOAs for Moves Between OCS Locations

One commenter asks that we either modify the rule to eliminate the need for NOAs for units moving between locations on the OCS or coordinate the processing of the NOA requirements with those regarding navigation safety (33 CFR 143.15) to reduce reporting burdens. A separate commenter asserts the opposite, stating that vessels must report their movements between OCS locations and ports and that this requirement should also include vessels that do not moor offshore.

Coast Guard Response. Current regulations state that the owner must

notify the District Commander when a unit is relocated. The goal of the SAFE Port Act is to improve maritime and cargo security through enhanced layered defenses. Requiring revised NOAs each time there is a change in position furthers that goal. However, the Coast Guard believes it would be sufficient for an NOA to be required only when MODUs, floating facilities, and vessels arrive from a foreign port or place, or move a few miles from one OCS block area to another. OCS block areas are used by the Bureau of Ocean Energy Management, Regulation and Enforcement (BOE)—formerly the Minerals Management Service—to facilitate management and leasing on the OCS. They vary in size depending on the OCS blocks the block areas contain. The OCSLA permits a maximum size for an OCS block of 5,760 acres (9 square miles).

For example, a MODU, floating facility, or vessel moving within the Green Canyon block area would not have to submit a revised NOA; but if moving from Green Canyon to the Walker Ridge block area, a revised NOA would be required. Therefore, §§ 146.103(a), 146.104(a), 146.215(a), and 146.405(a)(1) have been revised to reflect this change. Definitions for "arrives on the OCS" and "OCS block areas" have been added as new §§ 146.102, 146.200, and 146.402.

For the alternative suggestion of coordinating processing of the NOA requirements with those regarding navigation safety, this is not possible because the reports are for different functions and are sent to different offices. Coast Guard navigation safety requirements used for lights and warning devices to prevent collisions at sea are sent to the office of the District Commander. NOA requirements for maritime security are submitted to the National Vessel Movement Center office (NVMC).

3. Authorities

One commenter questions the use of the Ports and Waterways Safety Act as an authority for this rule. That commenter notes that at the time the Coast Guard proposed the existing NOA rules in 33 CFR 160.206, this same commenter questioned the applicability of those rules to OCS facilities as a "port or place in the United States." The commenter argues that our response to that comment indicates that we do not interpret OCS locations to be a "port or place in the United States" for purposes of the Ports and Waterways Safety Act. As such, the commenter says 33 U.S.C. 1223 and 1226 should not be listed as authorities. If they are included, they

ask the Coast Guard to clarify its understanding of OCS facilities under the Act.

Coast Guard Response. 33 U.S.C. 1223 refers to "a port or place subject to the jurisdiction of the United States" (rather than a "port or place in the United States"). Also, 33 U.S.C. 1226 provides authority to take actions to prevent or respond to acts of terrorism against individuals, vessels, or structures "subject to the jurisdiction of the United States." 33 CFR 101.105 defines "waters subject to the jurisdiction of the U.S." as including the following: "in respect to facilities located on the Outer Continental Shelf of the U.S., the waters superjacent thereto." These provisions underscore the authority of the Ports and Waterways Safety Act in driving this rule, which establishes regulations requiring notice of arrival for United States and foreign flag floating facilities, MODUs, and vessels prior to engaging in OCS activities.

4. Use of Information Reported

One commenter states that the information the Coast Guard requests with this rule, particularly in § 146.103(a)(6)(v), which requires reporting positions or duties for individuals on board floating facilities, will be used for other purposes, such as enforcement of cabotage (coastal trade and/or navigation) or OCS employment restrictions. This commenter requests that we remove this requirement.

Coast Guard Response. The Coast Guard disagrees that this information is being requested for cabotage, OCS employment restrictions, or other non-NOA purposes. The information is being requested for security purposes and reflects existing NOA requirements in 33 CFR 160.206, as required by the SAFE Port Act. As noted, maintaining situational awareness is the foundation of a comprehensive security regime. This information will enable the Coast Guard to respond to emerging threats on the OCS through such mechanisms as critical notices to operators in the area that may be threatened. It will also improve maritime safety by enabling the Coast Guard to better protect mariners operating on the OCS.

5. Estimated Costs

One commenter states that costs should be modified to eliminate the need for vessels moving between OCS locations to comply with NOA requirements.

Coast Guard Response. As indicated above, we have clarified the need for NOAs when moving between OCS locations. Vessels moving between OCS block areas will still need to comply

with the NOAA requirements. However, vessels moving from one location to another within the same OCS block area do not have to submit NOAs.

6. Information Collection

One commenter suggests that the Coast Guard eliminate the need to report certain information regarding persons onboard the arriving vessels.

Coast Guard Response. The Coast Guard disagrees with this recommendation. We request this information to comply with the SAFE Port Act (Table 160.206 item (4)(v)).

7. Coordinating With Other Rulemakings

One commenter states that the rulemakings on OCS Notice of Arrival and the current development of notice of arrival and departure requirements should be coordinated.

Coast Guard Response. The Coast Guard agrees and we have worked to ensure uniformity between this and other relevant rulemakings.

8. Making NOA Information Accessible

One commenter states that some of the information reported under the NOA, though not information relating to crew personnel, should be publicly accessible and made available in real-time. In addition, the commenter states that all information submitted under this regulation should be accessible to Customs and Border Protection (CBP) and other Federal agencies.

Coast Guard Response. General information about a vessel's arrival or departure is normally made available by port authorities. Local harbor masters have access to this data and are good sources of information. In addition, such information is available to the public through such sources as <http://www.vesseltracker.com>. More detailed information in an NOA will be released in accordance with the Freedom of Information Act, 5 U.S.C. 552. The Coast Guard already routinely shares this information with other Federal, State, and local agencies and coordinates with CBP.

9. Section 146.103—Vessels Under Tow

One commenter believes any vessels, facilities, or MODUs under tow should provide separate NOAs from the towing vessel or offer an option for the "lead" towing vessel to submit a single NOA for the combined "tow."

Coast Guard Response. The Coast Guard agrees that the "lead" towing vessel could submit a single NOA for the entire "tow." It is the responsibility of the owner or operator of the unit being towed to designate which towing

vessel, if there is more than one, is the "lead" towing vessel and is responsible for submitting the overall NOA. Section 146.103(f) has been revised to clarify that the "lead" towing vessel is responsible for submitting the overall NOA. Sections 146.104(f), 146.215(f), and 146.405(f) have also been revised to reflect this change.

10. Section 146.103—Reference to "Flag Administration"

One commenter recommends that the Coast Guard remove § 146.103(a)(7) and (a)(8), which reference "flag administration" because that section is specific to U.S. floating facilities.

Coast Guard Response. The Coast Guard agrees with this comment. Therefore, § 146.103(a)(7) and (a)(8) have been removed.

11. Section 146.103—Change in Delay for Updated NOA

One commenter suggests the change in arrival time not requiring an updated NOA in this section be changed from 6 hours to 24 hours (§ 146.103(c)(1)). This commenter believes that there is no substantive difference in the risk posed by a delay of 24 hours versus a delay of 6 hours, given the remote locations and minimal direct threat.

Coast Guard Response. The Coast Guard disagrees because the SAFE Port Act requires us to issue regulations consistent with the existing NOA regulations found in Title 33 of the CFR. Existing regulations in 33 CFR 160.208(b)(1) require vessels to submit revised NOAs if changes in arrival or departure times are more than 6 hours.

12. Section 146.103(c)(2)

One commenter finds the wording in § 146.103(c)(2) confusing since the location of the floating facility would be known at the time the report is made.

Coast Guard Response. The Coast Guard agrees and has revised § 146.103(c)(2) to read: "Changes in the location, latitude and longitude, of the floating facility from the location at the time the NOA was reported; or". The Coast Guard also made similar changes in § 146.104(c)(2), § 146.215(c)(2), and § 146.405(c)(2).

13. Section 146.103(d)(1)

One commenter finds that § 146.103(d)(1) and (d)(2) provides an exception to the 96-hour reporting requirement created in § 146.103(a) and that paragraph (d)(1) is redundant with paragraph (a).

Coast Guard Response. The Coast Guard agrees that paragraph (d)(1) is redundant, but it provides additional clarity by repeating this requirement

and then breaking out the differing requirements when the voyage is more than 96 hours, as opposed to when the voyage is less than 96 hours.

14. Section 146.103(f)—Towing of a Facility/Vessel

One commenter states that § 146.103(f) should be removed because it implies that the towing of a facility or vessel to an OCS location is an "OCS activity" as defined in 33 CFR 140.10. The same commenter asks that as an alternative to removing paragraph (f), we address the possibility that multiple towing vessels may be involved in the tow of a single facility/vessel and discuss how NOAA requirements would be met for a facility/vessel arriving on the OCS via a heavy lift transport.

Coast Guard Response. The Coast Guard does not believe that paragraph (f) should be removed. In 33 CFR 140.10, "OCS activity" is defined as "any offshore activity associated with exploration for, or development or production of, the minerals of the Outer Continental Shelf." This is a broad definition that encompasses a towing vessel on the OCS towing a facility/vessel on the OCS. The Coast Guard has exempted vessels, floating facilities, and MODUs that are merely transiting across the OCS and not engaging in OCS activities.

However, as noted above, the Coast Guard agrees it is possible to have multiple towing vessels involved in the tow of a single facility/vessel. We believe it is the responsibility of the owner or operator of the unit being towed to designate which towing vessel will be the lead towing vessel, if there is more than one, and therefore responsible for submitting the overall NOA.

15. Section 146.103(g)—"Superjacent" vs. "Superadjacent"

One commenter recommends that the word "superjacent" be changed to "superadjacent" in § 146.103(g) for consistency within Title 33 and points to the definition of "waters subject to the jurisdiction of the U.S." at 33 CFR 101.105.

Coast Guard Response. The Coast Guard disagrees that "superjacent" should be changed to "superadjacent." Title 33 of the U.S. Code uses "superjacent" and not "superadjacent." We are using the word "superjacent" in order to be consistent with its use in both Title 33 and 33 CFR 101.105.

16. Section 146.215(a)(3)—Reporting the IMO Number

One commenter states that the Coast Guard should also require MODUs to

report the IMO number in addition to the facility's name.

Coast Guard Response. The Coast Guard agrees and has modified § 146.215(a)(3) as requested.

17. Section 146.215—Reporting “Position or Duties”

One commenter states that the requirement for the description of “position or duties” of personnel on a facility or vessel (as required in § 146.215(a)(6)(v)) is irrelevant because the job descriptions of industrial personnel would be difficult for the Coast Guard to interpret.

Coast Guard Response. The Coast Guard does not agree because the SAFE Port Act requires us to issue regulations consistent with the existing NOA regulations found in Title 33 of the CFR. Existing regulations in 33 CFR Subpart C Table 160.206 item (4)(v) require descriptions of positions or duties to be provided as part of an NOA.

18. Section 146.215—MODU NOA

One commenter states that MODUs should not be required to submit anything other than a simple notice of arrival because they do not present the risk of being weaponized or of smuggling merchandise or individuals into the United States.

Coast Guard Response. The Coast Guard does not agree. We believe that MODUs arriving on the OCS from abroad present the same security risk as OCS facilities and vessels.

19. Section 146.405—Interpreting “Arrives on the OCS”

One commenter states that the phrase “arrives on the OCS” could be interpreted in more than one way and that the interpretation affects how the rule is applied.

Coast Guard Response. The Coast Guard partially agrees that the phrase could be interpreted in more than one way. We have added § 146.102 to define “arrives on the OCS” to offer clarity to the issue. New §§ 146.200 and 146.402 have also been added to similarly clarify the use of the phrase in these subparts.

20. Section 146.405(b)(1)—Exceptions to NOA Information

One commenter states that in § 146.405(b)(1), it was unclear why only item (2)(iii) of Table 160.206 was exempted and not items (2)(iv) through (2)(vi).

Coast Guard Response. The Coast Guard agrees that items (2)(iv) through (2)(vi) should also be exempted and has revised § 146.405(b)(1) accordingly. The information in items (2)(iv) through (2)(vi) is not applicable and is not

required for MODUs and floating facilities and will not be required for vessels.

21. Section 146.405(b)(1)—Cargo Declaration

One commenter asserts that it is inappropriate to require a cargo declaration for NOAs as stated in § 146.405 since most vessels subject to this subpart would not require customs clearance. A separate commenter states the opposite, insisting that a cargo declaration form should be necessary whenever a foreign vessel transports cargo to and from a port and an OCS location.

Coast Guard Response. In those instances where foreign flag vessels are transporting cargo to and from a U.S. port and a mineral extraction facility pursuant to OCSLA, the owners/operators of those vessels are, in fact, required to submit cargo declaration forms pursuant to CBP regulations on vessel entry (as established under 19 U.S.C. 1434) and clearance (as established under 46 U.S.C. 60105). However, the Coast Guard agrees that it would be inappropriate for those vessels not otherwise required to submit a cargo declaration form to have to submit one for NOA purposes. Accordingly, we have revised § 146.405 to exempt item (8) from the information required in Table 160.206 for all vessels except those foreign flag vessels subject to the CBP regulations noted above.

22. Section 146.103

One commenter notes the language in new § 146.103 (a)(2): “The area designation and block number or lease number, assigned under 30 CFR 250.154 for identification, where the floating facility plans to perform OCS activities.” The commenter points out that facilities are not sentient and, therefore, cannot plan activities on the OCS.

Coast Guard Response. The Coast Guard agrees and has made the necessary changes in the regulatory text to clarify (in sections 146.103, 146.104 and 146.405).

VI. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

A. Regulatory Planning and Review

This rule is a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review. The Office of Management and Budget has reviewed it under that

Order. It requires an assessment of potential costs and benefits under section 6(a)(3) of that Order.

Public comments on the NPRM are summarized in Part V of this publication. We received no public comments that would alter our assessment of the impacts discussed in the NPRM. We have adopted the assessment in the NPRM as final. See the “Regulatory Analyses” section of the NPRM for more details. A summary of the assessment follows.

This rulemaking requires certain U.S. and foreign owners or operators of floating facilities, MODUs, and vessels to submit NOA information to the NVMC prior to engaging in OCS activities.

Based on industry information from the National Offshore Advisory Committee (NOSAC), we estimate that there are 7 to 12 arrivals on the OCS each month for a total of 84 to 144 annual arrivals on the OCS each year. We also estimate that approximately 95 percent of the floating facilities, vessels, and MODUs operating on the OCS affected under this rulemaking would be foreign flag.

The additional costs of this rulemaking to industry are the proposed NOA reporting requirements. We estimate that one NOA requires 30 minutes to complete plus a transmittal fee of \$2 per submission.⁴ Similar to other NOA reporting analyses, we use an average loaded wage rate of approximately \$31 per hour to estimate the labor costs for NOA reporting activities.

Based on the arrival data and the reporting time and cost information, we estimate the annual cost of this rulemaking to industry to be \$1,470 to \$2,520 (non-discounted). We estimate the present value 10-year cost of this rulemaking to industry to be \$10,300 to \$17,700 at a 7 percent discount rate (rounded).

We expect the primary benefit of this rulemaking would be enhanced situational awareness of activities on the OCS. This enhanced situational awareness would assist the Coast Guard in evaluating potential safety and security risks associated with these activities and assist the Coast Guard in managing resources used to regulate these activities and respond to incidents on the OCS.

⁴ Sources: (1) Collection of Information, OMB Control Number 1625-0100, “Advance Notice of Arrival and Electronic Transmission of Vessel Transit Data”; and (2) Notice of Proposed Rulemaking, “Vessel Requirements for Notices of Arrival and Departure, and Automatic Identification System” [USCG-2005-21869].

B. Small Entities

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

In the NPRM, we certified under 5 U.S.C. 605(b) that the proposed rule would not have a significant economic impact on a substantial number of small entities. We received no public comments that would alter our certification in the NPRM. We have found no additional data or information that would change our findings in the NPRM. We have adopted the certification in the NPRM for this final rule. See the “Small Entity” section of the NPRM for additional details.

We expect the rule would not have a significant economic impact on any entities since the costs of this rulemaking are small and the cost burden per NOA submission is only about \$18.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Mr. Kevin Pekarek, Vessel and Facility Operating Standards Division (CG–5222); telephone 202–372–1386. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s

responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

This rule calls for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). It would require a revision to an existing collection. The following is a summary of the burden associated with the revision.

As defined in 5 CFR 1320.3(c), “collection of information” comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. The title and description of the information collection, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

This rule amends the collection of information requirements for owners and operators. The rule requires modifying the burden in the previously approved collection under OMB Control Number 1625–0100.

Title: Advance Notice of Vessel Arrival.

OMB Control Number: 1625–0100.

Summary of the Collection of Information: The rule requires owners and operators of vessels, MODUs, and floating facilities to submit an advance notice of arrival electronically to the NVMC. This requires a change in the previously approved OMB Collection 1625–0100 because it expands the NOA requirement to include vessels, MODUs, and floating facilities engaging in OCS activities.

This rule will not change the information collected in OMB Collection 1625–0100. This rule will expand the number of respondents to include owners and operators of vessels, MODUs, and floating facilities that engage in OCS activities.

Proposed Use of Information: The Coast Guard would use the information to enhance maritime domain awareness.

Description of the Respondents: The respondents are owners and operators of vessels, MODUs, and floating facilities which arrive on the OCS from foreign ports and engage in OCS activities.

Number of Respondents: The rule increases the number of respondents in this OMB-approved collection by no more than 144 respondents. See the “Regulatory Planning and Review” section for more details on the respondents affected by this rule.

Frequency of Response: The rule increases the annual number of responses in this OMB-approved collection by no more than 144 responses. OCS units such as MODUs and floating production facilities may stay on the OCS for long periods, such as a year or more, so we do not expect these units to have more than one NOA submittal per year.

Burden of Response: We estimate the burden of this rule to be the preparation and submission of the NOA. Based on discussion in the “Regulatory Analysis” section of this final rule, we estimate that it would take 30 minutes to prepare and submit an NOA to the NVMC.

Estimate of Total Annual Burden: The annual total burden of this rule would be no more than 72 hours.

As required by 44 U.S.C. 3507(d), we submitted a copy of the rule to the Office of Management and Budget (OMB) for its review of the collection of information. On December 9, 2010, OMB approved the revision (ICR Ref. No. 201012–1625–002) to OMB Control Number 1625–0100, which expires on December 31, 2013. The section numbers associated with the collection of information are: §§ 146.103, 146.104, 146.215 and 146.405. Our estimate of the total annual burden is unchanged from the proposed rule to this final rule.

You are not required to respond to a collection of information unless it displays a currently valid OMB control number.

E. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This rule will not cause a taking of private property or otherwise have

taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

H. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and will not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order. Though it is a "significant regulatory action" under Executive Order 12866, it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

L. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. Therefore, this rule is categorically excluded, under section 2.B.2. Figure 2-1, paragraphs 34(a) and (d), of the Instruction, and neither an environmental assessment nor an environmental impact statement is required. This rule outlines the procedures that owners or operators of floating facilities, mobile offshore drilling units, and vessels will follow in submitting notice of arrival information to the Coast Guard's National Vessel Movement Center. This rule is procedural and concerns the documentation of vessels, falling under paragraphs 34(a) and (d) of the Instruction. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects for 33 CFR Part 146

Continental shelf, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements, Vessels.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 146, as follows:

PART 146—OPERATIONS

- 1. The authority citation for part 146 is revised to read as follows:

Authority: 33 U.S.C. 1223, 1226; 43 U.S.C. 1333, 1348, 1350, 1356; Sec. 109, Pub. L. No. 109-347, 120 Stat. 1884; Department of Homeland Security Delegation No. 0170.1.

- 2. Add § 146.102 to read as follows:

§ 146.102 Definitions.

For the purpose of this subpart: *Arrives on the OCS* means when a floating facility enters any OCS block area for the purpose of engaging in operations subject to the jurisdiction of the OCS Lands Act.

OCS block area means the names given by the Bureau of Ocean Energy Management, Regulation and

Enforcement (BOE) to define the OCS areas used to facilitate management or leasing on the OCS.

U.S., as used in the term, "U.S. floating facility," means a "floating facility," that is registered, documented, or certificated under the laws of the United States or that is not registered, documented, or certificated under the laws of the United States or any other nation.

- 3. Add § 146.103 to read as follows:

§ 146.103 Safety and Security notice of arrival for U.S. floating facilities.

(a) *General.* At least 96 hours before a U.S. floating facility arrives on the OCS from a foreign port or place or from a different OCS block area, excluding those U.S. floating facilities arriving directly from a U.S. port or place, to engage in OCS activities, the owner or operator of the floating facility, except as provided in paragraph (f) of this section, must submit the following information to the National Vessel Movement Center (NVMC):

(1) The location, latitude and longitude, of the floating facility at the time the notice of arrival (NOA) is reported;

(2) The area designation, block number or lease number, assigned under 30 CFR 250.154 for identification, where the owner or operator of the floating facility plans to perform OCS activities;

(3) The floating facility's name, if any;

(4) The date when OCS operations of the floating facility are expected to begin and end;

(5) Names of the last two ports or places visited and the associated dates of arrival and departure;

(6) The following information for each individual onboard:

(i) Full name;

(ii) Date of birth;

(iii) Nationality;

(iv) Passport number or marine documentation number (type of identification and number);

(v) Position or duties on the floating facility; and

(vi) Name of the port, or place, and country where the individual embarked.

(b) *Methods of submission.* The notice must be submitted to the NVMC by electronic Notice of Arrival and Departure format using methods specified in the NVMC's Web site at <http://www.nvmc.uscg.gov/>.

(c) *Updates to a submitted NOA.* Unless otherwise specified in this section, whenever the most recently submitted NOA information becomes inaccurate, the owner or operator of a U.S. floating facility must revise and re-submit the NOA within the times required in paragraph (e) of this section.

An owner or operator does not need to revise or re-submit an NOA for the following:

(1) A change in submitted arrival time that is less than 6 hours;

(2) Changes in the location, latitude and longitude, of the floating facility from the location at the time the NOA was reported; or

(3) Changes to personnel positions or duties on the floating facility.

(d) *Required reporting time of an initial NOA.* The owner or operator of a U.S. floating facility subject to this section must submit an initial NOA:

(1) If the voyage time is more than 96 hours, owners or operators of a floating facility must submit an initial NOA at least 96 hours before the U.S. floating facility arrives at the OCS location where the owner or operator plans to perform OCS activities; or

(2) If the voyage time is less than 96 hours, owners and operators of a floating facility must submit an initial NOA at least 24 hours before the U.S. floating facility arrives at the OCS location where the owner or operator plans to perform OCS activities.

(e) *Required reporting time of an update to an NOA.* The owner or operator of each floating facility subject to this section must submit an NOA update:

(1) If the most recently submitted NOA, or NOA update, differs by 24 hours or more from the current estimated time of arrival, the owner or operator of the floating facility must provide an updated NOA as soon as practicable but at least 24 hours before the U.S. floating facility arrives at the OCS location where the owner or operator plans to perform OCS activities; or

(2) If the most recently submitted NOA, or NOA update, differs by less than 24 hours from the current estimated time of arrival, the owner or operator of the floating facility must provide an update as soon as practicable but at least 12 hours before the U.S. floating facility arrives at the OCS location where the owner or operator plans to perform OCS activities.

(f) *Towing vessels.* When a towing vessel controls a U.S. floating facility required to submit an NOA under this subpart, the owner or operator of the towing vessel, or lead towing vessel if there is more than one, is responsible for submitting only one NOA containing the NOA information items required for the towing vessels, under § 146.405, and the U.S. floating facility under paragraph (a) of this section.

(g) This section does not apply to U.S. floating facilities merely transiting the

waters superjacent to the OCS and not engaged in OCS activities.

■ 4. Add § 146.104 to read as follows:

§ 146.104 Safety and Security notice of arrival for foreign floating facilities.

(a) *General.* At least 96 hours before a foreign floating facility arrives on the OCS from a foreign port or place or from a different OCS block area to engage in OCS activities, the owner or operator of the floating facility, except as provided in paragraph (f) of this section, must submit the following information to the National Vessel Movement Center (NVMC):

(1) The location, latitude and longitude, of the foreign floating facility at the time the NOA is reported;

(2) The area designation, block number or lease number, assigned under 30 CFR 250.154 for identification, where the owner or operator of the foreign floating facility plans to perform OCS activities;

(3) The foreign floating facility's name, if any;

(4) The date when OCS operations of the foreign floating facility are expected to begin and end;

(5) Names of the last two ports or places visited and the associated dates of arrival and departure;

(6) The following information for each individual onboard:

(i) Full name;

(ii) Date of birth;

(iii) Nationality;

(iv) Passport number or marine documentation number (type of identification and number);

(v) Position or duties on the foreign floating facility; and

(vi) Name of the port, or place, and country where the individual embarked.

(7) The date of issuance of the foreign floating facility's International Safety Management certificate (ISM), if any, and Document of Compliance certificate and the name of the flag administration, or its recognized representative, that issued those certificates; and

(8) The date of issuance of the foreign floating facility's International Ship Security certificate (ISSC), if any, and the name of the flag administration, or the recognized security organization representing the flag administration, that issued the ISSC.

(b) *Methods of submission.* The notice must be submitted to the National Vessel Movement Center by electronic Notice of Arrival and Departure format using methods specified at the NVMC's Web site at <http://www.nvmc.uscg.gov/>.

(c) *Updates to a submitted NOA.* Unless otherwise specified in this section, whenever the most recently submitted NOA information becomes

inaccurate, the owner or operator of the foreign floating facility must revise and re-submit the NOA within the times required in paragraph (e) of this section. An owner or operator does not need to revise or re-submit an NOA for the following:

(1) A change in submitted arrival time that is less than 6 hours;

(2) Changes in the location, latitude and longitude, of the floating facility from the location at the time the NOA was reported; or

(3) Changes to personnel positions or duties on the foreign floating facility.

(d) *Required reporting time of an initial NOA.* The owner or operator of a foreign floating facility subject to this section must submit an initial NOA:

(1) If the voyage time is more than 96 hours, owners or operators of a foreign floating facility must submit an initial NOA at least 96 hours before the foreign floating facility arrives at the OCS location where the owner or operator plans to perform OCS activities; or

(2) If the voyage time is less than 96 hours, the owner or operator of a foreign floating facility must submit an initial NOA at least 24 hours before the foreign floating facility arrives at the OCS location where the owner or operator plans to perform OCS activities.

(e) *Required reporting time of an update to an NOA.* The owner or operator of a foreign floating facility subject to this section must submit an NOA update:

(1) If the most recently submitted NOA, or NOA update, differs by 24 hours or more from the current estimated time of arrival, the owner or operator of the foreign floating facility must provide an updated NOA as soon as practicable but at least 24 hours before the floating facility arrives at the OCS location where the owner or operator plans to perform OCS activities; or

(2) If the most recently submitted NOA, or NOA update, differs by less than 24 hours from the current estimated time of arrival, the owner or operator of the foreign floating facility must provide an updated NOA as soon as practicable but at least 12 hours before the floating facility arrives at the OCS location where owners or operators plan to perform OCS activities.

(f) *Towing vessels.* When a towing vessel controls a foreign floating facility required to submit an NOA under this subpart, the owner or operator of the towing vessel, or lead towing vessel if there is more than one, is responsible for submitting only one NOA containing the NOA information items required for towing vessels, under § 146.405, and the

foreign floating facility under paragraph (a) of this section.

(g) This section does not apply to a foreign floating facility merely transiting the waters superjacent to the OCS and not engaged in OCS activities.

■ 5. Add § 146.200 to subpart C to read as follows:

§ 146.200 Definitions.

For the purpose of this subpart:

Arrives on the OCS means when a MODU enters any OCS block area for the purpose of engaging in operations subject to the jurisdiction of the OCS Lands Act.

OCS block area means the names given by the Bureau of Ocean Energy Management, Regulation and Enforcement (BOE) to define the OCS areas used to facilitate management or leasing on the OCS.

■ 6. Add § 146.215 to subpart C to read as follows:

§ 146.215 Safety and Security notice of arrival for U.S. or Foreign MODUs.

(a) *General.* At least 96 hours before a MODU arrives on the OCS from a foreign port or place or from a different OCS block area to engage in OCS activities, excluding those U.S. MODUs arriving directly from a U.S. port or place, to engage in OCS activities, the owner or operator of the MODU, except as provided in paragraph (f) of this section, must submit the following information to the National Vessel Movement Center (NVMC):

- (1) The location, latitude and longitude, of the MODU at the time the notice of arrival (NOA) is reported;
- (2) The area designation, block number or lease number, assigned under 30 CFR 250.154 for identification, where the MODU owner or operator plans to perform OCS activities;
- (3) The MODU's name and IMO number, if any;
- (4) The date when operations of the MODU are expected to begin and end;
- (5) Names of the last two ports or places visited and the associated dates of arrival and departure;
- (6) The following information for each individual onboard:
 - (i) Full name;
 - (ii) Date of birth;
 - (iii) Nationality;
 - (iv) Passport number or marine documentation number (type of identification and number);
 - (v) Position or duties on the MODU; and
 - (vi) Name of the port, or place, and country where the individual embarked.
- (7) The date of issuance of the MODU's International Safety Management certificate (ISM), if any,

and Document of Compliance certificate and the name of the flag administration, or its recognized representative, that issued those certificates; and

(8) The date of issuance of the MODU's International Ship Security certificate (ISSC), if any, and the name of the flag administration, or the recognized security organization representing the flag administration, that issued the ISSC.

(b) *Methods of submission.* The notice must be submitted to the National Vessel Movement Center (NVMC) by electronic Notice of Arrival and Departure format using methods specified in the NVMC's Web site at <http://www.nvmc.uscg.gov/>.

(c) *Updates to a submitted NOA.* Unless otherwise specified in this section, whenever the most recently submitted NOA information becomes inaccurate, the owner or operator of the MODU must revise and re-submit the NOA within the times required in paragraph (e) of this section. An owner or operator does not need to revise or re-submit an NOA for the following:

- (1) A change in submitted arrival time that is less than 6 hours;
- (2) Changes in the location, latitude and longitude, of the MODUs from the location at the time the NOA was reported; or
- (3) Changes to personnel positions or duties on the MODU.

(d) *Required reporting time of an initial NOA.* The owner or operator of a MODU subject to this section must submit an initial NOA:

- (1) If the voyage time is more than 96 hours, owners and operators of a MODU must submit an initial NOA at least 96 hours before the MODU arrives at the OCS location where the owner or operator plans to perform OCS activities; or
- (2) If the voyage time is less than 96 hours, owners and operators of a MODU must submit an initial NOA at least 24 hours before the MODU arrives at the OCS location where the owner or operator plans to perform OCS activities.

(e) *Required reporting time of an update to an NOA.* The owner or operator of a MODU subject to this section must submit an NOA update:

- (1) If the most recently submitted NOA, or NOA update, differs by 24 hours or more from the current estimated time of arrival, the owner or operator of the MODU must provide an updated NOA as soon as practicable but at least 24 hours before the MODU arrives at the OCS location where the owner or operator plans to perform OCS activities; or

(2) If the most recently submitted NOA, or NOA update, differs by less than 24 hours from the current estimated time of arrival, the owner or operator of the MODU must provide an updated NOA as soon as practicable but at least 12 hours before the MODU arrives at the OCS location where the owner or operator plans to perform OCS activities.

(f) *Towing vessels.* When a towing vessel controls a MODU required to submit an NOA under this subpart, the owner or operator of the towing vessel, or lead towing vessel if there is more than one, is responsible for submitting only one NOA containing the information required for the towing vessels, under § 146.405, and the MODU under paragraph (a) of this section.

(g) This section does not apply to MODU's merely transiting the waters superjacent to the OCS and not engaged in OCS activities.

Subpart D—Vessels—Notice of Casualty

■ 7. Revise the heading in Subpart D to read as set forth above.

■ 8. Add Subpart E to read as follows:

Subpart E—Vessels—Safety and Security Notice of Arrival

Sec.

146.401 Applicability.

146.402 Definitions.

146.405 Safety and Security notice of arrival for vessels arriving at a place on the OCS.

Subpart E—Vessels—Safety and Security Notice of Arrival

§ 146.401 Applicability.

This subpart applies to all U.S. and foreign vessels, except those U.S. vessels traveling directly from a U.S. port or place, bound for a place on the OCS and planning to engage in OCS activities. Vessels under this subpart include, but are not limited to, standby vessels, attending vessels, offshore supply vessels, pipelay vessels, derrick ships, diving support vessels, oceanographic research vessels, towing vessels, and accommodation vessels. This subpart does not apply to MODUs, which are covered under § 146.215; nor does it apply to floating facilities, which are covered under §§ 146.103 and 146.104.

§ 146.402 Definitions.

For the purpose of this subpart:

Arrives on the OCS means when a vessel enters any OCS block area to commence operations for which it has submitted a Notice of Arrival under § 146.405(b)(2).

OCS block area means the names given by the Bureau of Ocean Energy Management, Regulation and Enforcement (BOE) to define the OCS areas used to facilitate management or leasing on the OCS.

§ 146.405 Safety and Security notice of arrival for vessels arriving at a place on the OCS.

(a) *General.* The owner or operator of each vessel subject to this section must submit an initial NOA to the National Vessel Movement Center (NVMC):

(1) If the voyage time is more than 96 hours, at least 96 hours before the vessel arrives at a place on the OCS from a foreign port or place or from a different OCS block area to engage in OCS activities;

(2) If the voyage time is less than 96 hours and more than 24 hours, before departure, or;

(3) If the voyage time is less than 24 hours, at least 24 hours before the vessel arrives at a place on the OCS.

(b) *Information required in an NOA.* The following information is required from the owners or operators of vessels submitting an NOA:

(1) All the information specified in 33 CFR Table 160.206 with the exception of information required in items (2)(iii) through (2)(vi) and item (6). Item (8) is also not required except as pursuant to the laws on vessel entry (19 U.S.C. 1434) and clearance (46 U.S.C. 60105). Vessel owners and operators should protect any personal information they gather in preparing notices for transmittal to the NVMC so as to prevent unauthorized disclosure of that information;

(2) The area in which they are conducting their operations. This area can be submitted as either the name of the places, the BOE block numbers, or the latitudes and longitudes of the places on the OCS where operations are being conducted; and

(3) If any person onboard, including a crewmember, is not required to carry a passport for travel, then passport information required in Table 160.206, items (4)(iv) through (vi), and (5)(iv) through (vi), need not be provided for that person.

(c) *Updates to a submitted NOA.* Unless otherwise specified in this section, whenever the most recently submitted NOA information becomes inaccurate, the owner or operator of that vessel must revise and re-submit the NOA within the times required in paragraph (e) of this section. An owner or operator does not need to revise and re-submit an NOA for the following:

(1) A change in submitted arrival time that is less than 6 hours;

(2) Changes in the location, latitude and longitude, of the vessel from the location at the time the NOA was reported; or

(3) Changes to personnel positions or duties on the vessel.

(d) *Methods of submission.* The notice must be submitted to the NVMC by electronic Notice of Arrival and Departure format using methods specified at the NVMC's Web site at <http://www.nvmc.uscg.gov/>.

(e) *Required reporting time of an NOA update.* The owner or operator of each vessel subject to this section must submit an NOA update:

(1) If the most recently submitted NOA, or NOA update, differs by 24 hours or more from the current estimated time of arrival, the owner or operator of the vessel must provide an update as soon as practicable but at least 24 hours before the vessel arrives at the OCS location where the owner or operator plans to perform OCS activities;

(2) If the most recently submitted NOA, or NOA update, differs by less than 24 hours from the current estimated time of arrival, the owner or operator of the vessel must provide an update as soon as practicable but at least 12 hours before the vessel arrives at the OCS location where the owner or operator plans to perform OCS activities; or

(3) If the remaining voyage time is less than 24 hours, the owner or operator of the vessel must provide an update as soon as practicable, but at least 12 hours before the vessel arrives at a place on the OCS.

(f) *Towing vessels.* When a towing vessel controls a vessel required to submit an NOA under this subpart, the owner or operator of the towing vessel, or lead towing vessel if there is more than one, is responsible for submitting only one NOA containing the information required for the towing vessels and the vessel under its control.

(g) This section does not apply to vessels merely transiting the waters superjacent to the OCS and not engaged in OCS activities.

Dated: December 22, 2010.

Robert J. Papp, Jr.,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 2011-569 Filed 1-12-11; 8:45 am]

BILLING CODE 9110-04-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2010-0675; FRL-9250-8]

Approval and Promulgation of Air Quality Implementation Plans; Minnesota; Gopher Resource, LLC

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a request submitted by the Minnesota Pollution Control Agency (MPCA) on July 29, 2010, to revise the Minnesota State Implementation Plan (SIP) for lead (Pb) under the Clean Air Act (CAA). The State has submitted a joint Title I/Title V document (joint document) in the form of Air Emission Permit No. 03700016-003, and has requested that the conditions laid out with the citation "Title I Condition: SIP for Lead NAAQS" replace an existing Administrative Order (Order) as the enforceable SIP conditions for Gopher Resource, LLC. The existing Order was approved by EPA on October 18, 1994. MPCA's July 29, 2010, revisions were meant to satisfy the maintenance requirements for the 1978 Pb National Ambient Air Quality Standard (NAAQS), promulgated at 1.5 micrograms per cubic meter, or 1.5 µg/m³.

DATES: This direct final rule will be effective March 14, 2011, unless EPA receives adverse comments by February 14, 2011. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2010-0675, by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *E-mail:* mooney.john@epa.gov.

3. *Fax:* (312) 692-2551.

4. *Mail:* John Mooney, Chief, Attainment Planning and Maintenance Section (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery:* John Mooney, Chief, Attainment Planning and Maintenance Section (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed

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Federal Register

**Thursday
June 2, 2011**

Department of Homeland Security

Coast Guard

**Navigation and Navigable Waters,
Technical, Organizational and
Conforming Amendments; Final
Rule**

Dated: May 16, 2011.

Michele M. Leonhart,
Administrator.

[FR Doc. 2011-13686 Filed 6-1-11; 8:45 am]

BILLING CODE 4410-09-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 1, 27, 96, 101, 107, 115, 117, 135, 140, 148, 150, 151, 160, 161, 162, 164, 166, 167, and 169

[Docket No. USCG-2011-0257]

RIN 1625-AB69

Navigation and Navigable Waters; Technical, Organizational, and Conforming Amendments

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: This rule makes non-substantive changes throughout Title 33 of the Code of Federal Regulations. The purpose of this rule is to make conforming amendments and technical corrections to Coast Guard navigation and navigable water regulations. This rule will have no substantive effect on the regulated public. These changes are provided to coincide with the annual recodification of Title 33 on July 1, 2011.

DATES: This final rule is effective June 2, 2011.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2011-0257 and are available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to <http://www.regulations.gov>, inserting USCG-2011-0257 in the "Keyword" box, and then clicking "Search."

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Leo Huott, Coast Guard; telephone 202-372-1027, e-mail Leo.S.Huott@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Table of Contents for Preamble

- I. Regulatory History
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I. Regulatory History

We did not publish a notice of proposed rulemaking (NPRM) for this rule. Under 5 U.S.C. 553(b)(A) the Coast Guard finds this rule is exempt from notice and comment rulemaking requirements because these changes involve rules of agency organization, procedure, or practice. In addition, the Coast Guard finds notice and comment procedures are unnecessary under 5 U.S.C. 553(b)(B) as this rule consists only of corrections and editorial, organizational, and conforming amendments and these changes will have no substantive effect on the public. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that, for the same reasons, good cause exists for making this rule effective upon publication in the **Federal Register**.

II. Background

Each year, the printed edition of Title 33 of the Code of Federal Regulations is recodified on July 1. This rule, which becomes effective June 2, 2011, makes technical and editorial corrections throughout Title 33. This rule does not create any substantive requirements.

III. Basis and Purpose

This rule amends 33 CFR part 1 to reflect changes in agency organization by removing § 1.01-60(a)(1)(ii) and combining § 1.01-60(a)(1)(i) with § 1.01-60(a)(1). Because the Coast Guard is no longer a component of the Department of Transportation (DOT), DOT Order 5610.1C (Procedures for Considering Environmental Impacts) no longer applies.

This rule revises 33 CFR part 27. The Coast Guard is adjusting fines and other civil monetary penalties to reflect the impact of inflation. These adjustments are made in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, and implement the provisions of these statutes. These statutes require the Coast

Guard to periodically adjust the civil monetary penalties for inflation by a method that is specifically prescribed within these statutes and which allows no discretion. The statutory method specifies the inflation measure to be used, the method for the calculation of the inflation adjustment, and the method for the numerical rounding of the results. The last inflation adjustments were made in 2010.

The changes in Civil Penalties for calendar year 2011 are based on the change in CPI-U from June 2009 to June 2010. The recorded change in CPI-U during that period was 1.05%. Because of the small change in CPI-U and the required rules for rounding, there was no change to any of the maximum penalty amounts from the previous adjustment.

This rule amends § 115.05 by replacing the term "builder" with the term "applicant" to clarify the Coast Guard's intent and make the affected provision consistent with other provisions in this section and other sections of part 115. This rule also corrects grammatical errors and details established requirements regarding the information needed on the plan sheets that accompany a bridge permit request. This rule removes § 115.50(d) because the information it provides is already explained throughout the section.

This rule amends 33 CFR part 117 to correct the names of the S14 Bridge and the S1 Bridge and to provide an updated phone number to the Kansas City Southern automated bridge. Also "Pelican Island Causeway" is removed from the title of § 117.977 and the section is redesignated to follow the alphabetical order of state waterways set out in this subpart.

This rule amends parts 135, 140, 148, and 150 of Title 33 with an organizational name change from the Minerals Management Service (MMS) to the Bureau of Ocean Energy Management Regulation and Enforcement (BOEMRE).

This rule amends paragraph 161.15(a) to correct a typographical error that erroneously omitted the words "within a". The correction to the section is not substantive and does not impose any new requirement, but clarifies the meaning of this portion of part 161.

This rule amends 33 CFR part 164 to remove LORAN C from the list of options for vessel electronic position fixing devices. Removing LORAN C from 33 CFR part 164 will have no substantive effect on the public because the use of LORAN C has not been supported by the Coast Guard since February 2010, and this section is no longer applicable.

This rule amends Title 33 to correct latitude/longitude coordinates of the Galveston Entrance Anchorage Areas in part 166 and the Chesapeake Bay: Eastern approach in part 167.

This rule amends Title 33 to update internal Coast Guard office designations as well as certain personnel titles. Changes in personnel titles included in this rule are only technical revisions reflecting changes in agency procedure and organization, and do not indicate new authorities.

This rule amends Title 33 to update various physical addresses for Coast Guard offices as well as those offices' contact information.

Finally, this rule corrects non-substantive, typographical errors throughout Title 33.

IV. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

A. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. Because this rule involves non-substantive changes and internal agency practices and procedures, it will not impose any additional costs on the public.

B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

We estimate that the cost of this rule is minimal and should have little or no impact on small entities because the provisions of this rule are technical and non-substantive, and will have no substantive effect on the public and will impose no additional costs. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

C. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

G. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminates ambiguity, and reduces burden.

H. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

I. Indian Tribal Governments

This rule does not have Tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and

responsibilities between the Federal Government and Indian Tribes.

J. Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

K. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

L. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded under section 2.B.2, figure 2–1, paragraph (34)(a) of the Instruction. This rule involves regulations which are editorial, procedural, such as those updating addresses or establishing application procedures. An environmental analysis checklist and a categorical exclusion determination are

available in the docket where indicated under ADDRESSES.

List of Subjects

33 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Penalties.

33 CFR Part 27

Administrative practice and procedure, Penalties.

33 CFR Part 96

Administrative practice and procedure, Marine safety, Reporting and recordkeeping requirements, Vessels.

33 CFR Part 101

Harbors, Maritime security, Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

33 CFR Part 107

Harbors, Facilities, Marine safety, Maritime security, Navigation (water), Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

33 CFR Part 115

Administrative practice and procedure, Bridges, Reporting and recordkeeping requirements.

33 CFR Part 117

Bridges.

33 CFR Part 135

Administrative practice and procedure, Continental shelf, Insurance, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 140

Continental shelf, Investigations, Marine safety, Occupational safety and health, Penalties, Reporting and recordkeeping requirements.

33 CFR Part 148

Administrative practice and procedure, Environmental protection, Harbors, Petroleum.

33 CFR Part 150

Harbors, Marine safety, Navigation (water), Occupational safety and health, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 151

Administrative practice and procedure, Oil pollution Penalties, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 160

Administrative practice and procedure, Harbors, Hazardous materials transportation, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Vessels, Waterways.

33 CFR Part 161

Harbors, Navigation (water), Reporting and recordkeeping requirements, Vessels, Waterways.

33 CFR Part 162

Navigation (water), Waterways.

33 CFR Part 164

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

33 CFR Part 166

Anchorage grounds, Marine safety, Navigation (water), Waterways.

33 CFR Part 167

Harbors, Marine safety, Navigation (water), Waterways.

33 CFR Part 169

Endangered and threatened species, Marine mammals, Navigation (water), Radio, Reporting and recordkeeping requirements, Vessels, Water pollution control.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 1, 27, 96, 101, 107, 115, 117, 135, 140, 148, 150, 151, 160, 161, 162, 164, 166, 167, and 169.

PART 1—GENERAL PROVISIONS

■ 1. The authority citation for part 1 continues to read as follows:

Authority: 14 U.S.C. 633; 33 U.S.C. 401, 491, 525, 1321, 2716, and 2716a; 42 U.S.C. 9615; 49 U.S.C. 322; Department of Homeland Security Delegation No. 0170.1; section 1.01–70 also issued under the authority of E.O. 12580, 3 CFR, 1987 Comp., p. 193; and sections 1.01–80 and 1.01–85 also issued under the authority of E.O. 12777, 3 CFR, 1991 Comp., p. 351.

■ 2. In § 1.01–60, revise paragraph (a)(1) to read as follows:

§ 1.01–60 Delegations for issuance of bridge permits.

(a) * * *

(1) Those that require an environmental assessment or environmental impact statement under the National Environmental Policy Act of 1969, as amended, (42 U.S.C. 4321 *et seq.*) and all implementing regulations, orders, and instructions.

* * * * *

PART 27—ADJUSTMENT OF CIVIL MONETARY PENALTIES FOR INFLATION

■ 3. The authority citation for part 27 continues to read as follows:

Authority: Secs. 1–6, Public Law 101–410, 104 Stat. 890, as amended by Sec. 31001(s)(1), Public Law 104–134, 110 Stat. 1321 (28 U.S.C. 2461 note); Department of Homeland Security Delegation No. 0170.1, sec. 2 (106).

■ 4. Revise § 27.3 to read as follows:

§ 27.3 Penalty Adjustment Table.

Table 1 identifies the statutes administered by the Coast Guard that authorize a civil monetary penalty. The “adjusted maximum penalty” is the maximum penalty authorized by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended, as determined by the Coast Guard.

TABLE 1—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS

| U.S. Code citation | Civil monetary penalty description | 2011 Adjusted maximum penalty amount (\$) |
|----------------------|--|---|
| 14 U.S.C. 88(c) | Saving Life and Property | 8,000 |
| 14 U.S.C. 645(i) | Confidentiality of Medical Quality Assurance Records (first offense) | 4,000 |
| 14 U.S.C. 645(i) | Confidentiality of Medical Quality Assurance Records (subsequent offenses) | 30,000 |
| 16 U.S.C. 4711(g)(1) | Aquatic Nuisance Species in Waters of the United States | 35,000 |
| 19 U.S.C. 70 | Obstruction of Revenue Officers by Masters of Vessels | 3,000 |
| 19 U.S.C. 70 | Obstruction of Revenue Officers by Masters of Vessels—Minimum Penalty | 700 |
| 19 U.S.C. 1581(d) | Failure to Stop Vessel When Directed; Master, Owner, Operator or Person in Charge (1) | 5,000 |
| 19 U.S.C. 1581(d) | Failure to Stop Vessel When Directed; Master, Owner, Operator or Person in Charge—Minimum Penalty (1). | 1,000 |

indicated in both the closed and open positions.

* * * * *

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 14. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; and Department of Homeland Security Delegation No. 0170.1.

§ 117.241 [Amended]

■ 15. In § 117.241, following the words “draw of the”, remove the words “S14 Bridge”, and add, in their place, the words “Route 1/Rehoboth Blvd. Bridge”.

§ 117.438 [Amended]

■ 16. In § 117.438(a), following the words “draw of the”, remove the words “S1 bridge”, and add, in their place, the words “LA1 bridge”.

§ 117.971 [Amended]

■ 17. In § 117.971(a)(1)(i), following the words “Telephone at”, remove the number “1–877–829–6295” and add, in its place, the number “1–800–892–6295”.

§ 117.977 [Redesignated as § 117.966]

■ 18a. Redesignate § 117.977 as § 117.966.

■ 18b. In newly redesignated § 117.966, revise the section heading to read as follows:

§ 117.966 Galveston Channel.

* * * * *

PART 135—OFFSHORE OIL POLLUTION COMPENSATION FUND

■ 19. The authority citation for part 135 continues to read as follows:

Authority: 33 U.S.C. 2701–2719; E.O. 12777, 56 FR 54757; Department of Homeland Security Delegation No. 0170.1, para. 2(80).

§ 135.103 [Amended]

■ 20. In § 135.103(b), following the words “criteria of the”, remove the words “Minerals Management Service” and add, in their place, the words “Bureau of Ocean Energy Management, Regulation and Enforcement”.

PART 140—GENERAL

■ 21. The authority citation for part 140 continues to read as follows:

Authority: 43 U.S.C. 1333, 1348, 1350, 1356; Department of Homeland Security Delegation No. 0170.1.

■ 22. In § 140.10, remove the definition for “Minerals Management Service

inspector or MMS inspector” and add, in alphabetical order, the definition for “Bureau of Ocean Energy Management, Regulation and Enforcement inspector or BOEMRE inspector” to read as follows:

§ 140.10 Definitions.

* * * * *

Bureau of Ocean Energy Management, Regulation and Enforcement inspector or BOEMRE inspector means an individual employed by the Bureau of Ocean Energy Management, Regulation and Enforcement who inspects fixed OCS facilities on behalf of the Coast Guard to determine whether the requirements of this subchapter are met.

* * * * *

§ 140.101 [Amended]

■ 23. Amend § 140.101 as follows:

■ a. In the section heading, remove the words “Minerals Management Service” and add, in their place, the words “Bureau of Ocean Energy Management, Regulation and Enforcement”;

■ b. In paragraph (b), remove the words “Minerals Management Service (MMS)” and add, in their place, the words “Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE)”; and

■ c. In paragraphs (c) and (d), remove the word “MMS” wherever it appears and add, in its place, the word “BOEMRE”.

§ 140.103 [Amended]

■ 24. Amend § 140.103 as follows:

■ a. In paragraph (b), following the words “marine inspectors and”, remove the words “Minerals Management Service (MMS)” and add, in their place, the words “Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE)”; and

■ b. In paragraph (c), remove the word “MMS” wherever it appears, and add, in its place, the word “BOEMRE”.

PART 148—DEEPWATER PORTS: GENERAL

■ 25. The authority citation for part 148 continues to read as follows:

Authority: 33 U.S.C. 1504; Department of Homeland Security Delegation No. 0170.1 (75).

§ 148.3 [Amended]

■ 26. In § 148.3(d), following the words “Corps of Engineers,” remove the words “Minerals Management Service (MMS)” and add, in their place, the words “Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE)”.

§ 148.105 [Amended]

■ 27. In § 148.105(o), following the words “established by the”, remove the words “Minerals Management Service” and add, in their place, the words “Bureau of Ocean Energy Management, Regulation and Enforcement”.

PART 150—DEEPWATER PORTS: OPERATIONS

■ 28. The authority citation for part 150 continues to read as follows:

Authority: 33 U.S.C. 1231, 1321(j)(1)(C), (j)(5), (j)(6), (m)(2); 33 U.S.C. 1509(a); E.O. 12777, sec. 2; E.O. 13286, sec. 34, 68 FR 10619; Department of Homeland Security Delegation No. 0170.1(70), (73), (75), (80).

§ 150.815 [Amended]

■ 29. In § 150.815(c), following the words “regulated by the”, remove the words “Minerals Management Service” and add, in their place, the words “Bureau of Ocean Energy Management, Regulation and Enforcement”.

§ 150.820 [Amended]

■ 30. In § 150.820(d), following the words “the nearest regional”, remove the words “Minerals Management Service (MMS)” and add, in their place, the words “Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE)”; and following the words “with an”, remove the word “MMS” and add, in its place, the word “BOEMRE”.

PART 151—VESSELS CARRYING OIL, NOXIOUS LIQUID SUBSTANCES, GARBAGE, MUNICIPAL OR COMMERCIAL WASTE, AND BALLAST WATER

■ 31. The authority citation for part 151 continues to read as follows:

Authority: 33 U.S.C. 1321, 1902, 1903, 1908; 46 U.S.C. 6101; Pub. L. 104–227 (110 Stat. 3034); Pub. L. 108–293 (118 Stat. 1063), § 623; E.O. 12777, 3 CFR, 1991 Comp. p. 351; DHS Delegation No. 0170.1, sec. 2(77).

Appendix to Subpart D [Amended]

■ 32. In the Appendix to Subpart D, in the last paragraph, remove the number “524”, and add, in its place, the number “5224”.

PART 160—PORTS AND WATERWAYS SAFETY—GENERAL

■ 33. The authority citation for part 160 continues to read as follows:

Authority: 33 U.S.C. 1223, 1231; 46 U.S.C. Chapter 701; Department of Homeland Security Delegation No. 0170.1. Subpart C is also issued under the authority of 33 U.S.C. 1225 and 46 U.S.C. 3715.

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Federal Register

Tuesday
November 19, 2013

Department of
Homeland Security

Coast Guard

**TWIC Not Evidence of Resident Alien
Status; Final Rule**

on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, no Federalism assessment is required.

List of Subjects in 32 CFR Part 320

Privacy.

Accordingly, 32 CFR part 320 is amended as follows:

PART 320—NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY (NGA) PRIVACY

■ 1. The authority citation for part 320 continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat. 1986 (5 U.S.C. 552a).

■ 2. Section 320.12 is amended by adding paragraph (d) to read as follows:

§ 320.12 Exemptions.

* * * * *

(d) *System identifier and name:* NGA–003, National Geospatial-Intelligence Agency Enterprise Workforce System.

(1) Exemptions: Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a confidential source.

Note to paragraph (d)(1): When claimed, this exemption allows limited protection of investigatory reports maintained in a system of records used in personnel or administrative actions.

(2) Authority: 5 U.S.C. 552a (k)(2).

(3) Reasons: Pursuant to 5 U.S.C. 552a (k)(2), the Director of NGA has exempted this system from the following provisions of the Privacy Act, subject to the limitation set forth in 5 U.S.C. 552a(c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I); and (f). Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(i) From subsection (c)(3) and (c)(4) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part

of NGA as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process.

(ii) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of NGA or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an unreasonable administrative burden by requiring investigations to be continually reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(iii) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of Federal law, the accuracy of information obtained or introduced occasionally may be unclear, or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(iv) From subsection (e)(2) (Collection of Information from Individuals) because requiring that information be collected from the subject of an investigation would alert the subject to the nature or existence of the investigation, thereby interfering with that investigation and related law enforcement activities.

(v) From subsection (e)(3) (Notice to Subjects) because providing such detailed information could impede law enforcement by compromising the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(vi) From subsections (e)(4)(G), (e)(4)(H), and (e)(4)(I) (Agency Requirements) and (f) (Agency Rules),

because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore NGA is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, and potential witnesses, and confidential informants.

(vii) From subsection (e)(5) (Collection of Information) because with the collection of information for law enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely, and complete. Compliance with subsection (e)(5) would preclude NGA personnel from using their investigative training and exercise of good judgment to both conduct and report on investigations.

(viii) From subsection (e)(8) (Notice on Individuals) because compliance would interfere with NGA's ability to cooperate with law enforcement who would obtain, serve, and issue subpoenas, warrants, and other law enforcement mechanisms that may be filed under seal and could result in disclosure of investigative techniques, procedures, and evidence.

(ix) From subsection (g)(1) (Civil Remedies) to the extent that the system is exempt from other specific subsections of the Privacy Act.

Dated: November 6, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–27464 Filed 11–18–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 141

[Docket No. USCG–2013–0916]

RIN 1625–AC09

TWIC Not Evidence of Resident Alien Status

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard issues this final rule to remove from its regulations

on Outer Continental Shelf (OCS) activities a reference to the Transportation Worker Identification Credential (TWIC) and a related TWIC definition and recordkeeping reference because they are inconsistent with a requirement in the Outer Continental Shelf Lands Act. These regulations deal with the employment of personnel on the OCS to U.S. citizens or resident aliens. The TWIC reference incorrectly provides that a TWIC alone may be accepted by an employer as sufficient evidence of the TWIC holder's status as a U.S. resident alien, as that term is defined. This rule clarifies the regulations.

DATES: This final rule is effective November 19, 2013.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2013–0916 and are available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to <http://www.regulations.gov>, inserting USCG–2013–0916 in the “Search” box, and then clicking “Search.”

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, email or call Mr. Quentin Kent, Office of Commercial Vessel Compliance, Foreign and Offshore Vessel Division (CG–CVC–2), Coast Guard; email Quentin.C.Kent@uscg.mil, telephone 202–372–2292. If you have questions on viewing the docket, call Ms. Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

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I. Abbreviations

APA Administrative Procedure Act

FR Federal Register
 I–9 Form I–9, Employment Eligibility Verification
 INA Immigration and Nationality Act of 1952
 NPRM Notice of proposed rulemaking
 OCS Outer Continental Shelf
 OCSLA Outer Continental Shelf Lands Act
 TWIC Transportation Worker Identification Credential
 U.S.C. United States Code

II. Basis and Purpose

The Coast Guard is amending its regulations in 33 CFR part 141, which govern the restrictions on the employment of personnel on units engaged in Outer Continental Shelf (OCS) activities, by removing an incorrect reference to the Transportation Worker Identification Credential (TWIC). The reference in 33 CFR 141.30(d) incorrectly provides that, for purposes of 33 CFR part 141, a TWIC alone may be accepted by an employer as sufficient evidence of the TWIC holder's status as a U.S. resident alien,¹ as that term is defined in 33 CFR 141.10.

The regulations in 33 CFR part 141 are authorized by the Outer Continental Shelf Lands Act (OCSLA) (43 U.S.C. 1301, et. al.), which mandates that the Secretary of the Department in which the Coast Guard operates shall issue regulations which, in part, require the employment of U.S. citizens or resident aliens on any vessel, rig, platform, or other vehicle or structure engaged in OCS activities, unless certain exceptions apply. 43 U.S.C. 1356.

Subsequent to the implementation of the regulations in 33 CFR part 141, the Coast Guard published a final rule entitled, “Consolidation of Merchant Mariner Qualification Credentials” on March 16, 2009, that went into effect on April 15, 2009. 74 FR 11196. In that rulemaking several provisions of 33 CFR part 141 were amended. In particular, the Coast Guard added paragraph (d) to 33 CFR 141.30, authorizing an employer to accept a TWIC alone as sufficient evidence of the TWIC holder's status as a U.S. resident alien. However, the preamble to this rulemaking did not provide a reason for adding paragraph (d) to 33 CFR 141.30. Paragraph (d) is incorrect because a TWIC may be issued to both U.S. resident aliens and non-resident aliens² and thus, it cannot serve as sufficient evidence that the person is a U.S. resident alien, as

¹ U.S. resident alien is defined in 33 CFR 141.10 as an alien lawfully admitted for permanent residence, as defined in 8 U.S.C. 1101(a)(20). See 49 CFR 1570.3. The term is synonymous with “legal permanent resident” as it appears in TSA regulations.

² See Transportation Security Administration regulations, 49 CFR 1572.105.

required by law. Therefore, for purposes of 33 CFR part 141, a TWIC alone cannot be accepted by an employer as sufficient evidence of the holder's status as a U.S. resident alien.

Since OCSLA mandates that employers must employ only U.S. citizens or resident aliens on units engaged in OCS activities, any employer who hires a non-resident alien who has presented only a TWIC as proof of status as a U.S. resident alien, would not be in compliance with the OCSLA requirement. Additionally, authorizing a TWIC to be used in this manner is contrary to, and inconsistent with the definition for a U.S. “resident alien” found in § 141.10 where the term is defined as “an alien lawfully admitted to the United States for permanent residence in accordance with section 101(a)(20) of the Immigration and Nationality Act (INA) of 1952, as amended, 8 U.S.C. 1101(a)(20).”

To correct this inconsistency, the Coast Guard is removing 33 CFR 141.30(d) from its regulations and clarifies that only the provisions in 33 CFR 141.30(a) through (c) are acceptable for showing evidence of a person's status as a U.S. resident alien.

The Coast Guard is also removing a related TWIC definition in § 141.10 and a related TWIC recordkeeping reference in § 141.35(d).

III. Regulatory History

The Administrative Procedure Act (APA) requires the Coast Guard to provide public notice and seek public comment on substantive regulations. 5 U.S.C. 553. The APA, however, excludes certain types of regulations and permits exceptions for other types of regulations from this public notice and comment requirement. Under the APA “good cause” exception, an agency may dispense with the requirement for notice and comment if the agency finds that following APA requirements would be “impracticable, unnecessary, or contrary to the public interest.” 5 U.S.C. 553(b)(B). The Coast Guard finds that notice and comment for this rulemaking is unnecessary because we are merely removing a provision that we mistakenly inserted into 33 CFR part 141 in a 2009 rulemaking and that is inconsistent with the governing statute (see discussion in section II. Basis and Purpose). Public notice of this change is unnecessary because such comments cannot affect, influence, or inform any Coast Guard action in implementing the removal of this provision because the Coast Guard cannot maintain a regulation that is inconsistent with its statutory authority.

Moreover, the Coast Guard finds that good cause exists to implement this rule immediately upon publication in the **Federal Register**. See 5 U.S.C. 553(d)(3). The Coast Guard finds it necessary to implement this rule immediately because the Coast Guard cannot keep a regulation in place even if the public showed support for it since it is inconsistent with its statutory authority. We also find it in the public interest to implement this rule immediately to ensure that employers know as soon as possible that they must verify a potential employees' immigration status by means other than a TWIC.

IV. Discussion of the Final Rule

Section 141.10 contains the definitions that apply to part 141. A TWIC is defined as "an identification credential issued by the Transportation Security Administration according to 49 CFR part 1572." We are removing this definition for the reasons explained in Part III.

Section 141.30 contains the regulation which lists the documents an employer can accept as evidence of a person's status as a U.S. resident alien. We are removing Section 141.30(d) for the reasons explained in Part III.

Section 141.35 states which records must be kept by employers as proof of eligibility for employment on the OCS. Section 141.35(a)(1) requires that an employer maintain a copy of a TWIC if that is the method of identification used by the employee to assert eligibility to work on the OCS. Since a TWIC is not a valid form of identification for purposes of part 141 as explained in Part III, we are removing "Transportation Worker Identification Credential" from § 141.35(a)(1). All other recordkeeping requirements will remain unchanged.

In addition, we will make a non-substantive change to § 141.30(c). The word "the" preceding the word "Naturalization" is removed as it is grammatically incorrect since only the word "a" should precede the word "Naturalization."

V. Regulatory Analyses

We developed this final rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 14 of these statutes or executive orders.

A. Regulatory Planning and Review

Executive Orders 12866 ("Regulatory Planning and Review") and 13563 ("Improving Regulation and Regulatory Review") direct agencies to assess the costs and benefits of available regulatory

alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget (OMB) has not reviewed it under that Order. Nonetheless, we developed an analysis of the costs and benefits of this final rule to ascertain its probable impacts on industry.

Currently, part 141 permits an individual to present a valid TWIC as evidence of U.S. resident alien status for the purposes of employment on units engaged in OCS activities. The TWIC is unsuitable as evidence of U.S. resident alien status because the TWIC may be obtained by non-resident aliens.

Employers, therefore, cannot accept the TWIC as sufficient evidence that the potential employee is a U.S. resident alien. This final rule will remove the TWIC as proof of U.S. resident alien status for employment on units engaged in OCS activities, creating consistency with other requirements in part 141 that state that each employer engaged in OCS activities must employ only U.S. citizens or resident aliens, with limited exceptions.

The Coast Guard does not expect this final rule to burden industry with new costs. In addition to having no evidence that any employers have attempted to accept the TWIC alone to determine the immigration status of employees since the TWIC was added to the list in 2009, employers in the United States are required by the INA to use the Form I-9,³ Employment Eligibility Verification (I-9) process. The I-9 process includes an attestation from the new hire on whether he or she is a U.S. citizen or national, lawful permanent resident, or alien authorized to work in the United States. Employers must verify the identity and employment authorization of every individual hired for employment in the United States. (8

CFR 274a.2) The TWIC card alone would be insufficient evidence to prove one's identity and employment authorization under the I-9 process.

Because part 141 does not exempt employers from completing the Form I-9, the population directly affected by the final rule (i.e., employers and potential employees) will not incur any additional costs as a result of the final rule.

The benefits of this final rule include harmonization with the INA and clarification of the requirements to demonstrate U.S. resident alien status for the purpose of employment on units engaged in activities on the OCS. The inclusion of the TWIC to the list of documents acceptable to prove U.S. resident alien status in § 141.30 contradicts the intent of OCSLA. Removal of the reference to TWIC from the list will ensure employers and employees understand which documents can be accepted as proof of U.S. resident alien status.

B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule will have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The revisions in this rule do not require publication of an NPRM and, therefore, is exempt from the requirements of the Regulatory Flexibility Act. Although this rule is exempt, we have reviewed it for its potential economic impact on small entities. There is no cost to businesses, not-for-profit organizations, or government jurisdictions as a result of this rule, since other federal requirements would preclude the use of the TWIC as sole evidence of U.S. resident alien status. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule will have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

³ Form I-9, Employment Eligibility Verification, OMB No. 1615-0047, <http://www.uscis.gov/files/form/i-9.pdf>

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Mr. Quentin Kent, at Quentin.C.Kent@uscg.mil. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

E. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. In 43 U.S.C. 1356, Congress specifically granted to the Secretary of the Department in which the Coast Guard is operating, the authority to issue regulations, which, in part, require the employment of U.S. citizens or resident aliens on any vessel, rig, platform, or other vehicle or structure engaged in OCS activities, unless certain exceptions apply. As this rule updates existing OCS personnel regulations, it falls within the scope of authority Congress granted exclusively to the Secretary of Homeland Security and States may not regulate within this category.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

H. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

J. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

L. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded under section 2.B.2, figure 2–1, paragraph 34(a), (c) and (d) of the Instruction. This rule involves regulations that are editorial or procedural, regulations concerning the licensing of maritime personnel and regulations concerning manning and documentation of vessels. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 141

Citizenship and naturalization, Continental shelf, Employment, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 141 as follows:

PART 141—PERSONNEL

- 1. The authority citation for part 141 continues to read as follows:

Authority: 43 U.S.C. 1356; 46 U.S.C. 70105; 49 CFR 1.46(z).

Subpart A—Restrictions on Employment

§ 141.10 [Amended]

■ 2. In § 141.10, remove the definition for “Transportation Worker Identification Credential or TWIC”.

§ 141.30 [Amended]

■ 3. In § 141.30:

- a. In paragraph (c), after the words “issued by”, remove the word “the”; and
- b. Remove paragraph (d).

§ 141.35 [Amended]

■ 4. In § 141.35(a)(1), after the words “mariner’s document”, remove the punctuation and words “, Transportation Worker Identification Credential.”.

Dated: November 8, 2013.

J.C. Burton,

Captain, U.S. Coast Guard, Director of Inspections & Compliance.

[FR Doc. 2013–27569 Filed 11–18–13; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY
40 CFR Part 52

[EPA–R08–OAR–2012–0846; FRL–9817–4]

Approval and Promulgation of Air Quality Implementation Plans; Montana; Revisions to the Administrative Rules of Montana—Air Quality, Subchapter 7, Subchapter 16 and Subchapter 17

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve new rules as submitted by the State of Montana on September 23, 2011. Montana adopted these rules on December 2, 2005 and March 23, 2006. These new rules meet the requirements of the Clean Air Act (CAA) and EPA’s minor new source review (NSR) regulations. In this action, EPA is approving these rules as they are consistent with the CAA. This action is being taken under section 110 of the CAA.

DATES: This final rule is effective December 19, 2013.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2012–0846. All documents in the docket are listed in the www.regulations.gov Web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute.

Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. EPA requests you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kevin Leone, Air Program, Mailcode 8P–AR, Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6227, or leone.kevin@epa.gov.

SUPPLEMENTARY INFORMATION:**Table of Contents**

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Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

- (i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.
- (ii) The words *EPA*, *we*, *us* or *our* mean or refer to the United States Environmental Protection Agency.
- (iii) The words *Minor NSR* mean NSR established under section 110 of the Act and 40 CFR 51.160.
- (iv) The initials *NSR* mean new source review, a phrase intended to encompass the stationary source regulatory programs that regulate the construction and modification of stationary sources as provided under CAA section 110(a)(2)(C), CAA Title I, parts C and D, and 40 CFR 51.160 through 51.166.
- (v) The initials *SIP* mean or refer to State Implementation Plan.
- (iv) The words *State* or *Montana* mean the State of Montana, unless the context indicates otherwise.

I. What action is EPA taking?**A. Summary of Final Action**

EPA is taking final action to approve the Montana State Implementation Plan

(SIP) and rules submitted to EPA on September 23, 2011. This submission contained revisions to ARM 17.8.744, and new rules I–VI, codified as ARM 17.8.1601, 17.8.1602, 17.8.1603, 17.8.1604, 17.8.1605, and 17.8.1606, pertaining to the regulation of oil and gas well facilities. The Montana Board of Environmental Review (Board) adopted these revisions to existing SIP revisions and new rules on December 2, 2005 and they became effective on January 1, 2006. This submission also contains new rules I–IX, codified as ARM 17.8.1701, 17.8.1702, 17.8.1703, 17.8.1704, 17.8.1705, 17.8.1710, 17.8.1711, 17.8.1712 and 17.8.1713 pertaining to the regulation of oil and gas well facilities. The Board adopted these revisions to existing SIP revisions and new rules on March 23, 2006 and they became effective on April 7, 2006. The new rules and revisions meet the requirements of the Act and EPA’s minor NSR regulations.

EPA proposed action for the above SIP revision submittals on November 13, 2012 (77 FR 67596). We accepted comments from the public on this proposal from November 14, 2012, until December 13, 2012. A summary of the comments received and our evaluation thereof is discussed in section III below. In the proposed rule, we described our basis for the actions identified above. The reader should refer to the proposed rule, and sections IV and V of this preamble, for additional information regarding this final action.

EPA reviews a SIP revision submission for its compliance with the Act and EPA regulations. CAA 110(k)(3). We evaluated the submitted new and revised rules based upon the regulations and associated record that have been submitted and are currently before EPA. In order for EPA to ensure that Montana has a program that meets the requirements of the CAA, the State must demonstrate the program is as stringent as the Act and the implementing regulations discussed in this notice. For example, EPA must have sufficient information to make a finding that the new program will ensure protection of the NAAQS, and noninterference with the Montana SIP control strategies, as required by section 110(l) of the Act. The provisions in these submittals were not submitted to meet a mandatory requirement of the Act.

II. What is the background?**A. Brief Discussion of Statutory and Regulatory Requirements**

The CAA (section 110(a)(2)(C)) and 40 CFR 51.160 require states to have legally

Federal Register

Friday
June 27, 2014

Department of
Homeland Security

Coast Guard

Notice of Arrival Exception; Final
Rule

Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Minnesota Department of Transportation requested a temporary deviation for the Stillwater Highway Drawbridge, across the St. Croix River, mile 23.4, at Stillwater, Minnesota to remain in the closed-to-navigation position on July 4, 2014 as follows:

From 10:00 p.m. to 11:30 p.m. on July 4, 2014, the lift span will remain in the closed-to-navigation position.

The Stillwater Highway Drawbridge currently operates in accordance with 33 CFR 117.667(b), which states specific seasonal and commuter hours operating requirements.

There are no alternate routes for vessels transiting this section of the St. Croix River.

The Stillwater Highway Drawbridge, in the closed-to-navigation position, provides a vertical clearance of 10.9 feet above normal pool. Navigation on the waterway consists primarily of commercial sightseeing/dinner cruise boats and recreational watercraft. This temporary deviation has been coordinated with waterway users. No objections were received.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: June 13, 2014.

Eric A. Washburn,

Bridge Administrator, Western Rivers.

[FR Doc. 2014–15127 Filed 6–26–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 140 and 146

[Docket No. USCG–2013–0797]

RIN 1625–AC12

Notice of Arrival Exception

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending its regulations to implement a statutory change, enacted under section 704 of the Coast Guard and Maritime Transportation Act of 2012, exempting U.S. mobile offshore drilling units and other U.S. vessels from submitting a Notice of Arrival when moving directly

from one Outer Continental Shelf block area to another.

DATES: This final rule is effective June 27, 2014.

ADDRESSES: Documents mentioned in this preamble as being available in the docket (USCG–2013–0797) are available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to <http://www.regulations.gov>, inserting USCG–2013–0797 in the “Search” box, and then clicking “Search.”

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Dennis Fahr, Office of Operating and Environmental Standards (CG–OES), Coast Guard; telephone 202–372–1427, email Dennis.Fahr@uscg.mil. If you have questions on viewing the docket, call Ms. Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

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I. Abbreviations

2012 CGMTA Coast Guard and Maritime Transportation Act of 2012
 APA Administrative Procedure Act
 BOE Bureau of Ocean Energy Management, Regulation and Enforcement
 BOEM Bureau of Ocean Energy Management
 BOEMRE Bureau of Ocean Energy Management, Regulation and Enforcement
 BSEE Bureau of Safety and Environmental Enforcement
 DHS Department of Homeland Security
 E.O. Executive Order
 FR Federal Register
 MODU Mobile Offshore Drilling Unit
 NOA Notice of Arrival
 NVMC National Vessel Movement Center
 OCS Outer Continental Shelf
 OMB Office of Management and Budget

U.S.C. United States Code

II. Regulatory History

Section 704 of the Coast Guard and Maritime Transportation Act of 2012 (Pub. L. 112–213) (2012 CGMTA) specifically exempts U.S. mobile offshore drilling units (MODUs) and other U.S. vessels from the requirement to submit a Notice of Arrival (NOA) when transiting within the Outer Continental Shelf (OCS) unless the vessel is arriving from a foreign port or place. Under section 704, U.S. MODUs and other U.S. vessels are exempt from having to submit an NOA when moving from one OCS block area to another.

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.”

Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM with respect to this rule because it is unnecessary. The Coast Guard finds that notice and comment for this rulemaking is unnecessary because we are merely making a regulatory amendment to conform to section 704 of the 2012 CGMTA, which specifically exempts U.S. MODUs and other U.S. vessels traveling between OCS block areas from having to submit an NOA. Public notice of this regulatory amendment is, therefore, unnecessary because public comment cannot affect, influence, or inform any Coast Guard action in implementing the Congressionally-mandated NOA exemption for U.S. MODUs and other U.S. vessels traveling between OCS block areas.

In accordance with 5 U.S.C. 553(d)(1) and (3), this rule will become effective upon the date of publication in the **Federal Register**. Under 5 U.S.C. 553(d)(1), an agency is permitted to make “a substantive rule which grants or recognizes an exemption or relieves a restriction . . .” to become immediately effective. The Coast Guard is making this rule effective immediately because it recognizes the legislative exemption provided to U.S. MODUs and other U.S. vessels from the requirement to submit an NOA when traveling between OCS block areas. Additionally, the Coast Guard finds that good cause exists for making this rule effective immediately upon publication in the **Federal Register** pursuant to 5

U.S.C. 553(d)(3). Delaying the effective date to provide a full 30 day notice is unnecessary because the rule merely makes a regulatory amendment to conform to the legislation passed by Congress under section 704 of the 2012 CGMTA.

III. Basis and Purpose

The purpose of this rulemaking is to implement the legislative exemption provided under section 704 of the 2012 CGMTA, which exempts U.S. MODUs and other U.S. vessels traveling between OCS block areas from having to submit an NOA. Under current regulations in 33 CFR part 146, subparts C and E, U.S. MODUs and vessels are required to submit an NOA when moving from one OCS block area to another. In order to align 33 CFR part 146, subparts C and E with the NOA exemption provided under the 2012 CGMTA, we are amending §§ 146.215 and 146.401 by specifically exempting U.S. MODUs and other U.S. vessels from having to submit an NOA when traveling directly from one OCS block area to another. U.S. MODUs and vessels arriving directly from a foreign port or place, however, would still be subject to the NOA requirements under 33 CFR 146.215 and 146.405.

Sections 146.215 and 146.401 already contain an NOA exemption for “those U.S. MODUs arriving directly from a U.S. port or place” and “those U.S. vessels traveling directly from a U.S. port or place” respectively; however, §§ 146.215 and 146.405 require NOAs when a MODU or vessel “arrives. . . from a different OCS block area.” Whether an OCS block area is considered a “U.S. port or place,” thus exempting U.S. MODUs or other U.S. vessels traveling from one block area to another from the NOA OCS requirements provided under §§ 146.215 and 146.405, depends on the definitions of “U.S. port or place” and “OCS block area.” A “U.S. port or place” is determined by U.S. Customs and Border Protection through a fact-specific customs ruling. “OCS block area” is defined in both subparts C and E as “the names given by the Bureau of Ocean Energy Management, Regulation and Enforcement (BOE)¹ [which succeeded the Minerals Management Service (MMS) in 2010]² to define the OCS areas used to facilitate management or leasing on the OCS.” Because the authority has not expressly addressed whether “U.S. port or place” and “OCS

block area” are analogous, we are implementing the legislative exemption contained in section 704 of the 2012 CGMTA by adding “OCS block area” to the existing exemptions in §§ 146.215 and 146.401. Therefore, U.S. MODUs and other U.S. vessels arriving on the OCS directly from a different OCS block area, as well as those MODUs and vessels arriving from a U.S. port or place, would be exempt from the NOA OCS requirements. Also, to reflect the reorganization of MMS into BOEMRE in 2010, and subsequently BOEMRE into BOEM and BSEE in 2011, we are amending §§ 140.10, 140.101 (b through d), 140.103 (b and c) and 140.105(a through e). We are also amending §§ 146.102, 146.200, 146.402 and 146.405(b)(2) to reflect the current title and acronym of “BOEM”, which is called “BOE” in this section of our existing regulations.

IV. Background

On January 13, 2011, the Coast Guard published a final rule in the **Federal Register** (76 FR 2254) that established the NOA requirements for vessels, facilities, and MODUs operating on the OCS. The final rule was designed to enhance maritime domain awareness over OCS activities. The rule increased maritime security and safety by requiring U.S. and foreign-flagged vessels, floating facilities, and MODUs arriving on and/or engaging in OCS activities to report their arrival time; location; and information regarding the floating facilities; MODUs; and the vessel’s voyage, cargo, crew, and vessel information.

The “OCS” is defined in 33 CFR 140.10 to include “all submerged lands lying seaward and outside of the area of ‘lands beneath navigable waters’ as defined in section 2(a) of the Submerged Lands Act (43 U.S.C. 1301(a)) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.” “OCS activity” is defined in 33 CFR 140.10 as “any offshore activity associated with the exploration for, or development or production of, the minerals of the Outer Continental Shelf.”

The rule implemented provisions of the Security and Accountability for Every Port Act of 2006 and increased overall maritime domain awareness by requiring owners or operators of U.S. and foreign-flagged vessels, floating facilities, and MODUs to submit NOA information to the Coast Guard’s National Vessel Movement Center (NVMC) prior to engaging in OCS activities. Such information is critical to maritime safety and security and enables the Coast Guard to more

effectively prevent or respond to a safety or security concern on the OCS.

The January 13, 2011, NOA final rule and related materials may be viewed online at <http://www.regulations.gov>, docket number: USCG–2008–1088.

Upon publication of that final rule, the U.S. domestic offshore industry indicated that compliance with the final rule was difficult because of the nature of the services that these vessels provide when engaged in activities on the OCS. Through our partnership with the Offshore Marine Service Association, we established a working group to specifically address the design of an OCS-specific reporting form.

In the intervening time between the effective date of the 2011 NOA final rule and the 2012 CGMTA, we requested voluntary compliance with the 2011 final rule using the current e-NOA–OCS application so that we could ascertain the practicality of the current application and the information requested. This voluntary compliance period allowed us to gather information as to what was needed to reduce the reporting burden. In December 2012, the 2012 CGMTA was signed into law. It contains a section that exempts U.S. MODUs and other U.S. documented vessels from reporting block-to-block movements and filing an NOA unless arriving on the OCS directly from a foreign port.

V. Discussion of Final Rule

Through this rulemaking, we are amending §§ 146.215 and 146.401 by exempting U.S. MODUs and other U.S. vessels from having to submit an NOA when traveling directly from one OCS block area to another. These regulatory amendments are necessary in order to conform to the legislation passed by Congress under section 704 of the 2012 CGMTA, which specifically exempts U.S. MODUs and other U.S. vessels traveling between OCS block areas from having to submit an NOA. We are also making a non-substantive amendment to §§ 140.10, 140.101, 140.103, 140.105, 146, 102, 146.200, 146.402 and 146.405 to reflect the current title and acronym for BOEM and BSEE.

VI. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders (E.O.s) related to rulemaking. Below we summarize our analyses based on these statutes or E.O.s.

A. Regulatory Planning and Review

Executive Orders 12866 (“Regulatory Planning and Review”) and 13563 (“Improving Regulation and Regulatory

¹ On October 1, 2011, BOE was split into the Bureau of Ocean Energy Management (BOEM) and the Bureau of Safety and Environmental Enforcement (BSEE), 76 FR 64432.

² 75 FR 61051.

Review”) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This rule has not been designated a “significant regulatory action” under section 3(f) of E.O. 12866 as supplemented by E.O. 13563, and does not require an assessment of potential costs and benefits under section 6(a)(3) of E.O. 12866. Accordingly, the final rule has not been reviewed by the Office of Management and Budget (OMB). Nonetheless, we developed an analysis of the costs and benefits of the rule to ascertain its probable impacts on industry. A final Regulatory Assessment follows:

This final rule will implement a statutory change that exempts U.S. MODUs and U.S. vessels from submitting NOAs to the NVMC when transiting from one OCS block area to another, as defined above. This rule will align our regulations with section 704 of the 2012 CGMTA, which specifically exempts these vessels from submitting NOAs when traveling from one OCS block area to another. U.S. MODUs and vessels arriving from a U.S. port or place and traveling to the OCS and those same vessels that travel from the OCS to a U.S. port or place are exempt from submitting NOAs in 33 CFR part 146. However, based on Coast Guard data, no NOAs have been received from affected U.S. vessel owners and operators since December 2012, when the CGMTA was signed into law. Therefore, this rule will not have an economic impact on owners and operators of U.S. MODUs and vessels that transit the OCS.

All vessels arriving from a foreign port or place to an OCS block area and vessels departing from an OCS block area traveling to a foreign port or place are still required to submit NOAs to the NVMC in accordance with 33 CFR part 146 as these vessels are not exempt under this final rule.

In the development of this rule, we considered two alternatives (including the preferred alternative). The key factors that we evaluated in considering each alternative included: (1) The degree to which the alternative comported with the congressional mandate in section 704 of the 2012 CGMTA; (2) what benefits, if any, would be derived, such as the reduction in

burden for vessel owners and operators; and (3) impacts on costs, if any. The alternatives considered are as follows:

Alternative 1: Revise 33 CFR part 146 to remove the current submission requirement of an NOA for owners and operators of U.S. MODUs and vessels that transit from one OCS block area to another (preferred alternative). At present, owners and operators of U.S. MODUs and vessels are required to submit a NOA to the NVMC when departing from or arriving to one OCS block area to another. Implementation of this final rule will eliminate the NOA submission requirement for the above affected vessels.

Alternative 2: Take no regulatory action. This option was not selected as it would not implement section 704 of the 2012 CGMTA. Under this alternative, regulatory language would remain inconsistent with section 704 of the 2012 CGMTA and current practice.

Analysis of Alternatives

We chose Alternative 1, which implements section 704 of the Act as described in Section V of the preamble above. We chose to reject Alternative 2, the “no regulatory action” alternative, because it would not implement section 704 of the Act and would not harmonize regulatory language with the statute.

Costs

We do not expect this final rule to impose new costs on the public or industry. This final rule will align our regulations with section 704 of the 2012 CGMTA, which exempts U.S. MODUs and vessels from submitting NOAs to the NVMC when traveling from one OCS block area to another.

Benefits

This rule makes conforming regulatory amendments to the legislation passed by Congress under section 704 of the 2012 CGMTA, which specifically exempts U.S. MODUs and other U.S. vessels traveling between OCS block areas from having to submit an NOA. By conforming the regulations to the legislation, we eliminate any potential for confusion regarding whether an NOA must be submitted when U.S. MODUs and U.S. vessels travel from one OCS block area to another. The Coast Guard has determined that because there have been no NOAs submitted to the NVMC since passage of the 2012 CGMTA, there are no cost savings attributable to this final rule.

Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended,

requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. However, we are implementing this legislative exemption in section 704 of the 2012 CGMTA as a final rule, foregoing notice and comment under 5 U.S.C. 553(b)(B) and the RFA does not require an agency to prepare a regulatory flexibility analysis for rules promulgated under section 553(b)(B). Therefore, the Coast Guard is not required to publish a regulatory flexibility analysis.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking. If the rule affects your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Lieutenant Commander Michael Lendvay, Office of Commercial Vessel Compliance, Coast Guard; telephone 202 372–1218, email michael.d.lendvay@uscg.mil. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). On December 20, 2012, the 2012 CGMTA was passed, which exempts U.S. vessels and MODUs that transit from one OCS block area to another from submitting NOAs to the NVMC. As a result, vessel owners and operators have not submitted NOAs since that time. This change has been incorporated into the ICR burden estimates during its renewal. Therefore no collection of information is necessary from this final rule.

E. Federalism

A rule has implications for federalism under E.O. 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132. Our analysis is explained below.

Congress specifically granted the authority to the Secretary of the Department in which the Coast Guard is operating to regulate artificial islands, installations, and other devices permanently or temporarily attached to the OCS and in the waters adjacent thereto as it relates to the safety of life. Title 43 U.S.C. 1333(d)(1) states that the Secretary “shall have the authority to promulgate and enforce such reasonable regulations with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property on the artificial islands, installations, and other devices . . . or on the waters adjacent thereto, as he may deem necessary.” As this rule exempts certain MODUs and vessels from submitting NOAs when transiting from one OCS block area to another, it falls within the scope of authority Congress granted exclusively to the Secretary, especially since the rule implements a statutory change enacted by Congress under section 704 of the 2012 CGMTA. This authority has been delegated to the Coast Guard and is exercised in this rulemaking, and the States may not regulate within this category of arrival notification. Therefore, the rule is consistent with the principles of federalism and preemption requirements in E.O. 13132.

While it is well settled that States may not regulate in categories in which Congress intended the Coast Guard to be the sole source of a vessel’s obligations, the Coast Guard recognizes the key role that State and local governments may have in making regulatory determinations. Additionally, for rules with federalism implications and preemptive effect, E.O. 13132 specifically directs agencies to consult with State and local governments during the rulemaking process. If you believe this rule has implications for federalism under E.O. 13132, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

H. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this rule under E.O. 13045, Protection of Children From Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

J. Indian Tribal Governments

This rule does not have tribal implications under E.O. 13175, Consultation and Coordination With Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this rule under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under E.O. 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a

Statement of Energy Effects under E.O. 13211.

L. Technical Standards

The National Technology Transfer and Advancement Act (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A final environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**. This rule involves Congressionally mandated regulations.

List of Subjects

33 CFR Part 140

Continental shelf, Investigations, Marine safety, Occupational safety and health, Penalties, Reporting and recordkeeping requirements.

33 CFR Part 146

Continental shelf, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements, Vessels.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 140 and 146 as follows:

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

PART 140—GENERAL

■ 1. The authority citation for part 140 continues to read as follows:

Authority: 43 U.S.C. 1333, 1348, 1350, 1356; Department of Homeland Security Delegation No. 0170.1.

§ 140.10 [Amended]

■ 2. In § 140.10, in the definition of *Bureau of Ocean Energy Management, Regulation and Enforcement inspector or BOEMRE inspector*, remove the text “Ocean Energy Management, Regulation and Enforcement inspector or BOEMRE” and add, in its place, the text, “Safety and Environmental Enforcement inspector or BSEE”; and after the text “employed by the Bureau of”, remove the text “Ocean Energy Management, Regulation and” and add, in its place, the text “Safety and Environmental”.

■ 3. Amend § 140.101 as follows:

■ a. Revise the section heading;

■ b. In paragraph (b), after the words “by the Bureau of”, remove the words “Ocean Energy Management, Regulation and Enforcement (BOEMRE)” and add, in its place, the words “Safety and Environmental Enforcement (BSEE)”;

■ c. In paragraph (c), remove the text “BOEMRE” wherever it appears and add, in its place, the text “BSEE”; and

■ d. In paragraph (d), in the first sentence, after the words “Coast Guard marine inspector or,” remove the words “an BOEMRE” and add, in its place, the words “a BSEE”; and after the text “The Coast Guard marine inspector or the”, remove the text “BOEMRE” and add, in its place, the text “BSEE”.

The revision reads as follows:

§ 140.101 Inspection by Coast Guard marine inspectors or Bureau of Safety and Environmental Enforcement inspectors.

* * * * *

§ 140.103 [Amended]

■ 4. Amend § 140.103 as follows:

■ a. In paragraph (b), after the words “Bureau of”, remove the words “Ocean Energy Management, Regulation and Enforcement (BOEMRE)” and add, in its place, the words “Safety and Environmental Enforcement (BSEE)”;

■ b. In paragraph (c), remove the text “BOEMRE” wherever it appears and add, in its place, the text “BSEE”.

§ 140.105 [Amended]

■ 5. Amend § 140.105 as follows:

■ a. In paragraph (a), remove the text “Minerals Management Service (MMS)” and add, in its place, the words “Bureau of Safety and Environmental Enforcement (BSEE)”;

■ b. In paragraph (b), remove the words “an MMS” and add, in its place, the words “a BSEE”; and

■ c. In paragraphs (c), (d), and (e) remove the text “MMS” wherever it appears and add, in its place, the text “BSEE”; and

PART 146—OPERATIONS

■ 6. The authority citation for part 146 continues to read as follows:

Authority: 33 U.S.C. 1223, 1226; 43 U.S.C. 1333, 1348, 1350, 1356; Sec. 109, Pub. L. No. 109-347, 120 Stat. 1884; Department of Homeland Security Delegation No. 0170.1.

§ 146.102 [Amended]

■ 7. In § 146.102, in the definition of “*OCS block area*”, after the words “Bureau of Ocean Energy Management”, remove the text “, Regulation and Enforcement (BOE)” and add, in its place, the text “(BOEM)”.

§ 146.200 [Amended]

■ 8. In § 146.200, in the definition of “*OCS block area*”, after the words “Bureau of Ocean Energy Management” remove the text “, Regulation and Enforcement (BOE)” and add, in its place, the text “(BOEM)”.

§ 146.215 [Amended]

■ 9. In § 146.215(a) introductory text, after the words “directly from a U.S. port or place”, add the words “or from an OCS block area”.

§ 146.401 [Amended]

■ 10. In § 146.401, after the words “directly from a U.S. port or place,” add the words “or from an OCS block area,”.

§ 146.402 [Amended]

■ 11. In § 146.402, in the definition of “*OCS block area*”, after the words “Bureau of Ocean Energy Management” remove the text “, Regulation and Enforcement (BOE)” and add, in its place, the text “(BOEM)”.

§ 146.405 [Amended]

■ 12. In § 146.405(b)(2), remove the text “BOE” and add, in its place, the text “BOEM”.

Dated: June 23, 2014.

J. G. Lantz,

Director of Commercial Regulations and Standards, U.S. Coast Guard.

[FR Doc. 2014-14997 Filed 6-26-14; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2014-0081]

RIN 1625-AA00

Safety Zones; Annual Events in the Captain of the Port Zone Buffalo

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is revising its safety zone regulations for annually recurring firework displays and marine events within the Captain of the Port Zone Buffalo. The safety zones revised or established by this final rule are necessary to protect the surrounding public, spectators, participants, and vessels from the hazards associated with fireworks displays, hydroplane boat races, and other events of a similar nature posing a potential hazard to the safety of life and property on the navigable waters. This final rule is intended to restrict vessels from designated areas on navigable waterways during these events.

DATES: This rule is effective July 28, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2014-0081]. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LT Christopher Mercurio, Chief of Waterways Management, U.S. Coast Guard Sector Buffalo; telephone 716-843-9573, email SectorBuffaloMarineSafety@uscg.mil. If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202-366-9826 or 1-800-647-5527.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security

Federal Register

Monday
July 7, 2014

Department of Homeland Security

Coast Guard

**Navigation and Navigable Waters,
Technical, Organizational and
Conforming Amendments; Final
Rule**

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 1, 3, 8, 13, 19, 23, 25, 26, 27, 51, 52, 67, 80, 81, 84, 89, 96, 104, 105, 110, 114, 116, 117, 118, 120, 126, 127, 128, 135, 140, 141, 144, 148, 151, 153, 154, 155, 156, 157, 158, 159, 160, 161, 164, 165, 167, 169, 174, 179, 181, and 183

[Docket No. USCG–2014–0410]

RIN 1625–AC13

Navigation and Navigable Waters; Technical, Organizational, and Conforming Amendments

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: This final rule makes non-substantive changes throughout Title 33 of the Code of Federal Regulations. The purpose of this final rule is to make conforming amendments and technical corrections to Coast Guard navigation and navigable waters regulations. These changes will have no substantive effect on the regulated public.

DATES: This final rule is effective July 7, 2014.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2014–0410 and are available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to <http://www.regulations.gov>, inserting USCG–2013–0974 in the “Search” box, and then clicking “Search.”

FOR FURTHER INFORMATION CONTACT: If you have questions on this final rule, call or email Mr. Paul Crissy, Coast Guard; telephone 202–372–1093, email Paul.H.Crissy@uscg.mil. If you have questions on viewing the docket, call Ms. Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

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I. Abbreviations

- CFR Code of Federal Regulations
- DHS Department of Homeland Security
- E.O. Executive Order
- FR Federal Register
- NOAA National Oceanic and Atmospheric Administration
- OMB Office of Management and Budget
- Pub. L. Public Law
- § Section symbol
- U.S.C. United States Code

II. Regulatory History

The Coast Guard did not publish a notice of proposed rulemaking for this final rule. Under 5 U.S.C. 553(b)(A), this final rule is exempt from notice and comment rulemaking requirements because the changes in this final rule involve rules of agency organization, procedure, or practice. Also, notice and comment procedures are unnecessary under 5 U.S.C. 553(b)(B) because this final rule consists only of corrections and editorial, organizational, and conforming amendments; these changes will have no substantive effect on the public. Under 5 U.S.C. 553(d)(3), we find that, for the same reasons, good cause exists for making this final rule effective upon publication in the **Federal Register**.

III. Basis and Purpose

Each year, the printed edition of Title 33 of the Code of Federal Regulations (CFR) is re-codified on July 1st. This final rule, which becomes effective July 7, 2014 makes technical and editorial corrections throughout Title 33. This final rule does not create any substantive requirements. This final rule is issued under the authority of 5 U.S.C. 552, 553, App. 2, 14 U.S.C. 2, 631, 632, and 633; 33 U.S.C. 471, 499; 49 U.S.C. 101, 322; Department of Homeland Security Delegation No. 0170.1.

IV. Discussion of the Rule

This final rule amends various internal Coast Guard office titles and office symbols throughout Title 33. These changes reflect the nomenclature that was implemented by the Deputy Commandant for Operations 3.0 realignment, effective May 6, 2012.

Functional requirements, organizations and reporting structures are not affected by this final rule.

This final rule also updates various addresses for Coast Guard offices throughout Title 33 in order to conform to new mailing addresses that came into effect upon the relocation of Coast Guard Headquarters to the Saint Elizabeths campus in 2013. For a list of each address change, see the Table of Changes in the docket for this rulemaking.

This final rule amends 33 CFR 3.05–20 to correct the location of the U.S. Coast Guard’s Sector Southeastern New England office to reflect Woods Hole, MA. After the Coast Guard’s sector realignment occurred in 2007, the location of Coast Guard Sector Southeastern New England was intended to be Providence, RI. However, this relocation never occurred and Sector Southeastern New England’s office location remains in Woods Hole, MA.

This final rule amends 33 CFR 3.40–28 to correct the location of the U.S. Coast Guard’s Sector Houston-Galveston’s office to reflect Houston, TX.

This final rule amends 33 CFR 27.3, Table 1 to update statutory citations that changed as a result of recodification. 46 U.S.C. App. 1505 was recodified at 46 U.S.C. 80509; 46 U.S.C. App. 1712(a) was recodified at 46 U.S.C. 41107 and 46 U.S.C. 1805 was recodified at 46 U.S.C. 70305. This rule does not change the adjusted maximum penalty amounts contained in Table 1 of 33 CFR 27.3.

This final rule amends 33 CFR 52.21(a) by changing the title of the reviewing authority for the correction of military records to reflect the Coast Guard’s transfer from the Department of Transportation to the Department of Homeland Security.

This final rule amends 33 CFR 80.160(c) to redefine a specific COLREGS demarcation line to reflect the updated National Oceanic and Atmospheric Administration (NOAA) survey necessitated by the destruction of the Fire Island Inlet Breakwater Light by Hurricane Sandy.

This final rule amends 33 CFR 80.712 by redesignating paragraph (a) as paragraph (b). A review of the COLREGS demarcation line found that paragraphs (a) and (b) both described the Stono Inlet demarcation line, while there was no existing description of the line across Lighthouse Inlet. A new paragraph (a) is added to describe the line across Lighthouse Inlet using the latitude and longitude coordinates for aids to navigation depicted by NOAA on charts. Additionally, new paragraph (b) now

reflects a change to the aids to navigation in Stono Inlet because the daybeacon previously referenced has been replaced by a buoy.

This final rule amends 33 CFR 80.815(b) by adding the latitude and longitude coordinates for the reference points Mobile Point Light and Dauphin Island Channel Light 1 and by removing “No.” from the title of the Dauphin Island Channel Light 1. This change conforms the name to the one published in the Light List.

This final rule amends 33 CFR 80.1420 by adding the latitude and longitude coordinates for the reference points for Barbers Point Light and Diamond Head Light.

This final rule amends 33 CFR 80.1430 by adding the latitude and longitude coordinates for the reference point Pyramid Rock Light.

This final rule amends 33 CFR 80.1440 to update the name of a light listed as a reference point. The light previously referred to as “Hanapepe Light” is now referred to as “Puolo Point Light.” The name change reflects the updated name in the Light List.

This final rule amends 33 CFR 80.1450 to add the longitude and latitude coordinates for the reference point Kukii Point Light. It also corrects the reference to “Nawiliwili Harbor Breakwater Light” because that light has been disestablished. The new text has been updated to read as follows: “A line drawn from the seaward extremity of Nawiliwili Harbor breakwater to 21°57'23.8" N., 159°20'52.7" W. (Kukii Point Light).”

This final rule amends 33 CFR 80.1460 to update the names of the lights listed as reference points. The lights previously listed as “Kahului Harbor Entrance East Breakwater Light” and “Kahului Harbor Entrance West Breakwater Light” are amended to reflect the names listed in the Light List, which are “Kahului Entrance Breakwater Light 4” and “Kahului Entrance Breakwater Light 3.” We are also amending 33 CFR 80.1460 by adding the latitude and longitude coordinates for Kahului Entrance Breakwater Light 4 and Kahului Entrance Breakwater Light 3.

This final rule amends 33 CFR 80.1470 to add the longitude and latitude coordinates for the reference point Kawaihae Light.

This final rule makes a spelling correction to 33 CFR 89.25(h). Previously, “Chattahoochee” was misspelled. This final rule corrects the spelling of this river.

This final rule corrects the authority citation in 33 CFR 110.1 by deleting the references to 33 U.S.C. 2030 and 2035,

which were repealed in 2004 by Section 303(a) of the Coast Guard and Maritime Transportation Act of 2004 (Pub. L. 108–293). The authority to issue Inland Navigation Rules can be found in section 3 of the Inland Navigational Rules Act of 1980, as amended by section 303(b) of the Coast Guard and Maritime Transportation Act of 2004 (33 U.S.C. 2071). We are also amending 33 CFR 110.1(a) by removing the repealed statutes and inserting the correct citation to the Inland Navigation Rules, 33 CFR Chapter I, Subchapter E.

This final rule removes 33 CFR 110.25(f) and its Note, which are duplicative of 33 CFR 110.26.

This final rule amends 33 CFR 110.59(c) to reflect the correct coordinates of the Northport Harbor anchorage in Eastern Long Island, NY. The previous language in this paragraph erroneously identified coordinates that are outside of Northport Harbor. We are also adding a minor clarification to the coordinates by indicating north latitude and west longitude.

This final rule amends 33 CFR 110.72d to represent latitude and longitude coordinates in a format that includes degrees, minutes, and seconds.

This final rule amends 33 CFR 117.35 by replacing the word “closure” with the word “deviation” because not all changes are closures. Requests for temporary changes to the operating schedule of a drawbridge require the approval of the cognizant District Commander. The word “deviation” is replacing the word “closure” to reflect the requirement in the regulation that all changes, including closures, must be authorized.

This final rule amends 33 CFR 117.143 by adding the commonly used name “Eight Mile Road” to describe the San Joaquin County Highway Bridge.

This final rule amends 33 CFR 117.233 by updating the name of the bridge referenced in this section because of a change in ownership. The bridge formerly known as the “Conrail Bridge” in this section is now named the “Norfolk Southern Railroad Bridge.”

This final rule amends 33 CFR 117.243(a)(3) by updating the telephone number that owners or operators of vessels can call to get train operational information.

This final rule amends 33 CFR 117.531(b) by changing the mile mark location from “mile 3.5” to “mile 1.9.” Under the standard convention for bridge marking locations on U.S. rivers, mile markers reflect the distance to the mouth of the applicable river. The “3.5” mile mark previously listed reflected the distance to the ocean. The corrected “1.9” mile mark reflects the

distance to the mouth of the Piscataqua River.

This final rule amends 33 CFR 117.531(c) by changing the mile mark location from “mile 4.0” to “mile 2.5.” Under the standard convention for bridge markings locations on U.S. rivers, mile markers reflect the distance to the mouth of the applicable river. The “4.0” mile mark previously listed reflected the distance to the ocean. The corrected “2.5” mile mark reflects the distance to the mouth of the Piscataqua River.

This final rule amends 33 CFR 117.997(a)(11) by updating the telephone numbers that owners or operators of vessels can call to get bridge operational information.

This final rule amends 33 CFR 118.3(c) by updating the address of the Federal Highway Administration.

This final rule amends 33 CFR 126.21(d) to correct a citation. The reference to 33 CFR 126.15(g) for the use of maintenance stores and supplies is incorrect. 33 CFR 126.15(g) does not exist. We have amended this section by removing the incorrect citation and inserting the correct citation: 33 CFR 126.15(b)(5).

This final rule amends 33 CFR 155.1030(i)(1) by reinserting paragraph (c)(11) and removing paragraph (c)(9). In the 2013 printed edition of Title 33 CFR, paragraph (c)(11) was properly included in this section. On September 30, 2013, however, a final rule was published that amended 33 CFR 155.1030(i)(1) through (3) solely for the purpose of authorizing electronic copies of Vessel Response Plans (78 FR 60100, 60122). Because of an administrative error in that final rule, paragraph (c)(11) was unintentionally removed from 33 CFR 155.1030(i)(1), and we are correcting that error by reinserting (c)(11). We are also removing paragraph (c)(9) from 33 CFR 155.1030(i)(1) because that specific section of the VRP plan is a requirement for unmanned tank barges and is already included under 33 CFR 155.1030(i)(2).

This final rule amends 33 CFR 155.1070(a)(2) by removing the words “and to document the annual review required by this paragraph (a).” When this final rule was published on September 30, 2013 (78 FR 60100, 60105), the Coast Guard explained that it was removing the requirement pertaining to the reporting of annual reviews from 33 CFR 155.1070(a), consistent with 33 CFR 151.28(h) and 155.5070(a). Because of an administrative error, however, the regulation was not amended as described. We are correcting that error in this final rule by removing the words “and to document the annual review required by this paragraph (a).”

This final rule amends 33 CFR 155.5020(5)(i) by removing the word “and” and adding the word “or” in its place. 33 CFR 155.5020 provides a list of definitions applicable to 33 CFR Subpart J. Changing “and” to “or” under the definition for “Contract or other approved means” provided in 33 CFR 155.5020(5)(i) more accurately reflects the substance of the regulations contained in 33 CFR Subpart J. For example, in 33 CFR 155.5020(5)(ii)–(v), the regulation uses the phrase “petroleum oils as fuel or cargo.” And, in 33 CFR 155.5035(i)(7),(9), the regulation uses the phrase “petroleum oils as fuel or cargo.” Finally, in 33 CFR 155.5050(e)(1) and (f),(l),(m),(n), the regulation uses the phrase “petroleum oil as fuel or cargo.” We are, therefore, correcting 33 CFR 155.5020(5)(i) by removing the word “and” and adding the word “or” in its place.

This final rule amends the table for 33 CFR 155.5050(p) by removing the word “and” and adding the word “or” in its place. 33 CFR 155.5050(p) is a table that summarizes the VRP required response resources for nontank vessels carrying groups I through IV petroleum oil. Changing the table’s first column header from “Nontank vessel’s fuel and cargo oil capacity” to “Nontank vessel’s fuel or cargo oil capacity” more accurately reflects the substance of the regulations contained in 33 CFR Subpart J. For example, in 33 CFR 155.5020(5)(ii)–(v), the regulation uses the phrase “petroleum oils as fuel or cargo.” And, in 33 CFR 155.5035(i)(7),(9), the regulation uses the phrase “petroleum oils as fuel or cargo.” Finally, in 33 CFR 155.5050(e)(1) and (f),(l),(m),(n), the regulation uses the phrase “petroleum oil as fuel or cargo.” The table’s first column header is, therefore, incorrect. We are correcting it in this rule by removing the word “and” and adding the word “or” in its place.

This final rule amends the Table in 33 CFR 161.12(c) to correct a typographical error in the longitude position for the waters east and north of a line drawn from the southern tangent of Sakonnet Point, Rhode Island. The text has been updated with the correct longitude coordinate as follows: “longitude 71°11.70’ W.”

This final rule amends 33 CFR 161.12(d)(5). Because of a clerical error, this section mistakenly cites to 160.203 for the definition of “hazardous condition.” This section, however, does not include a definition for “hazardous condition.” Therefore, we are correcting that error to reflect that the citation for the definition of “hazardous condition” is found in 33 CFR 160.204.

This final rule revises 33 CFR 161.55(c) by separating the requirements pertaining to “meeting and overtaking” and those for “crossing or operating” into separate sub-paragraphs. By restructuring the regulation into separate sub-paragraphs, we are making it easier for users of VTS Puget Sound to understand that “meeting and overtaking within 2,000 yards” and “crossing or operating within 2,000 yards” are to be treated separately. These changes are editorial and do not alter the VTS Special Area Operating Requirements prescribed in 33 CFR 161.55(c).

This final rule amends 33 CFR 165.117(a)(3)(ii) to include the geographic coordinates forming the loci for the regulated navigation areas, safety and security zones for Neptune Deepwater Port. The Coast Guard published an NPRM on April 1, 2010 (75 FR 16370), that proposed establishing regulated navigation areas and safety and security zones around the recently constructed Neptune Deepwater Port Facility. No comments or suggestions were made to the proposed rule, and on August 20, 2010 (75 FR 51374), the Coast Guard published a final rule. Due to an administrative error, however, 33 CFR 165.117(a)(3)(ii) was not incorporated into regulation. We are correcting that error by inserting the geographic coordinates forming the loci for the regulated navigation areas, safety and security zones for Neptune Deepwater Port, at 33 CFR 165.117(a)(3)(ii).

This final rule amends 33 CFR 165.122(b)(6) by removing the citation to the repealed statutes and inserting the correct citation to the Inland Navigation Rules.

This final rule amends the Table to 33 CFR 165.151 to correct the order of coordinates included in the Table.

This final rule amends 33 CFR 165.813(b)(5) by updating the telephone number that vessel operators can call to request permission to enter or operate inside moving security zones around cruise ships in the ports of Houston or Galveston, Texas.

This final rule amends 33 CFR 165.814(b)(3) by updating the telephone number that vessel operators can call to request permission to enter or operate inside certain security zones in the Captain of the Port Houston—Galveston zone of responsibility.

This rule redesignates 33 CFR 165.1201 as 33 CFR 165.1188. In 2013, this regulation was published with an incorrect section number within 33 CFR Subpart F. Because there is no Twelfth Coast Guard District, it is necessary to redesignate the regulation within the

Eleventh Coast Guard District’s portion of 33 CFR Subpart F.

This final rule amends 33 CFR 165.1319 by updating the name from “Safety Zone Regulations, Seafair Blue Angels Air Show Performance, Seattle, WA” to “Safety Zone Regulations, Seafair Air Show Performance, Seattle, WA.”

This final rule amends 33 CFR 167.1322(b)(8) by formatting the description of the precautionary area “ND” so that it matches the International Maritime Organization’s (IMO) description of the same precautionary area, as set forth in IMO COLREG .2/Circ. 51 of May 31, 2002. This rule does not change the coordinates themselves; it merely connects the first and last coordinate by using the shoreline as a natural boundary.

This final rule amends 33 CFR 183.5 by updating the address for the American Boat and Yacht Council, Inc. We are also amending this section by replacing the text “Naval Publications Forms Center, Customer Service—Code 1052, 5801 Tabor Avenue, Philadelphia, PA 19120” with “Military Specifications and Standards, Standardization Documents Order Desk, Building 4D, 700 Robbins Avenue, Philadelphia, PA 19111–5094; <https://assist.daps.dla.mil/quicksearch/>.”

V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders (E.O.s) related to rulemaking. Below we summarize our analyses based on these statutes or E.O.s.

A. Regulatory Planning and Review

Executive Orders 12866 (“Regulatory Planning and Review”) and 13563 (“Improving Regulation and Regulatory Review”) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The provisions of this final rule are technical and non-substantive; they will have no substantive effect on the public and will impose no additional costs. This final rule is not a significant regulatory action under section 3(f) of E.O. 12866 as supplemented by E.O. 13563, and does not require an assessment of potential

costs and benefits under section 6(a)(3) of E.O. 12866. The Office of Management and Budget (OMB) has not reviewed it under E.O. 12866.

B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), rules exempt from the notice and comment requirements of the Administrative Procedure Act are not required to examine the impact of the rule on small entities. Nevertheless, we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

There is no cost to this final rule, and we do not expect it to have an impact on small entities because the provisions of this rule are technical and non-substantive. It will have no substantive effect on the public and will impose no additional costs. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Mr. Paul Crissy by phone at 202–372–1093 or via email at Paul.H.Crissy@uscg.mil. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

E. Federalism

A rule has implications for federalism under E.O. 13132 (“Federalism”) if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any 1 year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This final rule will not cause a taking of private property or otherwise have taking implications under E.O. 12630 (“Governmental Actions and Interference with Constitutionally Protected Property Rights”).

H. Civil Justice Reform

This final rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988 (“Civil Justice Reform”), to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this final rule under E.O. 13045 (“Protection of Children from Environmental Health Risks and Safety Risks”). This final rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This final rule does not have tribal implications under E.O. 13175 (“Consultation and Coordination with Indian Tribal Governments”), because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal

Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this final rule under E.O. 13211 (“Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use”). We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under E.O. 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of OMB’s Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under E.O. 13211.

L. Technical Standards

The National Technology Transfer and Advancement Act (15 U.S.C. 272 Note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This final rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded under section 2.B.2, figure 2–1, paragraphs (34)(a) and (b) of the Instruction. This final rule involves regulations that are editorial or procedural, or that concern internal agency functions or organizations. An environmental analysis checklist and a categorical exclusion determination are

available in the docket for this final rule where indicated under **ADDRESSES**.

List of Subjects

33 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Penalties.

33 CFR Part 3

Organization and functions (Government agencies).

33 CFR Part 8

Armed forces reserves.

33 CFR Part 13

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33 CFR Part 19

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33 CFR Part 23

Aircraft, Signs and symbols, Vessels.

33 CFR Part 25

Authority delegations (Government agencies), Claims.

33 CFR Part 26

Communications equipment, Marine safety, Radio, Telephone, Vessels.

33 CFR Part 27

Administrative practice and procedure, Penalties.

33 CFR Part 51

Administrative practice and procedure, Military personnel.

33 CFR Part 52

Administrative practice and procedure, Archives and records, Military personnel.

33 CFR Part 67

Continental shelf, Navigation (water), Reporting and recordkeeping requirements.

33 CFR Part 80

Navigation (water), Treaties, Waterways.

33 CFR Part 81

Navigation (water), Reporting and recordkeeping requirements, Treaties.

33 CFR Part 84

Navigation (water), Waterways.

33 CFR Part 89

Navigation (water), Reporting and recordkeeping requirements, Waterways.

33 CFR Part 96

Administrative practice and procedure, Marine safety, Reporting and recordkeeping requirements, Vessels.

33 CFR Part 104

Maritime security, Reporting and recordkeeping requirements, Security measures, Vessels.

33 CFR Part 105

Maritime security, Reporting and recordkeeping requirements, Security measures.

33 CFR Part 110

Anchorage grounds.

33 CFR Parts 114, 116, 117, and 118

Bridges.

33 CFR Part 120

Passenger vessels, Reporting and recordkeeping requirements, Security measures, Terrorism.

33 CFR Part 126

Explosives, Harbors, Hazardous substances, Reporting and recordkeeping requirements.

33 CFR Part 127

Fire prevention, Harbors, Hazardous substances, Natural gas, Reporting and recordkeeping requirements, Security measures.

33 CFR Part 128

Harbors, Reporting and recordkeeping requirements, Security measures, Terrorism.

33 CFR Part 135

Administrative practice and procedure, Continental shelf, Insurance, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 140

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33 CFR Part 141

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33 CFR Part 144

Continental shelf, Marine safety, Occupational safety and health.

33 CFR Part 148

Administrative practice and procedure, Environmental protection, Harbors, Petroleum.

33 CFR Part 151

Administrative practice and procedure, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Parts 153 and 156

Hazardous substances, Oil pollution, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 154

Alaska, Fire prevention, Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 155

Alaska, Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 157

Cargo vessels, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 158

Administrative practice and procedure, Harbors, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 159

Alaska, Reporting and recordkeeping requirements, Sewage disposal, Vessels.

33 CFR Part 160

Administrative practice and procedure, Harbors, Hazardous materials transportation, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Vessels, Waterways.

33 CFR Part 161

Harbors, Navigation (water), Reporting and recordkeeping requirements, Vessels, Waterways.

33 CFR Part 164

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

33 CFR Part 167

Harbors, Marine safety, Navigation (water), Waterways.

33 CFR Part 169

Endangered and threatened species, Marine mammals, Navigation (water), Radio, Reporting and recordkeeping requirements, Vessels, Water pollution control.

33 CFR Part 174

Intergovernmental relations, Marine safety, Reporting and recordkeeping requirements.

33 CFR Part 179

Marine safety, Reporting and recordkeeping requirements.

33 CFR Part 181

Labeling, Marine safety, Reporting and recordkeeping requirements.

33 CFR Part 183

Marine safety.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 1, 3, 8, 13, 19, 23, 25, 26, 27, 51, 52, 67, 80, 81, 84, 89, 96, 104, 105, 110, 114, 116, 117, 118, 120, 126, 127, 128, 135, 140, 141, 144, 148, 151, 153, 154, 155, 156, 157, 158, 159, 160, 161, 164, 165, 167, 169, 174, 179, 181, and 183 as follows:

Title 33—NAVIGATION AND NAVIGABLE WATERS**PART 1—GENERAL PROVISIONS****Subpart 1.05—Rulemaking**

- 1. The authority citation for subpart 1.05 continues to read as follows:

Authority: 5 U.S.C. 552, 553, App. 2; 14 U.S.C. 2, 631, 632, and 633; 33 U.S.C. 471, 499; 49 U.S.C. 101, 322; Department of Homeland Security Delegation No. 0170.1.

§ 1.05–20 [Amended]

- 2. In § 1.05–20(a), following the text “addressed to the”, remove the text “Executive Secretary, Marine Safety and Security Council (CG–0943), United States Coast Guard Headquarters, 2100 2nd St. SW., Stop 7121, Washington, DC 20593–7121” and add, in its place, the text “Commandant (CG–0943), Attn: Executive Secretary, Marine Safety and Security Council, U.S. Coast Guard Stop 7213, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593–7213”.

Subpart 1.10—Public Availability of Information

- 3. The authority citation for subpart 1.10 is revised to read as follows:

Authority: 5 U.S.C. 552; 14 U.S.C. 633, sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b).

§ 1.10–5 [Amended]

- 4. In § 1.10–5(a), following the text “written request to the”, remove the text “Chief, Office of Information Management (CG–61), U.S. Coast Guard Headquarters, 2100 2nd St. SW., Stop 7101, Washington, DC 20593–7101” and

add, in its place, the text “Commandant (CG–61), Attn: Office of Information Management, U.S. Coast Guard Stop 7710, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593–7710”.

Subpart 1.26—Charges for Duplicate Medals, and Sales of Personal Property, Equipment or Services and Rentals

- 5. The authority citation for subpart 1.26 continues to read as follows:

Authority: 14 U.S.C. 633; 49 CFR 1.46(k).

§ 1.26–5 [Amended]

- 6. In § 1.26–5(b), following the text “may be obtained from”, remove the text “Commandant (CG–1221) 2nd St. SW., Stop 7801, Washington, DC 20593–7801” and add, in its place, the text “Commander, Personnel Service Center (PSC–PSD–M&A), U.S. Coast Guard Stop 7200, 4200 Wilson Boulevard Suite 1100, Arlington, VA 20598–7200”.

PART 3—COAST GUARD AREAS, DISTRICTS, SECTORS, MARINE INSPECTION ZONES, AND CAPTAIN OF THE PORT ZONES

- 7. The authority citation for part 3 continues to read as follows:

Authority: 14 U.S.C. 92 & 93; Pub. L. 107–296, 116 Stat. 2135; Department of Homeland Security Delegation No. 0170.1, para. 2(23).

§ 3.05–20 [Amended]

- 8. In § 3.05–20, after the words “Sector Southeastern New England’s office is located in”, remove the words “Providence, RI” and add, in their place, the words “Woods Hole, MA”.

§ 3.40–28 [Amended]

- 9. In § 3.40–28 introductory text, after the words “Sector Houston–Galveston’s office is located in”, remove the words “Galena Park, TX” and add, in their place, the words “Houston, TX”.

PART 8—UNITED STATES COAST GUARD RESERVE

- 10. The authority citation for part 8 continues to read as follows:

Authority: 14 U.S.C. 633.

§ 8.7 [Amended]

- 11. In § 8.7(a), remove the text “Commandant (CG–13), 2100 2nd St. SW., Stop 7801, Washington, DC 20593–7801” and add, in its place, the text “Commandant (CG–131), Attn: Office of Reserve Affairs, U.S. Coast Guard Stop 7907, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593–7907”.

PART 13—DECORATIONS, MEDALS, RIBBONS AND SIMILAR DEVICES

- 12. The authority citation for part 13 continues to read as follows:

Authority: Secs. 500, 633, 63 Stat. 536, 545, sec. 6(b)(1), 80 Stat. 938; 14 U.S.C. 500, 633; 49 U.S.C. 1655(b); 49 CFR 1.4 (a)(2) and (f).

§ 13.01–15 [Amended]

- 13. In § 13.01–15(a), following the text “applications and recommendations should be addressed to the”, remove the text “Commandant, U.S. Coast Guard, 2nd St. SW., Stop 7000, Washington, DC 20593–7000” and add, in its place, the text “Commander, Personnel Service Center (PSC–PSD–M&A), U.S. Coast Guard Stop 7200, 4200 Wilson Boulevard Suite 1100, Arlington, VA 20598–7200”.

PART 19—WAIVERS OF NAVIGATION AND VESSEL INSPECTION LAWS AND REGULATIONS¹

- 14. The authority citation for part 19 continues to read as follows:

Authority: Sec. 1, 64 Stat. 1120, sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. note prec. 1, 49 U.S.C. 108; Department of Homeland Security Delegation No. 0170.

§ 19.06 [Amended]

- 15. Amend § 19.06 as follows:
 - a. In paragraph (b), following the text “been established, or to the”, remove the text “Commandant (CG–543), 2100 2nd St. SW., Stop 7000, Washington, DC 20593–7000” and add, in its place, the text “Commandant (CG–CVC), Attn: Office of Commercial Vessel Compliance, U.S. Coast Guard Stop 7501, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593–7501”; and
 - b. In paragraph (d), following the text “be transmitted to the”, remove the text “Commandant (CG–543)” and add, in its place, the text “Commandant (CG–CVC)”.

PART 23—DISTINCTIVE MARKINGS FOR COAST GUARD VESSELS AND AIRCRAFT

- 16. The authority citation for part 23 is revised to read as follows:

Authority: Secs. 638, 639, 63 Stat. 546; 14 U.S.C. 638, 639; E.O. 10707; 3 CFR, 1954–1958 Comp., p. 364.

§ 23.10 [Amended]

- 17. In § 23.10(d), remove the text “Commandant, U.S. Coast Guard, 2100 2nd St. SW., Stop 7000, Washington, DC 20593–7000” and add, in its place, the

¹ Also codified as 46 CFR part 6.

SW., Stop 7363, Washington, DC 20593–7363. You may initially file the report with Commandant (CG–533)” and add, in its place, the text “Commandant (CG–MER), Attn: Office of Environmental Response Policy, U.S. Coast Guard Stop 7516, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593–7516. You may initially file the report with Commandant (CG–MER)”.

§ 120.305 [Amended]

■ 82. In § 120.305(a), following the text “of this chapter, to the”, remove the text “Commanding Officer (MSC), USCG Marine Safety Center, 1900 Half Street SW., Suite 1000, Room 525, Washington, DC 20024 for visitors. Send all mail to Commanding Officer (MSC), United States Coast Guard, 2100 2nd St. SW., Stop 7102, Washington, DC 20593–7102” and add, in its place the text “Commanding Officer, Marine Safety Center, U.S. Coast Guard, 4200 Wilson Boulevard Suite 400, Arlington, VA 22203 for visitors. Send all mail to Commanding Officer (MSC), Attn: Marine Safety Center, U.S. Coast Guard Stop 7410, 4200 Wilson Boulevard Suite 400, Arlington, VA 20598–7410”.

§ 120.309 [Amended]

■ 83. In § 120.309, following the text “Assistant Commandant for”, remove the text “Marine Safety, Security and Environmental Protection [Commandant (G–M)]” and add, in its place, the text “Prevention Policy (CG–5P)”.

PART 126—HANDLING OF DANGEROUS CARGO AT WATERFRONT FACILITIES

■ 84. The authority citation for part 126 continues to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

§ 126.5 [Amended]

■ 85. In § 126.5(a), following the text “for inspection at the”, remove the text “U.S. Coast Guard, Vessel and Facility Operating Standards Division (CG–522), 2100 2nd St. SW., Stop 7126, Washington, DC 20593–7126, and at” and add, in its place, the text “Coast Guard Headquarters. Contact Commandant (CG–OES), Attn: Office of Operating and Environmental Standards, U.S. Coast Guard Stop 7509, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593–7509. You may also contact”.

§ 126.21 [Amended]

■ 86. In § 126.21(d), following the text “in conformity with”, remove the text “§ 126.15(g)” and add, in its place, the text “§ 126.15(b)(5)”.

PART 127—WATERFRONT FACILITIES HANDLING LIQUEFIED NATURAL GAS AND LIQUEFIED HAZARDOUS GAS

■ 87. The authority citation for part 127 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701; Department of Homeland Security Delegation No. 0170.1.

■ 88. In § 127.003(a), following the text “for inspection at the”, remove the text “U.S. Coast Guard, (CG–543), 2100 2nd St. SW., Stop 7581, Washington, DC 20593–7581, and at” and add, in its place, the text “Commandant (CG–CVC), Attn: Office of Commercial Vessel Compliance, U.S. Coast Guard Stop 7501, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593–7501. You may also contact”.

§ 127.015 [Amended]

■ 89. In § 127.015(c)(1), remove the text “Assistant Commandant for Marine Safety, Security and Environmental Protection, U.S. Coast Guard, (CG–5), 2100 2nd St. SW., Stop 7355, Washington, DC 20593–7355” and add, in its place, the text “Commandant (CG–5P), Attn: Assistant Commandant for Prevention, U.S. Coast Guard Stop 7501, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593–7501”.

PART 128—SECURITY OF PASSENGER TERMINALS

■ 90. The authority citation for part 128 continues to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

§ 128.120 [Amended]

■ 91. In § 128.120(a), following the text “be inspected at the”, remove the text “U.S. Coast Guard, (CG–521), 2100 2nd St. SW., Stop 7126, Washington, DC 20593–7126, and at” and add, in its place, the text “Coast Guard Headquarters. Contact Commandant (CG–ENG), Attn: Office of Design and Engineering Standards, U.S. Coast Guard Stop 7509, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593–7509. You may also contact”.

PART 135—OFFSHORE OIL POLLUTION COMPENSATION FUND

■ 92. The authority citation for part 135 continues to read as follows:

Authority: 33 U.S.C. 2701–2719; E.O. 12777, 56 FR 54757; Department of Homeland Security Delegation No. 0170.1, para. 2(80).

§ 135.305 [Amended]

■ 93. In § 135.305(a)(1), remove the text “The Duty Officer, National Response Center, U.S. Coast Guard, (CG–3112),

2100 2nd St. SW., Stop 7238, Washington, DC 20593–7238” and add, in its place, the text “Commandant (CG–MER–3), Attn: Industry and Interagency Coordination Division, U.S. Coast Guard Stop 7516, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593–7516”.

PART 140—GENERAL

■ 94. The authority citation for part 140 continues to read as follows:

Authority: 43 U.S.C. 1333, 1348, 1350, 1356; Department of Homeland Security Delegation No. 0170.1.

§ 140.7 [Amended]

■ 95. In § 140.7(a), following the text “available for inspection at”, remove the text “U.S. Coast Guard, Office of Compliance (CG–543), 2100 2nd St. SW., Stop 7581, Washington, DC 20593–7581 and at” and add, in its place, the text “Coast Guard Headquarters. Contact Commandant (CG–CVC), Attn: Office of Commercial Vessel Compliance, U.S. Coast Guard Stop 7501, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593–7501. You may also contact”.

§ 140.15 [Amended]

■ 96. In § 140.15(b), following the text “Equipment List, available from”, remove the text “Commandant (CG–521), 2100 2nd St., SW., Stop 7126, Washington, DC 20593–7126” and add, in its place, the text “Coast Guard Headquarters. Contact Commandant (CG–ENG), Attn: Office of Design and Engineering Standards, U.S. Coast Guard Stop 7509, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593–7509”.

PART 141—PERSONNEL

■ 97. The authority citation for part 141 continues to read as follows:

Authority: 43 U.S.C. 1356; 46 U.S.C. 70105; 49 CFR 1.46(z).

§ 141.20 [Amended]

■ 98. In § 141.20(c), remove the text “Commandant (CG–543), 2100 2nd St. SW., Stop 7581, Washington, DC 20593–7581” and add, in its place, the text “Commandant (CG–CVC), Attn: Office of Commercial Vessel Compliance, U.S. Coast Guard Stop 7501, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593–7501”.

PART 144—LIFESAVING APPLIANCES

■ 99. The authority citation for part 144 continues to read as follows:

Authority: 43 U.S.C. 1333d; 46 U.S.C. 3102(a); 46 CFR 1.46.

§ 144.30–5 [Amended]

■ 100. In § 144.30–5(a), following the text “should be sent to”, remove the text “Commandant, U.S. Coast Guard, (CG–521), 2100 2nd St. SW., Stop 7126, Washington, DC 20593–7126” and add, in its place, the text “Commandant (CG–ENG–4), Attn: Lifesaving and Fire Safety Division, U.S. Coast Guard Stop 7509, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593–7509”.

PART 148—DEEPWATER PORTS: GENERAL

■ 101. The authority citation for part 148 continues to read as follows:

Authority: 33 U.S.C. 1504; Department of Homeland Security Delegation No. 0170.1 (75).

§ 148.5 [Amended]

■ 102. In § 148.5, amend the definition of *Commandant (CG–5P)* by removing the text “Commandant (CG–5P), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001” and adding, in its place, the text “Commandant (CG–5P), Attn: Assistant Commandant for Prevention, U.S. Coast Guard Stop 7501, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593–7501”.

§ 148.115 [Amended]

■ 103. In § 148.115(a), remove the text “Commandant (CG–5P), 2100 2nd St. SW., Stop 7126, Washington, DC 20593–7126” and add, in its place, the text “Commandant (CG–5P), Attn: Assistant Commandant for Prevention, U.S. Coast Guard Stop 7501, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593–7501”.

PART 151—VESSELS CARRYING OIL, NOXIOUS LIQUID SUBSTANCES, GARBAGE, MUNICIPAL OR COMMERCIAL WASTE, AND BALLAST WATER

■ 104. The authority citation for part 151 continues to read as follows:

Authority: 33 U.S.C. 1321, 1902, 1903, 1908; 46 U.S.C. 6101; Pub. L. 104–227 (110 Stat. 3034); Pub. L. 108–293 (118 Stat. 1063), § 623; E.O. 12777, 3 CFR, 1991 Comp. p. 351; DHS Delegation No. 0170.1, sec. 2(77).

§ 151.27 [Amended]

■ 105. In § 151.27(b), following the text “emergency plan to”, remove the text “Commandant (CG–5431), U.S. Coast Guard, 2100 2nd St. SW., Stop 7581, Washington, DC 20593–7581” and add, in its place, the text “Commandant (CG–CVC–1), Attn: Domestic Vessels Division, U.S. Coast Guard Stop 7501,

2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593–7501”.

§ 151.66 [Amended]

■ 106. In § 151.66(d)(3)(iv)(C), remove the text “Stop 7126” and add, in its place, the text “Stop 7509”.

§ 151.1012 [Amended]

■ 107. In § 151.1012(a) introductory text, remove the text “Commandant (CG–5431), U.S. Coast Guard Headquarters, 2100 2nd St. SW., Stop 7581, Washington, DC 20593–7581, Attn: Shore Protection Act Desk” and add, in its place, the text “Commandant (CG–CVC–1), Attn: Domestic Vessels Division, U.S. Coast Guard Stop 7501, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593–7501”.

§ 151.1021 [Amended]

■ 108. In § 151.1021(b)(1), remove the text “Assistant Commandant for Marine Safety, Security, and Stewardship (CG–5), U.S. Coast Guard Headquarters, 2100 2nd St. SW., Stop 7355, Washington, DC 20593–7355” and add, in its place, the text “Commandant (CG–5P), Attn: Assistant Commandant for Prevention, U.S. Coast Guard Stop 7501, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593–7501”.

§ 151.1510 [Amended]

■ 109. In § 151.1510(a)(3)(ii), remove the text “Commanding Officer (Marine Safety Center), U.S. Coast Guard Marine Safety Center, 2100 2nd St. SW., Stop 7102, Washington, DC 20593–7102” and add, in its place, the text “Commanding Officer (MSC), Attn: Marine Safety Center, U.S. Coast Guard Stop 7410, 4200 Wilson Boulevard, Suite 400, Arlington, VA 20598–7410”.

§ 151.1513 [Amended]

■ 110. In § 151.1513, following the text “submitted in writing to the”, remove the text “Commandant (CG–522), U.S. Coast Guard Office of Operating and Environmental Standards, 2100 2nd St. SW., Stop 7126, Washington, DC 20593–7126” and add, in its place, the text “Commandant (CG–OES), Attn: Office of Operating and Environmental Standards, U.S. Coast Guard Stop 7509, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593–7509”.

§ 151.2025 [Amended]

■ 111. In § 151.2025(b), remove the text “Commanding Officer (Marine Safety Center), U.S. Coast Guard Marine Safety Center, 2100 2nd St. SW., Stop 7102, Washington, DC 20593–7102” and add, in its place, the text “Commanding Officer (MSC), Attn: Marine Safety Center, U.S. Coast Guard Stop 7410,

4200 Wilson Boulevard, Suite 400, Arlington, VA 20598–7410”.

§ 151.2026 [Amended]

■ 112. In § 151.2026(b), remove the text “Commanding Officer, U.S. Coast Guard Marine Safety Center, 2100 2nd St. SW., Stop 7102, Washington, DC 20593–7102” and add, in its place, the text “Commanding Officer (MSC), Attn: Marine Safety Center, U.S. Coast Guard Stop 7410, 4200 Wilson Boulevard, Suite 400, Arlington, VA 20598–7410”.

§ 151.2036 [Amended]

■ 113. In § 151.2036, following the text “submitted in writing to the”, remove the text “Commandant (CG–522), U.S. Coast Guard Office of Operating and Environmental Standards, 2100 2nd St. SW., Stop 7126, Washington, DC 20593–7126” and add, in its place, the text “Commandant (CG–OES), Attn: Office of Operating and Environmental Standards, U.S. Coast Guard Stop 7509, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593–7509”.

PART 153—CONTROL OF POLLUTION BY OIL AND HAZARDOUS SUBSTANCES, DISCHARGE REMOVAL

■ 114. The authority citation for part 153 continues to read as follows:

Authority: 14 U.S.C. 633; 33 U.S.C. 1321, 1903, 1908; 42 U.S.C. 9615; 46 U.S.C. 6101; E.O. 12580, 3 CFR, 1987 Comp., p. 193; E.O. 12777, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1.

§ 153.203 [Amended]

■ 115. In § 153.203, following the text “immediately notify the”, remove the text “National Response Center (NRC), U.S. Coast Guard, 2100 2nd St. SW., Stop 7238, Washington, DC 20593–7238” and add, in its place, the text “Commandant (CG–MER–3), Attn: Industry and Interagency Coordination Division, U.S. Coast Guard Stop 7516, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593–7516”.

§ 153.411 [Amended]

■ 116. In § 153.411, following the text “in writing from the”, remove the text “Commandant (CG–094), 2100 2nd St. SW., Stop 7238, Washington, DC 20593–7238” and add, in its place, the text “Commandant (CG–094), Attn: Judge Advocate General and Chief Counsel, U.S. Coast Guard Stop 7213, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593–7213”.

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Federal Register

**Tuesday
March 31, 2015**

Department of Homeland Security

Coast Guard

**Electrical Equipment in Hazardous
Locations; Final Rule**

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2015–0066]

Notice of Enforcement for Special Local Regulations; RiverFest; Port Neches, TX

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce Special Local Regulations for the RiverFest Power Boat races on the Neches River in Port Neches, TX from 2 p.m. on May 1, 2015, through 6 p.m. on May 3, 2015. This action is necessary to provide for the safety of the participants, crew, spectators, participating vessels, non-participating vessels and other users of the waterway. During the enforcement periods no person or vessel may enter the zone established by the Special Local Regulation without permission of the Captain of the Port (COTP) Port Arthur or his designated on-scene Patrol Commander.

DATES: The regulations in 33 CFR 100.801 will be enforced from 2 p.m. to 6 p.m. on May 1, 2015; and from 8:30 a.m. to 6 p.m. on May 2 and 3, 2015.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice of enforcement, call or email Mr. Scott Whalen, U.S. Coast Guard Marine Safety Unit Port Arthur, TX; telephone 409–719–5086, email scott.k.whelen@uscg.mil.

SUPPLEMENTARY INFORMATION:

The Coast Guard will enforce Special Local Regulation for the annual boat races in 33 CFR 100.801(60) on May 1, 2015, from 2 p.m. to 6 p.m. and on May 2 and 3, 2015 from 8:30 a.m. to 6 p.m.

Under the provisions of 33 CFR 100.801, a vessel may not enter the regulated area, unless it receives permission from the Captain of the Port or his designated on-scene Patrol Commander. Spectator vessels may safely transit outside the regulated area but may not anchor, block, loiter, or impede participants or official patrol vessels. The Coast Guard may be assisted by other federal, state or local law enforcement agencies in enforcing this regulation.

This notice is issued under authority of 33 CFR 100.801 and 33 U.S.C. 1233. In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with

notification of this enforcement period via Local Notice to Mariners, Safety Marine Information Broadcasts, and Marine Safety Information Bulletins.

If the Captain of the Port or his designated on-scene Patrol Commander determines that the regulated area need not be enforced for the full duration stated in this notice, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: March 12, 2015.

R. S. Ogrydziak,

Captain, U.S. Coast Guard, Captain of the Port, Port Arthur.

[FR Doc. 2015–07319 Filed 3–30–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 140 and 143

46 CFR Parts 110 and 111

[Docket No. USCG–2012–0850]

RIN 1625–AC00

Electrical Equipment in Hazardous Locations

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is issuing regulations applicable to newly constructed mobile offshore drilling units (MODUs), floating outer continental shelf (OCS) facilities, and vessels other than offshore supply vessels (OSVs) that engage in OCS activities. The regulations expand the list of acceptable national and international explosion protection standards and add the internationally accepted independent third-party certification system, the International Electrotechnical Commission System for Certification to Standards relating to Equipment for use in Explosive Atmospheres (IECEX), as an accepted method of testing and certifying electrical equipment intended for use in hazardous locations. The regulations also provide owners and operators of existing U.S. MODUs, floating OCS facilities, vessels other than OSVs, and U.S. tank vessels that carry flammable or combustible cargoes, the option of following this compliance regime as an alternative to the requirements contained in existing regulations.

DATES: This final rule is effective April 30, 2015.

The Director of the Federal Register has approved the incorporation by reference of certain publications listed in this rule, effective April 30, 2015.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2012–0850 and are available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket online by going to <http://www.regulations.gov> and following the instructions on that Web site.

Viewing material incorporated by reference. You may make arrangements to view this material by calling the Coast Guard's Office of Regulations and Administrative Law at 202–372–3870 or by emailing HQS-SMB-CoastGuardRegulationsLaw@uscg.mil.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Raymond Martin, Systems Engineering Division (CG–ENG–3), Coast Guard; telephone 202–372–1384, email Raymond.W.Martin@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

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I. Abbreviations

- ABS American Bureau of Shipping
 ANSI American National Standards Institute
 ASTM ASTM International
 ATEX (Directive) Protective Systems Intended for use in Potentially Explosive Atmospheres

BSEE Bureau of Safety and Environmental Enforcement
 CFR Code of Federal Regulations
 CSA Canadian Standards Association
 DHS Department of Homeland Security
 Ex Designation of explosion-protected electrical apparatus complying with IEC standards
 ExCB Ex Certification Body
 FR **Federal Register**
 IEC International Electrotechnical Commission
 IECEX IEC Certification to Standards relating to Equipment for use in Explosive Atmospheres
 IEEE Institute of Electrical and Electronics Engineers
 IMO International Maritime Organization
 ISA International Society of Automation
 ISO International Organization for Standardization
 MSC Marine Safety Center
 MODU Mobile Offshore Drilling Unit
 NAVSEA Naval Sea Systems Command
 NEC National Electrical Code
 NEMA National Electrical Manufacturers Association
 NEPA National Environmental Policy Act
 NFPA National Fire Protection Association
 NOSAC National Offshore Safety Advisory Committee
 NPFC Naval Publications and Forms Center
 NPRM Notice of Proposed Rulemaking
 OCS Outer Continental Shelf
 OMB Office of Management and Budget
 OSV Offshore Supply Vessel
 RP Recommended Practice
 ULS Ultra Low Sulfur
 U.S. United States
 U.S.C. United States Code

II. Regulatory History

Notice of Proposed Rulemaking

On June 24, 2013, we published a notice of proposed rulemaking (NPRM) in the **Federal Register** entitled *Electrical Equipment in Hazardous Locations* (78 FR 37760). The NPRM proposed requiring third-party testing and certification of electrical equipment in hazardous locations by a Coast Guard-accepted independent third-party laboratory in order to achieve uniform standards between U.S. and foreign vessels and floating facilities. We received several requests to extend the 90-day comment period until November 30, 2013. We granted these requests and announced the extension in the **Federal Register** (78 FR 58989) on September 25, 2013. We received 23 comment letters on the NPRM, and considered all of these comments in developing this final rule. In section VI below, we inserted a table that summarizes the changes between the NPRM and the final rule.

Advisory Committee

In April 2013, the Coast Guard tasked the National Offshore Safety Advisory Committee (NOSAC) to review and

comment on a notice of policy we published in the **Federal Register** (77 FR 71607) on December 3, 2012. The policy recommended that electrical equipment on foreign mobile offshore drilling units (MODUs) that had never operated on the outer continental shelf (OCS), but were intended to do so, meet Chapter 6 of the 2009 MODU Code of the International Maritime Organization (IMO) and obtain equipment certification under the International Electrotechnical Commission Certification to Standards relating to Equipment for use in Explosive Atmospheres (IECEX) System. While NOSAC was reviewing the notice of policy, we published the *Electrical Equipment in Hazardous Locations NPRM* (78 FR 37760) in the **Federal Register**. The NPRM proposed regulations similar to the recommendations contained in the notice of policy. Unlike the notice of policy, however, the NPRM was not limited to foreign MODUs but applied to all vessels and facilities that had never operated on the outer continental shelf (OCS) but intended to. Further, the NPRM proposed requiring that certification under the IECEX System be conducted by Coast Guard accepted independent laboratories in order to facilitate Coast Guard oversight of those laboratories. NOSAC provided comments on the notice of policy and on the NPRM, and those comments were considered in developing this final rule.

III. Background

A key finding of the Coast Guard's investigation of the MODU DEEPWATER HORIZON explosion, fire, and sinking emphasized the importance of proper electrical equipment installations in hazardous locations during oil drilling exploration on U.S. and foreign MODUs. The Coast Guard, therefore, reviewed the existing regulations for hazardous locations; specifically, the requirements for electrical equipment testing and certification and the standards applicable to U.S. and foreign MODUs, floating OCS facilities, and vessels that engage in OCS activities.

Currently, electrical equipment on U.S. vessels and floating facilities that operate on the OCS must comply with 46 CFR subpart 111.105. This subpart adopts international and national standards and requires the equipment to be tested and certified by a Coast Guard-accepted independent third-party laboratory.

In contrast, foreign vessels and floating facilities that engage in OCS activities must meet the requirements of 33 CFR subchapter N. Currently, foreign

floating OCS facilities must meet the same engineering standards as U.S. floating OCS facilities, while foreign vessels engaged in OCS activities on the U.S. OCS do not meet the same engineering standards as U.S. vessels. While the Coast Guard supports the development and adoption of international vessel safety standards, the existing safety requirements of the International Convention on the Safety of Life at Sea, 1974 (SOLAS) do not completely account for the specifics of hydrocarbon production, processing, storage, and handling systems, and the 2009 IMO MODU Code, which provides a recommended SOLAS equivalency for MODUs, is not a legally binding instrument. For electrical equipment in hazardous locations, we believe this rule is necessary to ensure that all vessels engaged in OCS activities meet the same, OCS-specific safety standards. In this final rule, therefore, we require that new foreign MODUs, floating OCS facilities and vessels meet the same standards for explosion protection in hazardous areas as their U.S. counterparts before operating on the OCS. Additionally, through this final rule, we expand the list of acceptable standards for existing and new vessels and facilities.

IV. Discussion of Comments and Changes

As noted above, we received 23 comment letters in response to the NPRM. Additionally, NOSAC submitted a report to the Coast Guard that included their comments on the NPRM. We considered all of these comments in the development of this final rule. The comments and our responses have been grouped into subject-matter categories below. In cases where the comment resulted in a change to the regulations previously proposed in the NPRM, the change is specifically identified and discussed.

Implementation Date

The NPRM's proposed implementation date was 30 days after publication of the final rule. Fourteen comments stated that was unreasonable. These commenters explained that over 200 MODUs were either under contract, under construction or due to be constructed in the next 5 years and that the costs of changing the specifications for the electrical equipment located in hazardous locations would be much greater than that indicated in Section VI of the NPRM.

We agree. While the estimates provided correspond to the global MODU population currently under construction, a majority of which have

not historically sought to operate on the OCS, the associated burden on vessels under construction is real. Thus, we have delayed the implementation date of the requirements of 46 CFR subpart 111.108. The requirements of 46 CFR subpart 111.108 will apply to MODUs, floating OCS facilities, and vessels, other than offshore supply vessels regulated under 46 CFR subchapter L, that are constructed after April 2, 2018 and that engage in OCS activities. Estimates of the affected foreign flagged vessel population reside in the regulatory analysis section of this final rule. The definition of “constructed” has been added to 33 CFR 140.10 and 46 CFR 110.15–1(b). It is consistent with the existing definition for “constructed” found in 46 CFR 170.055(f). Constructed means either the date a keel is laid or the date that construction identified with the vessel or facility has begun.

Existing U.S. MODUs, floating OCS facilities, and vessels, other than offshore supply vessels (OSVs), and U.S. tank vessels that carry flammable or combustible cargoes may immediately use the expanded list of explosion protection standards and IECEx certification regime identified in this final rule in lieu of the existing requirements in §§ 111.105–1 through 111.105–15.

2009 IMO MODU Code

The NPRM proposed the adoption of a selection of explosion protection standards and certification schemes. Thirteen comments suggested that the proposed regulations were unnecessary and that compliance with the 2009 IMO MODU Code should be sufficient for all vessels. Many of these comments further noted that the 2009 IMO MODU Code already requires certification by an independent testing laboratory. We agree in part. The Coast Guard supports the development and adoption of international vessel safety standards. The Coast Guard believes the 2009 IMO MODU Code provides helpful guidance for the design and engineering of MODUs, particularly in supplementing SOLAS with standards specific to hydrocarbon production, processing, storage, and handling systems, and should be given appropriate effect by flag administrations. However, the 2009 IMO MODU Code is not a legally binding instrument and by its terms does not apply to vessels that are not MODUs. Additionally, there are differing interpretations of the “independent testing laboratory” certification contained in the 2009 IMO MODU Code. As the coastal state with jurisdiction, we find that it is a necessary and reasonable safety measure

to require that newly constructed foreign vessels and floating facilities that engage in OCS activities have uniform safety standards for explosion protection in hazardous locations.

Cost of Compliance for Existing Foreign Vessels and Facilities

Ten comments addressed the cost of bringing into compliance with the proposed rule existing MODUs that are currently not operated on the OCS but the owners or operators intend them to do so. Those comments stated that the cost of bringing the existing vessels into compliance would likely exceed the cost published in the NPRM. In addition to required equipment recertification and replacement costs, there would be a loss of revenue during necessary downtime for replacement of equipment that could equal or exceed all other costs.

We recognize that the costs to retrofit an existing MODU could be prohibitive depending on the design, construction and type of operation of an individual MODU. Because of this, we decided to make the final rule applicable to vessels and facilities that are constructed after April 2, 2018 and that engage in OCS activities. Existing vessels and facilities will continue to be subject to the regulations and standards effective at the time of their construction.

Similarly, one comment recommended that the Coast Guard address electrical equipment in hazardous locations on MODUs currently on the OCS. The Coast Guard disagrees. As explained earlier, this rule does not require any existing vessel or facility to meet the requirements of subpart 111.108 because the costs to retrofit existing equipment could be prohibitive depending on the design, construction and type of operation of an individual vessel or facility.

One comment stated that the Coast Guard should address electrical equipment in hazardous locations on foreign oil and chemical tankers and gas carriers entering U.S. ports. These vessels are outside the scope of this rulemaking, which is confined to vessels and facilities engaged in OCS activities. Additionally, foreign oil and chemical tankers and gas carriers are already subject to international standards and to Coast Guard inspection for compliance with those standards.

Sister Vessels of Vessels Already Operating on the OCS

Four comments requested that the final rule not apply to sister vessels of vessels already operating on the OCS. They argued that these vessels are identical in design to those existing

vessels that the Coast Guard is excluding from the requirements of this final rule.

Under the NPRM, vessels new to the OCS would have been subject to the new requirements, whereas vessels and facilities that had previously operated on the OCS would not. In this final rule, we have changed the applicability to include only those vessels and facilities that are constructed after April 2, 2018 and that engage in OCS activities. This final rule, therefore, does not place new requirements on any existing vessels or facilities nor any vessel or facility that is constructed on or before April 2, 2018. Existing vessels or facilities or those constructed on or before April 2, 2018 will remain subject to the regulations and standards effective at the time of their construction and will remain subject to Coast Guard inspection. Any vessel or facility constructed after the implementation date will be subject to the requirements of 46 CFR subpart 111.108 before operating on the OCS.

Coast Guard Independent Laboratory Requirement

Eleven comments addressed the proposed requirement in 46 CFR 111.108–3 requiring the testing and certification of electrical equipment in hazardous locations by an independent laboratory. The definition of independent laboratory in the Coast Guard’s Electrical Engineering regulations is contained in 46 CFR 110.15–1, and means a laboratory accepted by the Coast Guard using the independent laboratory criteria found in 46 CFR 159.010. Commenters stated that this requirement is burdensome and unnecessary, particularly for Ex Certification Bodies (ExCBs) and Ex Testing Laboratories operating under the IECEx System. Additionally, these commenters were concerned that there were not enough independent laboratories accepted by the Coast Guard, particularly within the IECEx System, to meet the demands for equipment certifications necessary to comply with this final rule. Further, the commenters stated that requiring Coast Guard-accepted independent laboratories undermines use of international standards, foreign flag administrations, and Recognized Organizations.

We disagree. First, there are differing interpretations of the “independent testing laboratory” certification contained in the 2009 IMO MODU Code. U.S. MODUs, vessels and floating facilities, have been subject to independent third-party testing for over 30 years because we believe it is a critically important

element in preventing accidental explosions in hazardous locations. As the coastal state with jurisdiction, we find that it is a necessary and reasonable safety measure to require that newly constructed foreign vessels and floating facilities that engage in OCS activities have uniform safety standards for explosion protection in hazardous locations. This final rule, therefore, requires compliance with uniform explosion protection standards and certification regimes. The requirement to use Coast Guard-accepted independent laboratories allows the Coast Guard reasonable oversight of laboratories located worldwide and is consistent with our existing regulations for U.S. vessels and facilities engaged in OCS activities. Currently, the majority of ExCBs are Coast Guard-accepted independent laboratories. We have contacted all ExCBs to suggest that they apply for acceptance. We expect that if the demand is present, additional ExCBs will apply for acceptance. Because this final rule applies to new vessels and facilities constructed after April 2, 2018, we expect system designers, equipment manufacturers, and independent laboratories will be able to smoothly transition from existing international standards to the requirements of this final rule. Finally, the existing SOLAS standards do not completely account for the particularities of vessels designed and constructed for OCS activities, and the 2009 IMO MODU Code is neither mandatory nor applicable to all vessels. Therefore, implementation of a domestic standard for electrical equipment in hazardous locations is necessary to ensure that all vessels engaged in U.S. OCS activities meet uniform safety standards particular to OCS activities and does not undermine international standards or organizations.

In a separate rulemaking, the Coast Guard published an interim rule on August 18, 2014 (79 FR 48894) for U.S. offshore supply vessels greater than 6,000 GT ITC. That interim rule also recognized the IECEx System for certification of electrical equipment in hazardous locations. Unlike section 111.108–3(b)(3) of this final rule, 46 CFR 111.106–3(b)(3)(iii) of the interim rule does not require certification of electrical equipment in hazardous locations to be done by a Coast Guard accepted independent laboratory. The Coast Guard recognizes the inconsistency between 46 CFR 111.106–3(b)(3)(iii) of the interim rule and 46 CFR 111.108–3(b)(3) of this final rule and intends to align 46 CFR 111.106–3(b)(3)(iii) with this final rule in a future rulemaking.

ATEX Equipment Certified by a Third-Party Independent Laboratory

Eight comments suggested the Coast Guard accept electrical equipment with certification issued under the European Commission Directive (94/9/EC) on equipment and Protective Systems Intended for use in Potentially Explosive Atmospheres (ATEX Directive or ATEX).

We disagree. ATEX certification does not require independent third party testing for all types of equipment. It also does not ensure that electrical equipment installed in hazardous locations is fully tested to relevant standards. When foreign MODUs and vessels have electrical equipment installed in hazardous locations that is not independently tested, there is not the same level of safety for explosion protection in hazardous areas as required of U.S. vessels and floating facilities that operate on the OCS and that are required to meet 46 CFR subpart 111.105. The ATEX Directive is a European conformity assessment scheme designed to facilitate trade within Europe and is based on “Essential Health and Safety Requirements.” Additionally, the ATEX Directive is currently not applicable to seagoing vessels or MODUs and it is our experience with ATEX certification that it can be difficult to determine the extent of testing performed by the “notified body”¹.

It is also important to recognize that some ATEX certified electrical equipment may be acceptable under subpart 111.108 if it can be demonstrated that the electrical equipment has been fully tested and certified to the applicable standards contained in 46 CFR subchapter J by an independent laboratory as defined in 46 CFR 110.15–1. Frequently, equipment with ATEX certification also has certifications acceptable under 46 CFR 111.108–3 of this final rule.

Two comments requested that the Coast Guard clarify a statement in CG–ENG Policy Letter No. 01–13, Alternate Design and Equipment Standard for Floating Offshore Installations (FOI) and Offloading (FPSO) Units on the U.S. Outer Continental Shelf, of June 26, 2013. For hazardous locations, the policy letter states that electrical equipment certified under the ATEX scheme will not be accepted by the

¹ A notified body is an organization “appointed by EU Member States, either for approval and monitoring of the manufacturers’ quality assurance system or for direct product inspection.” http://ec.europa.eu/enterprise/glossary/index_en.htm, retrieved February 24, 2014.

Coast Guard. As explained above, if the equipment is also certified in accordance with one of the acceptable methods listed in 46 CFR 111.108–3, in addition to its ATEX certification, then the equipment is acceptable under 46 CFR 111.108–3 of this final rule.

Class I, Special Division 1 Hazardous Locations

Three comments said the proposed use of Class I, Special Division 1 in 46 CFR 111.108–3(e) may cause confusion as it is not a term recognized by the National Fire Protection Association’s (NFPA) standard, NFPA 70, National Electrical Code (NEC). We disagree and have not revised this section. Class I, Special Division 1 is intended to be equivalent to Class I, Zone 0, and is consistent with Informational Note No. 2 of Article 500.5(B)(3) of NFPA 70. Coast Guard regulations have long recognized that certain spaces such as cargo pump rooms and cargo tanks are more hazardous than other Class I, Division 1 locations. For these hazardous locations, we limit the types of permitted electrical installations. Use of the term “Class I, Special Division 1” simplifies the designation of these locations.

Electrical Equipment Inspection and Maintenance Requirements

Five comments recommended that the Coast Guard establish standards for the design, installation, inspection, and maintenance of electrical equipment in hazardous locations. Two comments suggested requiring an onboard electrical equipment register that contains information regarding electrical equipment and its inspection, maintenance, and operational history. The commenters also suggest this information could be reviewed by visiting Coast Guard marine inspectors or third-party inspection personnel and could become part of a company’s quality system. We agree that competency and accurate recordkeeping are critical to safety, but this recommendation is outside the scope of this rulemaking.

“Operated on the OCS”

Under the NPRM, vessels and facilities new to the OCS would be subject to the NPRM, whereas vessels and facilities that had previously operated on the OCS, would not. Two comments requested that the Coast Guard more clearly define what constitutes having “operated on the OCS.” Because this final rule now applies only to vessels and facilities constructed after April 2, 2018, that engage in OCS activities, we believe no

further elaboration is needed, because the phrase “operated on the OCS” is no longer used.

BSEE-USCG MOA, OCS-8, Regarding MODUs

Two comments requested clarification on the responsibilities of the Coast Guard and of the Bureau of Safety and Environmental Enforcement (BSEE) for electrical equipment in hazardous locations on MODUs under the USCG/BSEE Memorandum of Agreement, OCS-8, signed June 4, 2013. While the subject is outside the scope of this rulemaking because neither agency’s responsibilities with regard to regulating electrical equipment located in hazardous locations are affected by this final rule, it is relevant to understanding the regulatory requirements for electrical equipment located in hazardous locations.

BSEE and Coast Guard have a shared responsibility for safety on the OCS. In general, the Coast Guard is responsible for the vessel or facility and all of its supporting systems while BSEE is responsible for systems related to the drilling and production of resources. Classification of hazardous locations and design of electrical systems is a vessel-wide or facility-wide task and the Coast Guard maintains a holistic view of the vessel or facility. The Coast Guard, in this rule, provides an expanded list of standards that are applicable to systems under the Coast Guard’s jurisdiction as explained in BSEE-USCG MOA OCS-8. The electrical safety standards contained in BSEE’s OCS regulations, 30 CFR part 250, are acceptable to the Coast Guard. Frequently, drilling and production components will be installed on vessels or facilities on a temporary or semi-temporary basis. In general, BSEE oversees these systems and if they find them acceptable, their installation is acceptable to the Coast Guard.

Class I, Division 2 and Class I, Zone 2

Two comments suggested that electrical equipment in Division 2 or Zone 2 locations be accepted without independent third-party certification or be accepted with ATEX certification. The Coast Guard agrees to the extent that applicable provisions of NFPA 70 and the 2009 IMO MODU Code permit. 46 CFR 111.108-3(b)(1) and (b)(2) incorporate by reference Articles 500-504 and Article 505 of the NFPA 70. Articles 501.125(B) and 505.20(C) of the NFPA 70 allow the installation of certain electrical equipment in these locations without independent identification or listing if the equipment meets specific requirements that reduce

the risk of explosion. This final rule is not intended to modify these standards. 46 CFR 111.108-3(b)(3) incorporates Chapter 6 of the 2009 IMO MODU Code and requires certification under the IECEX System. The IECEX System requires independent certification for all electrical equipment in hazardous areas. This final rule is not intended to modify the IECEX System. Electrical system designers must choose an explosion protection standards regime from the list of acceptable options provided in 46 CFR 111.108-3 and comply with the standards regime they chose.

American National Standards Institute (ANSI) and International Society of Automation (ISA) Standards

One comment requested that the Coast Guard incorporate the latest ANSI/ISA safety standards for hazardous locations. The Coast Guard agrees and notes that 46 CFR 111.108-3(b) incorporates the ANSI/ISA series of standards incorporated in NFPA 70, as it did in the NPRM.

Certain Required Equipment Not Meeting Zone 2 Requirements

Two comments noted that some required equipment located in hazardous locations is not available as certified for Zone 2 areas, such as search and rescue transponders. The Coast Guard agrees with this comment, and notes that several standards included in this final rule address this situation. The objective of this final rule is to provide a selection of standards for certification of electrical equipment in hazardous locations. Electrical equipment not meeting the Class I, Zone 2 or Class I, Division 2 requirements, should be installed as far as possible from hazardous locations, or if not possible, located or installed in the least hazardous location. Standards listed in 46 CFR 111.108-3 of this final rule do address equipment such as this. Section 6.3.3 of IEC 61892-7:2007,² which is accepted by the 2009 IMO MODU Code, refers to an assessment for energy-limited equipment and circuits that is provided in IEC 60079-15, ANSI/ISA 60079-15, ANSI/ISA-12.12.01, and UL 1604. Similarly, non-third party assessment provisions are provided in Article 501 of NFPA 70 for electrical equipment without switching mechanisms, or similar arc producing devices. These standards can be used when certain required equipment is not available as certified for Zone 2 areas.

² IEC 61892-7, Mobile and fixed offshore units—Electrical installations—Part 7: Hazardous areas, Edition 2.0.

Acceptance of IECEX Certified Equipment

One comment asked if equipment tested to the IECEX System but not yet marked as such would be acceptable. The commenter explained that equipment is sometimes delivered before the IECEX Certificate of Compliance is issued. Another comment noted that equipment can be certified under both the ATEX Directive and the IECEX System but only have ATEX labeling. Finally, a comment requested acceptance of equipment consisting of assemblies of IECEX certified components rather than requiring a certificate for the entire assembly.

These are compliance issues that can be very simple or very complex depending on the type of equipment and will be addressed by the Marine Safety Center (MSC) or cognizant Officer-in-Charge, Marine Inspection on a case-by-case basis. When IECEX on any other Coast Guard accepted independent third party certification is unclear, documentation must be presented that demonstrates the equipment meets the applicable requirements. Any equipment or assembly of equipment must meet all the requirements of the IECEX System. It is not the Coast Guard’s intent to modify the IECEX System.

Ultra Low Sulfur (ULS) Diesel Fuels

One comment requested that the Coast Guard consider lowering the minimum flashpoint that defines hazardous locations, because Ultra Low Sulfur (ULS) diesel fuels are being produced against a minimum flashpoint of 52°C, rather than the 60°C minimum that has served as the basis for both Coast Guard and IMO requirements to date. We are unable to make this change in the final rule because it was not proposed in the NPRM. The minimum flashpoint of 60°C exists in numerous standards and regulations including 46 CFR 111.105-29, 46 CFR 111.105-31, 46 CFR 58.01-10, numerous locations within SOLAS, and IEC 60092-502:1999. We may consider proposing a change to the minimum flashpoint in a future rulemaking. This will provide the public the opportunity to comment on the proposal. Until that occurs, the MSC can accept arrangements that provide an equivalent level of safety in accordance with 46 CFR 110.20-1.

IECEX Certified Equipment in Class I, Division 1 and Class I, Division 2 Locations

One commenter requested that drill floor equipment that is IECEX certified for Class I, Zone 1 or Class I, Zone 2 be

permitted on drill floors classified to Class I, Division 1 or Class I, Division 2. Equipment certified using the zone classification system, regardless of whether certification was by a Coast Guard-accepted independent laboratory or IECEx ExCB, is permitted in locations that are classified using the division classification system in accordance with Article 501.5 of NFPA 70, NEC. The same commenter requested that drill floors be allowed to be classified under both systems so that both zone and division certified equipment could be used. We do not favor one classification system over the other and we are not opposed to dual classification, but we caution that great care must be taken. While both systems offer comparable levels of safety the two systems are not identical or interchangeable. Indiscriminate “mixing and matching” of systems could result in errors that result in lower levels of safety. This limits the benefit of dual classification. Article 505.7 of NFPA 70 provides

details on dual classification. Any mixing of classification systems should be done in accordance with NFPA 70 to ensure that the requirements of 46 CFR subpart 111.108 are met.

V. Incorporation by Reference

The Director of the Federal Register has approved the material in § 110.10–1 for incorporation by reference under 5 U.S.C. 552 and 1 CFR part 51. Copies of the material are available from the sources listed in that section.

VI. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders (E.O.s) related to rulemaking. Below we summarize our analyses based on these statutes or E.O.s.

A. Regulatory Planning and Review

Executive Orders 12866 (“Regulatory Planning and Review”) and 13563 (“Improving Regulation and Regulatory Review”) direct agencies to assess the

costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 as supplemented by Executive Order 13563, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget (OMB) has not reviewed it under that Order. Nonetheless, we developed an analysis of the costs and benefits of the rule to ascertain its probable impacts on industry.

A summary of the changes between the NPRM and the final rule follows:

TABLE 1—CHANGES BETWEEN NPRM AND FINAL RULE

| Subject | Stage | | Impact |
|----------------------------|---|--|--|
| | NPRM | Final rule | |
| <i>Affected Population</i> | U.S. and foreign vessels and floating OCS facilities that are new to the OCS or newly built. | Under the final rule, only vessels and facilities constructed after April 2, 2018 will be subject to the rule. | Allows existing vessels and facilities as well as those currently under contract or construction to avoid potentially costly retrofit/recertification costs. |
| <i>Implementation Date</i> | Affected population required to comply by the effective date, which is 30 days after final rule is published. | Changed to 3 years after effective date of the rule. | Allows owners and operators to avoid recertification costs for vessels or facilities currently under contract or construction. |

Discussion of Applicable Regulatory Assessment Comments and Changes

The Coast Guard received several comments on the published NPRM.

These comments have been grouped by topic, as several comments addressed similar concerns, and are discussed in the following table.

TABLE 2—NPRM COMMENT TOPICS AND RESPONSES

| | |
|--|--|
| Implementation Date | Several commenters voiced their concern that the 30 day period between publication of the final rule and the effective date of the requirements was too brief and did not allow sufficient time for vessel and facility owners to come into compliance. Changing the implementation date from 30 days to 3 years after publication of the rule addresses this concern and provides owners and operators of the affected population the amount of time deemed sufficient by both the Coast Guard and commenters alike, to meet the requirements of this rule. |
| Compliance costs for vessels currently under contract or construction. | Several comments addressed the concern that vessels currently under contract or construction could face recertification costs before the vessel has been completed. For example, one such comment stated, “Proposed regulations will block entry onto the OCS of over 200 MODUs, built to the 2009 MODU Code, that are currently under contracting or construction.” The Coast Guard acknowledges the potential cost associated with vessels currently under design or construction. Estimates suggest that designs and contracts are sometimes set as much as 3 years in advance. It is for this reason that we have changed the implementation date to 3 years after the publication of the rule. A 3 year delayed implementation date allows vessels currently under contract or construction to remain subject to the regulations in effect at the time that their construction began. Changing the implementation date to 3 years after the publication of the rule allows owners and operators of vessels currently under contract or construction to avert any costs associated with the requirements of this rule. |

TABLE 2—NPRM COMMENT TOPICS AND RESPONSES—Continued

| | |
|---|---|
| Existing foreign vessels and facilities .. | Several comments addressed existing MODUs that do not currently operate on the OCS but intend to operate on the OCS and the cost of bringing them into compliance with the regulations prescribed in the NPRM. We recognize that the costs of retrofitting and/or recertifying existing MODUs could be prohibitive depending on the individual MODU. Because of this, we revised the rule's applicability to include only those vessels and facilities that are constructed after April 2, 2018 and that operate on the OCS. Existing vessels and facilities or vessels and facilities constructed on or before April 2, 2018 will continue to be subject to the regulations and standards effective at the time of their construction. |
| Accuracy of Recertification Cost Model and Estimates. | Some commenters stated that the burden to industry would likely exceed the cost published in the NPRM for existing vessels/MODUs. In addition to required equipment recertification and replacement costs, there would be a loss of revenue during necessary downtime for replacement of equipment that could equal or exceed all other costs. As noted previously, due to the burden for existing vessels or vessels currently under contract or construction, the Coast Guard modified the rule's affected population to include only those vessels and facilities that are constructed after April 2, 2018 and that engage in OCS activities. |
| Barriers to trade | One commenter suggested the proposal would impose U.S.-specific requirements that are above and beyond international norms, and would create a non-tariff barrier to trade that would restrict the availability of rigs for the U.S. market. The Coast Guard does not foresee any barriers to trade. Coast Guard used NIST's process to notify foreign governments of our proposed NPRM and no comments were received as a result of that outreach. |

Costs: U.S. Vessels

We do not anticipate any costs to be borne by the U.S.-flagged vessels that will be affected by this rule. The rule requires that all U.S. vessels, excluding OSVs that are regulated under 46 CFR subchapter L, that are constructed after April 2, 2018 and engage in OCS activity, comply with the newly created subpart 111.108. U.S. flagged vessels which fall within this scope are provided with an expanded list of standards and certification options.

Subpart 111.108 will not impose any burden on U.S. vessels due to the nature of current industry practice. Because North American certification of electrical equipment is generally to the most current edition of the published reference standards,³ we do not anticipate new equipment will be tested and certified to the standards referenced in subpart 111.105 when more current, updated editions of the standards are available.

The logic applied to U.S. vessels, excluding OSVs as discussed above, applies to U.S. MODUs and floating OCS facilities as well. We do not anticipate any cost burden associated with this rule to be imposed on this vessel class. We believe this because the affected population are those U.S. MODUs and floating OCS facilities that are constructed after April 2, 2018. These vessels will be subject to subpart 111.108, a subpart that contains the updated standards to which new equipment will be certified. As with the vessels discussed earlier, in the absence of subpart 111.108, new equipment would be built to the most current

standards as a matter of industry practice. Under this final rule, this scenario will not require any costs to the vessel owner as there is no change in the regulatory environment for U.S. MODUs and floating OCS facilities.

Under this final rule, all U.S. MODUs, floating OCS facilities, vessels other than OSVs, and U.S. tank vessels may comply with this new subpart in lieu of §§ 111.105–1 through 111.105–15. We do not foresee any additional costs to the owners of these vessels and facilities by providing this option but if there are additional costs, there is expected to be equal or greater benefit to the owner driving the selection of this option. Currently, the regulations for electrical installations in hazardous locations are contained in subpart 111.105. This regulation will expand the available subparts to include subpart 111.108, while still allowing owners and operators the option to remain subject to existing subpart 111.105.

Costs: Foreign Vessels

While the modification of the affected population aids us in estimating the effects of the proposed rulemaking, it does not further refine the costs which are applied to the population. As some commenters on the NPRM document have reinforced, the estimated costs associated with the rule could vary widely. Industry costs were constructed from a variety of elements, for example the cost of certifying equipment or the opportunity cost of recertification of said equipment. With the modification of the affected population we are able to drop the opportunity cost from our analysis, which allows us to further streamline our discussion of the costs for the rulemaking. What remains is the

cost associated with third party certification of equipment.

Currently, foreign vessels are not required to utilize third party certified equipment in hazardous areas unless explicitly required by their flag state. Implementation of the final rule will require certification by a Coast Guard approved, independent laboratory which, in effect, changes the baseline for newly constructed foreign vessels. Foreign flagged vessels constructed 3 years after the implementation date seeking entrance to the OCS in pursuit of OCS activities will be required to utilize third party certified equipment where previously this was not explicitly required. Our analysis of this baseline change is clouded by the aggregate nature of the cost of certification. When an entity purchases equipment for use in a hazardous location on a vessel, the marginal cost of the certification element of the purchase price is not itemized for the purchaser. The certification cost is present in the purchase price as a value added component of the total price of the equipment. As such, we are not able to explicitly determine the marginal cost difference between equipment certified by a third party and those without third party certification. Additionally, the list of equipment present in these locations, and required to be third party certified, is diverse. For example, one equipment list obtained by the Coast Guard contained equipment which ranged in complexity from a fluorescent light to elements of the tank temperature monitoring system.

While the cost estimation is obtuse, it is not insurmountable. We have several elements which should allow us to construct a range for the final rule's associated costs. On the high end of the

³ Confirmed by Principal Engineer—Global Hazardous Locations Product Safety, UL LLC., 12/26/2012.

range, we have the cost to replace all of the electrical installations in a representative vessel. While not specifically applicable to a newly built vessel, it is an appropriate estimate of the costs associated with replacement of electrical installations in hazardous areas. This estimate contains the costs associated with replacement of both the equipment and the certification on a U.S. flagged vessel, which are already subject to the certification requirements in this final rule.

The \$500,000 cost quote⁴ for replacement of the equipment appropriate for a hazardous location on a vessel is useful as a cost ceiling. The replacement cost for this equipment, contains that which is associated with the third party certification, in addition to the price of the equipment itself. This functions well as a price ceiling as we can be sure that the marginal cost of third party certification will fall below this point estimate, as it is not likely to be above the full cost of the equipment with its associated certification.

The cost floor is a function of costs potentially accrued to a hypothetical vessel to be built in the future. In some cases these vessels would be built to the certification specifications contained in this final rule anyway, in which case they would accrue no additional costs from this rule. However, due to the probable greater cost of third-party-certified equipment, we can assume that, without this rulemaking, some equipment would be installed without third party certification. Table 3 presents the range.

TABLE 3—COST RANGE

| Low-cost floor | Average | High-cost ceiling |
|----------------|-----------|-------------------|
| \$0 | \$250,000 | \$500,000 |

Affected Population

The Coast Guard-maintained MISLE database, contains records of all applicable vessels operating on the OCS in pursuit of OCS activities. Historic data extracted from this database is presented below in Table 4.

TABLE 4—MISLE HISTORIC DATA

| Build year | Frequency |
|------------|-----------|
| 2004 | 0 |
| 2005 | 1 |
| 2006 | 0 |
| 2007 | 0 |
| 2008 | 2 |
| 2009 | 4 |
| 2010 | 3 |

⁴Regulatory Advisor—ExxonMobil, 8/14/2012.

TABLE 4—MISLE HISTORIC DATA—Continued

| Build year | Frequency |
|---------------|-----------|
| 2011 | 2 |
| 2012 | 2 |
| 2013 | 3 |
| Total | 17 |
| Average | *2 |

* Rounded.

Over the past 10 years, 17 foreign vessels have been built which would fall under this rule's application. The database was filtered to include foreign vessels, those vessel classes which would potentially be on the OCS in pursuit of OCS activities, and have build years within the past decade. Evaluation of this data found that on average, 2 foreign vessels are built per year which could seek entrance to the US OCS in pursuit of OCS activities.

Therefore, the range of costs associated with this rulemaking will fall between \$0 (2 Vessels * \$0) and \$1,000,000 (2 vessels * \$500,000) per year with an average per year cost of \$500,000 (2 vessels * \$250,000).

| Cost estimate | | |
|----------------|-----------|-------------------|
| Low-cost floor | Average | High-cost ceiling |
| \$0 | \$500,000 | \$1,000,000 |

NPRM vs Final Rule

Burden estimates in the NPRM were \$800,000 per year. With the changes that the final rule makes to the affected population, the yearly costs have been reduced, by an estimation that is upwards of 37%.

$$\frac{\$500,000 - \$800,000}{\$800,000} = -0.375$$

Benefits

We are unable to monetize benefits. We can find no casualties that would have been prevented by these regulations. However, third-party testing and certification for critical equipment, such as electrical equipment intended for use in hazardous locations, addresses a potentially catastrophic hazard consisting of an explosive gas or vapor combined with an electrical ignition source, and is generally understood by industry as an appropriate measure that enhances safety and protects life, the environment, and property.

Alternatives

We considered five alternatives when evaluating the effects of this final rule. The first, abstaining from action, was rejected because it allows a regulatory imbalance and a potential safety gap to exist between foreign vessels and U.S. vessels operating on the OCS.

The second alternative we considered was to require both U.S. and foreign vessels and facilities to adhere to the existing international standards. This alternative was deemed insufficient because compliance with international standards, such as the 2009 IMO Code, is subject to the interpretation of the applicable flag administration. An example of an undesired consequence of this alternative would be the acceptance of ATEX certified equipment. The Coast Guard, however, will not accept ATEX certifications because evidence of full testing to the applicable harmonized 60079 series of standards by an independent third-party laboratory is not guaranteed. Consistent with preexisting Coast Guard practices, third-party testing and certification for critical equipment is generally required.

The third alternative we considered was to require foreign vessels and floating facilities to meet current U.S. standards. This alternative was not selected because we believe that requiring compliance with U.S. standards is unnecessary when there are comparable international standards acceptable to the Coast Guard. Because these latest editions of internationally recognized standards for explosion protection offer owners and operators greater flexibility, while also avoiding the costs of coastal state-specific requirements, we are expanding the list of international explosion protection standards deemed acceptable.

The fourth alternative, implementing the regulations in this final rule, puts in place a regulatory regime that will allow for both the U.S., as the coastal state, and industry to be confident in the certification and assessment of electrical equipment intended for use in hazardous locations. This will be achieved through the use of the most current, internationally recognized standards for explosion protection and independent third-party certification. The regulations in this final rule expand the list of national and international explosion protection standards deemed acceptable for U.S. operators.

A fifth and final alternative is that which was presented to the public in the NPRM. This alternative included the application of the NPRM regulations to existing vessels before those vessels engaged in OCS activities for the first

time. This alternative would have included foreign vessels currently under contract or construction. We determined that this alternative would force an undue burden on the industry due primarily to the cost effects. Industry's comments to the docket suggest that the compliance cost per vessel could be cost prohibitive. With current estimates of 219 foreign MODUs in some stage of construction, the cost of this alternative could have potentially outpaced its benefits.

B. Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, we have considered whether this rule will have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

We do not anticipate any effect on small entities. As noted in the previous discussion, there is no anticipated cost burden placed on U.S. entities by this rule and, as such, we do not anticipate any effect on small entities that would be addressed by this section. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we offered to assist small entities in understanding this rule so that they could better evaluate its effects on them and participate in the rulemaking. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

This rule calls for no new collection of information under the Paperwork

Reduction Act of 1995, 44 U.S.C. 3501–3520.

E. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental principles and preemption requirements described in Executive Order 13132. Our analysis is explained below.

It is well settled that States may not regulate in categories reserved for exclusive regulation by the Coast Guard. It is also well settled that all of the categories for inspected vessels covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within fields foreclosed from regulation by the States. (See the decision of the Supreme Court in the consolidated cases of *United States v. Locke* and *Intertanko v. Locke*, 529 U.S. 89, 120 S.Ct. 1135 (March 6, 2000).) This final rule regulates electrical equipment standards on inspected vessels. As such, States may not regulate within this category. Therefore, the rule is consistent with the principles of federalism and preemption requirements in Executive Order 13132.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under E.O. 12630 (“Governmental Actions and Interference with Constitutionally Protected Property Rights”).

H. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, (“Civil Justice Reform”), to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this rule under E.O. 13045 (“Protection of Children from Environmental Health Risks and Safety Risks”). This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This rule does not have tribal implications under E.O. 13175 (“Consultation and Coordination with Indian Tribal Governments”), because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this rule under E.O. 13211 (“Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use”). We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under E.O. 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule uses the following voluntary consensus standards:

- ANSI/ISA–12.12.01–2012—Nonincendive Electrical Equipment for Use in Class I and II, Division 2 and Class III, Divisions 1 and 2 Hazardous (Classified) Locations,

- approved 9 July 2012 (“ANSI/ISA 12.12.01”)
- ANSI/ISA-60079-18—explosive atmospheres—Part 18: Equipment protection by encapsulation “m”, Third Edition, approved 14 September 2012 (“ANSI/ISA 60079-18 (2012)”)
 - UL 674—Standard for Safety: Electric Motors and Generators for Use in Hazardous (Classified) Locations, Fifth Edition, dated May 31, 2011 (with revisions through July 19, 2013) (“ANSI/UL 674 (2013)”)
 - UL 823—Electric Heaters for Use in Hazardous (Classified) Locations, Ninth Edition including revisions through November 15, 2007 (dated October 20, 2006) (“ANSI/UL 823”)
 - UL 844—Electric Lighting Fixtures for Use in Hazardous (Classified) Locations, Thirteenth Edition, dated June 29, 2012 (“ANSI/UL 844 (2012)”)
 - UL 913—Standard for Safety: Intrinsically Safe Apparatus and Associated Apparatus for use in Class I, II and III, Division 1, Hazardous Locations, Seventh Edition, Dated July 31, 2006 (including revisions through June 3, 2010) (“ANSI/UL 913”)
 - UL 1203—Explosion-proof and Dust-ignition Proof Electrical Equipment for use in Hazardous (Classified) Locations, Fourth Edition, Dated September 15, 2006 (including revisions through October 28, 2009) (“ANSI/UL 1203”)
 - UL 2225—Standard for Safety: Cables and Cable-Fittings for use in Hazardous (Classified) Locations, Third Edition, dated February 25, 2011 (“ANSI/UL 2225 (2011)”)
 - ASTM F2876-10—Standard Practice for Thermal Rating and Installation of Internal Combustion Engine Packages for use in Hazardous Locations in Marine Applications, approved November 1, 2010 (“ASTM F2876-10”)
 - CSA C22.2 No. 30-M1986—Explosion-Proof Enclosures for Use in Class I Hazardous Locations, Reaffirmed 2007 (“CSA C22.2 No. 30-M1986”)
 - CSA C22.2 No. 213-M1987—Non-incendive Electrical Equipment for Use in Class I, Division 2 Hazardous Locations, Reaffirmed 2008 (“CSA C22.2 No. 213-M1987”)
 - CAN/CSA-C22.2 No. 0-M91—General Requirements—Canadian Electrical Code, Part II, Reaffirmed 2006 (“CSA C22.2 No. 0-M91”)
 - CAN/CSA-C22.2 No. 157-92—Intrinsically Safe and Non-incendive Equipment for Use in Hazardous Locations, Reaffirmed 2006 (“CSA C22.2 No. 157-92”)
 - FM Approvals Class Number 3600—Approval Standard for Electric Equipment for use in Hazardous (Classified) Locations General Requirements, November 1998 (“FM Approvals Class Number 3600”)
 - FM Approvals Class Number 3610—Approval Standard for Intrinsically Safe Apparatus and Associated Apparatus for Use in Class I, II, and III, Division 1, Hazardous (Classified) Locations, January 2010 (“FM Approvals Class Number 3610”)
 - FM Approvals Class Number 3611—Approval Standard for Nonincendive Electrical Equipment for Use in Class I and II, Division 2, and Class III, Divisions 1 and 2, Hazardous (Classified) Locations, December 2004 (“FM Approvals Class Number 3611”)
 - FM Approvals Class Number 3615—Approval Standard for Explosionproof Electrical Equipment General Requirements, August 2006 (“FM Approvals Class Number 3615”)
 - FM Approvals Class Number 3620—Approval Standard for Purged and Pressurized Electrical Equipment for Hazardous (Classified) Locations, August 2000 (“FM Approvals Class Number 3620”)
 - IEC 60079-1:2007—Explosive atmospheres—Part 1: Equipment protection by flameproof enclosures “d”, Sixth edition, 2007-04
 - IEC 60079-2:2007—Explosive atmospheres—Part 2: Equipment protection by pressurized enclosures “p”, Fifth edition, 2007-02
 - IEC 60079-5:2007—Explosive atmospheres—Part 5: Equipment protection by powder filling “q”, Third edition, 2007-03
 - IEC 60079-6:2007—Explosive atmospheres—Part 6: Equipment protection by oil immersion “o”, Third edition, 2007-03
 - IEC 60079-7:2006—Explosive atmospheres—Part 7: Equipment protection by increased safety “e”, Fourth edition, 2006-07
 - IEC 60079-11:2011—Explosive atmospheres—Part 11: Equipment protection by intrinsic safety “i”, Edition 6.0, 2011-06
 - IEC 60079-13:2010—Explosive atmospheres—Part 13: Equipment protection by pressurized room “p”, Edition 1.0, 2010-10
 - IEC 60079-15:2010—Explosive atmospheres—Part 15: Equipment protection by type of protection “n”, Edition 4.0, 2010-01
 - IEC 60079-18:2009—Explosive atmospheres—Part 18: Equipment protection by encapsulation “m”, Edition 3.0, 2009-05
 - IEC 60079-25:2010—Explosive atmospheres—Part 25: Intrinsically safe electrical systems, Edition 2.0, 2010-02
 - IEC 60092-502:1999—Electrical installations in ships—Part 502: Tankers—Special features, Fifth edition, 1999-02
 - IEC 61892-7:2007—Mobile and fixed offshore units—Electrical installations—Part 7: Hazardous areas, Edition 2.0, 2007-11
 - NFPA 70—National Electrical Code, 2011 Edition (“NFPA 70”)
 - NFPA 496—Standard for Purged and Pressurized Enclosures for Electrical Equipment, 2013 Edition (“NFPA 496 (2013)”)
 - UL 1604—Electrical Equipment for use in Class I and II, Division 2 and Class III Hazardous (Classified) Locations, Third Edition, Dated April 28, 1994 (including revisions through February 5, 2004) (“UL 1604”)
- The sections that reference these standards and the locations where these standards are available are listed in 46 CFR 110.10-1.
- This rule also uses technical standards other than voluntary consensus standards.
- IMO Resolution A.1023(26), Code for the Construction and Equipment of Mobile Offshore Drilling Units, 2009, 19 January 2010 (“2009 IMO MODU Code”)
- The section that references this standard and the locations where this standard is available are listed in 46 CFR 110.10-1.
- #### M. Environment
- We have analyzed this final rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This final rule is categorically excluded under section 2.B.2, figure 2-1, paragraphs (34)(a), (d) and (e) of the Instruction and under section 6(a) of the “Appendix to National Environmental Policy Act: Coast Guard Procedures for Categorical Exclusions, Notice of Final Agency Policy” (67 FR 48244, July 23, 2002).” This final rule involves regulations which are editorial and concern inspection and equipping of vessels and regulations concerning vessel operation safety standards. An environmental analysis checklist and a categorical exclusion determination are available in

the docket where indicated under ADDRESSES.

List of Subjects

33 CFR Part 140

Continental shelf, Investigations, Marine safety, Occupational safety and health, Penalties, Reporting and recordkeeping requirements.

33 CFR Part 143

Continental shelf, Marine safety, Occupational safety and health, Vessels.

46 CFR Part 110

Reporting and recordkeeping requirements, Vessels, Incorporation by reference.

46 CFR Part 111

Vessels.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 140 and 143 and 46 CFR parts 110 and 111 as follows:

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF HOMELAND SECURITY

SUBCHAPTER N—OUTER CONTINENTAL SHELF ACTIVITIES

PART 140—GENERAL

1. The authority citation for part 140 continues to read as follows:

Authority: 43 U.S.C. 1333, 1348, 1350, 1356; Department of Homeland Security Delegation No. 0170.1.

2. Amend § 140.10 by adding a definition for “Constructed” in alphabetical order to read as follows:

§ 140.10 Definitions.

* * * * *

Constructed means the date—

(1) The vessel’s keel was laid; or

(2) Construction identifiable with the vessel or facility began and assembly of that vessel or facility commenced comprising of 50 metric tons or at least 1 percent of the estimated mass of all structural material, whichever is less.

* * * * *

PART 143—DESIGN AND EQUIPMENT

3. The authority citation for part 143 continues to read as follows:

Authority: 43 U.S.C. 1333(d)(1), 1348(c), 1356; 49 CFR 1.46; section 143.210 is also issued under 14 U.S.C. 664 and 31 U.S.C. 9701.

4. Amend § 143.120 by adding paragraphs (d) to read as follows:

§ 143.120 Floating OCS facilities.

* * * * *

(d) Each floating OCS facility that is constructed after April 2, 2018 must comply with the requirements of 46 CFR subpart 111.108 prior to engaging in OCS activities.

5. Add § 143.208 to read as follows:

§ 143.208 Hazardous location requirements on foreign MODUs.

Each mobile offshore drilling unit that is documented under the laws of a foreign nation and is constructed after April 2, 2018 must comply with the requirements of 46 CFR subpart 111.108 prior to engaging in OCS activities.

6. Add § 143.302 to read as follows:

§ 143.302 Hazardous location requirements on foreign vessels engaged in OCS activities.

Each vessel that is documented under the laws of a foreign nation and is constructed after April 2, 2018 must comply with the requirements of 46 CFR subpart 111.108 prior to engaging in OCS activities.

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF HOMELAND SECURITY

SUBCHAPTER J—ELECTRICAL ENGINEERING

PART 110—GENERAL PROVISIONS

7. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 1509; 43 U.S.C. 1333; 46 U.S.C. 3306, 3307, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1; § 110.01–2 also issued under 44 U.S.C. 3507. Sections 110.15–1 and 110.25–1 also issued under sec. 617, Pub. L. 111–281, 124 Stat. 2905.

8. Revise § 110.10–1 to read as follows:

§ 110.10–1 Incorporation by reference.

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the Federal Register and the material must be available to the public. The word “should,” when used in material incorporated by reference, is to be construed the same as the words “must” or “shall” for the purposes of this subchapter. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr Ave. SE., Stop 7418, Washington, DC 20593–7418, and is available from the sources listed

below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to http://www.archives.gov/federal-register/code_of_federal_regulations/ibr_locations.html.

(b) American Bureau of Shipping (ABS), ABS Plaza, 16855 Northchase Drive, Houston, TX 77060, 281–877–5800, http://www.eagle.org.

(1) Rules for Building and Classing Steel Vessels, Part 4 Vessel Systems and Machinery, 2003 (“ABS Steel Vessel Rules”), IBR approved for §§ 110.15–1, 111.01–9, 111.12–3, 111.12–5, 111.12–7, 111.33–11, 111.35–1, 111.70–1, 111.105–31, 111.105–39, 111.105–40, and 113.05–7 of this chapter.

(2) Rules for Building and Classing Mobile Offshore Drilling Units, Part 4 Machinery and Systems, 2001 (“ABS MODU Rules”), IBR approved for §§ 111.12–1, 111.12–3, 111.12–5, 111.12–7, 111.33–11, 111.35–1, and 111.70–1 of this chapter.

(c) American National Standards Institute (ANSI), 25 West 43rd Street, New York, NY 10036, 212–642–4900, http://www.ansi.org/.

(1) ANSI/IEEE C37.12–1991—American National Standard for AC High-Voltage Circuit Breakers Rated on a Symmetrical Current Basis—Specifications Guide, 1991 (“ANSI/IEEE C37.12”), IBR approved for § 111.54–1 of this chapter.

(2) ANSI/IEEE C37.27–1987 (IEEE Std 331)—Application Guide for Low-Voltage AC Nonintegrally Fused Power Circuitbreakers (Using Separately Mounted Current-Limiting Fuses), 1987 (“ANSI/IEEE C37.27”), IBR approved for § 111.54–1 of this chapter.

(3) ANSI/ISA 12.12.01–2012—Nonincendive Electrical Equipment for Use in Class I and II, Division 2 and Class II, Divisions 1 and 2 Hazardous (Classified) Locations, approved 9 July 2012 (“ANSI/ISA 12.12.01”), IBR approved for § 111.108–3(b) of this chapter.

(4) ANSI/ISA–60079–18—Electrical Apparatus for Use in Class I, Zone 1 Hazardous (Classified) Locations: Type of Protection—Encapsulation “m”, approved July 31, 2009 (“ANSI/ISA 60079–18”), IBR approved for § 111.106–3(d) of this chapter.

(5) ANSI/ISA–60079–18—Explosive atmospheres—Part 18: Equipment protection by encapsulation “m”, Third Edition, approved 14 September, 2012 (“ANSI/ISA 60079–18 (2012)”), IBR approved for § 111.108–3(e) of this chapter.

(d) American Petroleum Institute (API), Order Desk, 1220 L Street NW.,

Federal Register

**Wednesday
April 15, 2015**

Department of Homeland Security

Coast Guard

**Consolidation of Officer in Charge,
Marine Inspection for Outer
Continental Shelf Activities, Eighth
Coast Guard District and Technical,
Organizational and Conforming
Amendments; Final Rule**

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

Appendix B to Part 4022—Lump Sum Interest Rates For PBGC Payments

■ 1. The authority citation for part 4022 continues to read as follows:

■ 2. In appendix B to part 4022, Rate Set 259, as set forth below, is added to the table.

* * * * *

| Rate set | For plans with a valuation date | | Immediate annuity rate (percent) | Deferred annuities (percent) | | | | |
|----------|---------------------------------|--------|----------------------------------|------------------------------|-------|-------|-------|-------|
| | On or after | Before | | i_1 | i_2 | i_3 | n_1 | n_2 |
| 259 | 5-1-15 | 6-1-15 | 0.75 | 4.00 | 4.00 | 4.00 | 7 | 8 |

■ 3. In appendix C to part 4022, Rate Set 259, as set forth below, is added to the table.

Appendix C to Part 4022—Lump Sum Interest Rates For Private-Sector Payments

* * * * *

| Rate set | For plans with a valuation date | | Immediate annuity rate (percent) | Deferred annuities (percent) | | | | |
|----------|---------------------------------|--------|----------------------------------|------------------------------|-------|-------|-------|-------|
| | On or after | Before | | i_1 | i_2 | i_3 | n_1 | n_2 |
| 259 | 5-1-15 | 6-1-15 | 0.75 | 4.00 | 4.00 | 4.00 | 7 | 8 |

Issued in Washington, DC, on this 7th day of April 2015.
Judith Starr,
General Counsel, Pension Benefit Guaranty Corporation.
 [FR Doc. 2015-08636 Filed 4-14-15; 8:45 am]
BILLING CODE 7709-02-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 3 and 141

[Docket No. USCG-2013-0491]

RIN 1625-AB88

Consolidation of Officer in Charge, Marine Inspection for Outer Continental Shelf Activities; Eighth Coast Guard District; Technical, Organizational, and Conforming Amendments

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is issuing a final rule establishing a consolidated Officer in Charge, Marine Inspection (OCMI) for the purposes of inspecting mobile offshore drilling units, and fixed and floating facilities, engaged in OCS activities in the Eighth Coast Guard District. This final rule also addresses comments submitted in response to our

notice and request for comments related to the consolidation of the OCMI, for OCS activities, and makes other non-substantive changes. This rule will have no substantive effect on the regulated public.

DATES: This rule is effective May 1, 2015.

ADDRESSES: Documents mentioned in this preamble as being available in the docket, are part of docket USCG-2013-0491 and are available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also view the docket on the Internet by going to <http://www.regulations.gov>, inserting USCG-2013-0491 in the "Search" box, and then clicking "Search."

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Commander Steven Keel, U.S. Coast Guard Headquarters, Office of Commercial Vessel Compliance; telephone (202) 372-1230, email steven.r.keel@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Table of Contents for Preamble

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 - L. Technical Standards
 - M. Environment

I. Abbreviations

- CFR Code of Federal Regulations
- DHS Department of Homeland Security
- E.O. Executive Order
- FR Federal Register
- NCOE National Center of Expertise
- OCMI Officer in Charge, Marine Inspection
- OMB Office of Management and Budget
- OCS Outer Continental Shelf
- Pub. L. Public Law
- § Section Symbol
- U.S.C. United States Code

II. Regulatory History and Information

This rule reflects the internal organization of the Coast Guard's Eighth District, and affects administrative procedures such as contact information. It is a rule of agency organization,

procedure, and practice within the meaning of 5 U.S.C. 553(b)(A) and under that section no prior notice or opportunity to comment is required. Also, the Coast Guard finds for good cause that notice and comment procedures are unnecessary under 5 U.S.C. 553(b)(B) because this final rule consists only of administrative, organizational, and conforming amendments that will have no substantive effect on the public. Therefore, we did not publish a notice of proposed rulemaking for this final rule, although we did provide for public comment as described below.

Because this is a rule of internal agency organization with no substantive impact on the public, we find that good cause exists under 5 U.S.C. (d)(3) for making this final rule effective immediately upon the date specified in the **DATES** section above.

On August 7, 2013 we published a notice and request for comments (78 FR 48180) informing the public that the Eighth Coast Guard District in New Orleans was considering consolidating its OCS marine inspection function from six offices to one and invited public comment on making such a change. The duties of an OCMI are found in 33 CFR 1.01–20 and include inspection of vessels in order to determine that they comply with the applicable laws, rules, and regulations relating to safe construction, equipment, manning, and operation and that they are in a seaworthy condition for the services in which they are operated. Currently, the six OCMI field offices in the Eighth District that handle OCS matters are located in the following cities: Mobile, Alabama; New Orleans, Louisiana; Morgan City, Louisiana; Port Arthur, Texas; Houston, Texas, and Corpus Christi, Texas.

In addition to requesting comments on the efficacy of combining the OCS OCMI function, the request offered four different ways in which the consolidated Eighth District OCS OCMI could be established using the existing organizational structure of the Eighth District. We also asked for comments on which city a consolidated Eighth District OCS OCMI should be physically located.

With input received in response to our request, we have decided to consolidate OCMI functions for the purposes of inspecting fixed and floating facilities, and mobile offshore drilling units (MODUs), in the Eighth Coast Guard District, into a single OCMI that will serve as the Chief, Outer Continental Shelf Division, on the Eighth District staff (hereafter referred to as “Eighth District OCS OCMI”). For

simplicity, we have included every Eighth District Marine Inspection Zone defined in Title 33, Code of Federal Regulations, Part 3, Subpart 3.40 in the consolidation even though offshore inspections are not usually carried out in the inland rivers.

III. Basis and Purpose

The legal basis for this rule is provided by 14 U.S. Code (U.S.C.) 92 and DHS Delegation No. 0170.1(II)(23). Section 92 authorizes the Secretary of DHS to “establish, change the limits of, consolidate, discontinue, and re-establish Coast Guard districts” and “do any and all things necessary to carry out the purposes of” title 14, pertaining to the Coast Guard. The DHS Delegation delegates the Secretary’s functions to the Commandant of the Coast Guard.

The purpose of this rule is to make conforming amendments and technical corrections specific to agency organization, procedure, and practice. These conforming amendments and technical corrections consolidate the existing individual OCMI authorities currently within the Eighth Coast Guard District into a single OCMI authority.

IV. Discussion of Comments Received

We received 12 comments on the docket addressing the specific questions raised in the request for comments and we also received additional comments beyond the scope of those questions. No adverse or opposing comments were made and 11 comments expressed support for consolidation. An analysis of those comments is as follows:

a. Should the OCMI function be consolidated? Of the 12 comments received, 11 supported the consolidation and one did not comment on this question. The reasons cited for supporting the consolidation included the belief that doing so would make more efficient use of inspection personnel and provide more consistency since decisions affecting the regulated industry would be made by one OCMI instead of six. Additionally, several commenters suggested that consolidation be carried out as promptly as possible, and three responses suggested that proper staffing would be critical to the success of the consolidated Eighth District OCMI.

b. Where should the consolidated Eighth District OCMI be placed in the organization? Seven commenters made recommendations related to location and the remainder had none. The majority recommended that the consolidated Eighth District OCS OCMI be located in Houston, Texas or New Orleans, Louisiana and one commenter recommended Morgan City or Houma,

Louisiana. One commenter suggested that desirability of the location should be taken into consideration to encourage recruitment and retention. The Coast Guard is opting to establish the Eighth District OCS OCMI as a staff element of the Eighth District, in New Orleans, Louisiana. We believe this provides the most efficient means of consolidation and places the Eighth District OCS OCMI in close proximity with the Eighth District Commander, increasing the visibility of the OCS inspection mission.

c. Other comments: In addition to providing responses to the questions we asked in the notice, several commenters provided concerns and recommendations should the OCMI function be consolidated. Several commenters expressed concern that the success of an Eighth District OCS OCMI would depend on proper staffing levels. We agree. Workforce capacity was taken into consideration when determining whether to consolidate the OCS function or not. Our workload analysis of the Eighth District OCS OCMI model identified a gain in labor efficiency equivalent to hiring 1.5 new full time employees creating more workload capacity with existing inspectors. Through consolidation, qualified marine inspectors from each of the six current OCMI staffs have been designated as dedicated OCS inspectors under the new Eighth District OCS OCMI with OCS inspection as their primary duty. We believe that focusing a core capacity of OCS inspectors will improve service delivery to the regulated industry. Additionally, we will continue to analyze workload levels for OCS inspection activities and make workforce adjustments as necessary.

Some comments also expressed concern for OCS marine inspector proficiency. We believe that overall proficiency under the Eighth District OCS OCMI will improve for two reasons. First, the consolidation will facilitate movement of OCS inspectors within the Eighth District between the MI zones that existed before the consolidation to either meet spot workloads or gain experience more quickly than they otherwise would have. Second, the Eighth District OCS OCMI can serve as a single champion for all OCS inspectors in the District and will be better placed to track and improve their proficiency development. One commenter also recommended longer tour lengths for active duty OCS inspectors and perhaps the addition of more long term civilian OCS inspectors to improve proficiency. We agree with this comment and are considering its potential future adoption. One

commenter suggested that OCS marine inspector proficiency could be improved by using only Coast Guard civilian personnel who do not serve tours like military personnel who regularly rotate out once their tour is up. We believe using active duty military personnel provides long term benefits to the Coast Guard by forming future leaders who will serve in Headquarters where important program decisions impacting the offshore energy sector are made.

One commenter suggested that the OCS National Center of Expertise (NCOE) be consolidated into the Eighth District OCS OCMI. We do not intend to do so at this time. The NCOE is a Coast Guard Headquarters unit that focuses on programmatic issues such as policy and standardized training development. We believe that their current position in the organization is better aligned with achieving those goals than it would be if moved into the OCS OCMI organization within the Eighth District.

One commenter was uncertain as to which office would be responsible for conducting marine casualty investigations for reportable incidents occurring offshore. The Eighth District OCS OCMI will be responsible for investigating marine casualties on fixed and floating OCS facilities, and MODUs in the Eighth Coast Guard District.

One commenter expressed confusion over which vessels and facilities the Eighth District OCS OCMI would be responsible for inspecting. The Eighth District OCS OCMI will be responsible for inspecting a specific fleet of fixed or floating OCS facilities or mobile offshore drilling units defined in 33 CFR 140.10. Any other vessel or OCS unit type will continue to be inspected by the OCMI described in 33 CFR part 3.40 as stated prior to the consolidation. For example, a well intervention vessel that is not certificated as a mobile offshore drilling unit will continue to be inspected by the cognizant Sector or Marine Safety Unit OCMI.

Vessels and facilities overseen by the Eighth District OCS OCMI are fleet specific; any vessel meeting the description above will fall under the purview of the Eighth District OCS OCMI regardless of where in the Eighth Coast Guard District it may be located.

One commenter observed that the consolidation of the OCMI function fulfills a recommendation of the Coast Guard's Report of Investigation in the Circumstances Surrounding the Explosion, Fire, Sinking, and Loss of Eleven Crew Members Aboard the Mobile Offshore Drilling Unit DEEPWATER HORIZON in the Gulf of

Mexico April 20–22, 2010 (Volume I pages 110–111).

One commenter positively noted that the plan to consolidate the Eighth District OCS OCMI function could be accomplished in a resource neutral way thus gaining efficiency with no additional government expense.

V. Discussion of the Rule

As discussed in Section II above, this rule constitutes a non-substantive organization change. Beginning May 1, 2015, vessels meeting the description set out by this rulemaking will apply to the Eighth District OCS OCMI for required inspections instead of the Sector OCMI as was previously the case. The Eighth District OCS OCMI will also carry out other traditional OCMI activities such as inspection of damage and repairs, as well as unannounced inspections. This rule also amends 33 CFR 141.15 to clarify when determinations that affect restrictions on employment of persons other than United States citizens may be made by the Eighth District OCS OCMI. To apply for an inspection after April 30, 2015, or to learn more about the business rules of the Eighth District OCS OCMI, please visit their Web site at www.uscg.mil/d8/ocsocmi.asp, available beginning on April 27, 2015.

VI. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders (E.O.s) related to rulemaking. Below we summarize our analyses based on these statutes or E.O.s.

1. Regulatory Planning and Review

E.O.s 12866 (“Regulatory Planning and Review”) and 13563 (“Improving Regulation and Regulatory Review”) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Two additional E.O.s were recently published to promote the goals of E.O. 13563: E.O. 13609 (“Promoting International Regulatory Cooperation”) and E.O. 13610 (“Identifying and Reducing Regulatory Burdens”). E.O. 13609 targets international regulatory cooperation to reduce, eliminate, or prevent unnecessary differences in

regulatory requirements. E.O. 13610 aims to modernize the regulatory systems and to reduce unjustified regulatory burdens and costs on the public.

The provisions of this final rule are administrative, technical, and non-substantive; they will have no substantive effect on the public and will impose no additional costs. This final rule consolidates the functions and requirements for six existing individual OCMI authorities into a single OCMI authority within the Eighth Coast Guard District known as the Eighth District OCS OCMI. OCS units meeting the description set out by this rulemaking are already required to contact an OCMI for mandatory inspections and LODs related to citizenship. Under this final rule, such vessels will now contact the Eighth District OCS OCMI for these same requirements rather than applying to one of six different OCMI within the Eighth District. Information on applying for inspections or receiving an LOD from the Eighth District OCS OCMI after April 30, 2015, and more about the business rules of the Eighth District OCS OCMI, may be accessed at www.uscg.mil/d8/ocsocmi.asp, which will be available beginning on April 27, 2015. This rule does not establish any new regulatory requirements impacting the public. Therefore, this final rule is not a significant regulatory action under section 3(f) of E.O. 12866 as supplemented by E.O. 13563, and does not require an assessment of potential costs and benefits under section 6(a)(3) of E.O. 12866. The Office of Management and Budget (OMB) has not reviewed it under E.O. 12866.

2. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), rules exempt from the notice and comment requirements of the Administrative Procedure Act are not required to examine the impact of the rule on small entities. Nevertheless, we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

There is no cost to this final rule, and we do not expect it to have an impact on small entities because the provisions of this rule will have no substantive effect on the public and will impose no additional costs. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a

significant economic impact on a substantial number of small entities.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Mr. Mugo Macharia by phone at 202–372–1472 or via email at Mugo.Macharia@uscg.mil.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under E.O. 13132 (“Federalism”) if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132.

6. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any 1 year. Though this rule

will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

7. Taking of Private Property

This final rule will not cause a taking of private property or otherwise have taking implications under E.O. 12630 (“Governmental Actions and Interference with Constitutionally Protected Property Rights”).

8. Civil Justice Reform

This final rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988 (“Civil Justice Reform”), to minimize litigation, eliminate ambiguity, and reduce burden.

9. Protection of Children

We have analyzed this final rule under E.O. 13045 (“Protection of Children from Environmental Health Risks and Safety Risks”). This final rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

10. Indian Tribal Governments

This final rule does not have tribal implications under E.O. 13175 (“Consultation and Coordination with Indian Tribal Governments”), because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

11. Energy Effects

We have analyzed this final rule under E.O. 13211 (“Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use”). We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under E.O. 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of OMB's Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under E.O. 13211.

12. Technical Standards

This final rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

13. Environment

We have analyzed this rule under Department of Homeland Security

Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded under section 2.B.2, figure 2–1, paragraphs (34)(a), (b), and (d) of the Instruction. This final rule involves regulations that are editorial or procedural, or that concern internal agency functions or organizations. An environmental analysis checklist and a categorical exclusion determination are available in the docket for this final rule where indicated under **ADDRESSES**.

List of Subjects

33 CFR Part 3

Organization and functions (Government agencies).

33 CFR Part 141

Citizenship and naturalization, Continental shelf, Employment, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Chapter I as follows:

■ 1. The authority for part 3 continues to read as follows:

Authority: 14 U.S.C. 92 and 93; Pub. L. 107–296, 116 Stat. 2135; Department of Homeland Security Delegation No. 0170.1, para. 2(23).

PART 3—COAST GUARD AREAS, DISTRICTS, SECTORS, MARINE INSPECTION ZONES, AND CAPTAIN OF THE PORT ZONES

■ 2. Add § 3.40–5 to read as follows:

§ 3.40–5. Eighth District Outer Continental Shelf Marine Inspection Zone.

(a) A separate marine inspection zone, with an office located in New Orleans, Louisiana, performs the OCMI functions defined in 33 CFR 1.01–20 for all MODUs and fixed and floating OCS facilities, as those terms are defined in 33 CFR 140.10, engaged in OCS activities wherever located in the Eighth Coast Guard District.

(b) Notwithstanding the OCMI inspection authority held by Eighth Coast Guard District Sector Commanders and Marine Safety Unit Commanders in § 3.01–1(d), the Chief, Outer Continental Shelf Division at the Eighth Coast Guard District, shall serve as the Officer in Charge, Marine Inspection, for this Marine Inspection

Zone and shall be known as the Eighth District Outer Continental Shelf Officer in Charge, Marine Inspection. The District Commander resolves any conflict between the functions of this marine inspection zone and any geographically based marine inspection zones described in 33 CFR 3.40–10, 3.40–15, 3.40–28, 3.40–35, 3.40–40, 3.40–60, or 3.40.65.

§§ 3.40–10, 3.40–15, 3.40–28, 3.40–35, 3.40–40, 3.40–60, 3.40–65 [Amended]

- 3. Add the words the words “Subject to the overriding provisions of § 3.40–5,” in the following places:
 - a. In § 3.40–10, at the beginning of the second sentence;
 - b. In §§ 3.40–15 and 3.40–28, at the beginning of the first sentence in paragraph (a);
 - c. In §§ 3.40–35, 3.40–40, and 3.40–60 at the beginning of the second sentence; and
 - d. In § 3.40–65, at the beginning of the first sentence in paragraph (a).

PART 141—PERSONNEL

- 4. The authority for part 141 continues to read as follows:

Authority: 43 U.S.C. 1356; 46 U.S.C. 70105; 49 CFR 1.46(z).

- 5. In § 141.15, redesignate paragraph (c) as paragraph (c)(1) and add paragraph (c)(2) to read as follows:

§ 141.15 Restrictions on employment.

* * * * *

(c) * * *

(2) Determinations in paragraph (c)(1) of this section for all MODUs and fixed and floating OCS facilities, as those terms are defined in 33 CFR 140.10, operating within the Eighth District Outer Continental Shelf Marine Inspection Zone will be made by the Eighth District Outer Continental Shelf Officer in Charge, Marine Inspection, as defined and described in § 3.40–5 of this chapter.

Dated: April 9, 2015.

J.C. Burton,

Captain, U.S. Coast Guard, Director of Inspections and Compliance.

[FR Doc. 2015–08533 Filed 4–14–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2015–0222]

Drawbridge Operation Regulations; Piscataqua River, Kittery, ME

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Sara M. Long Bridge, mile 2.5, across the Piscataqua River between Portsmouth, New Hampshire and Kittery, Maine. This deviation is necessary to facilitate bridge construction. This deviation allows the secondary draw at the Sara M. Long Bridge to remain closed to marine traffic during construction.

DATES: This deviation is effective from May 15, 2015 through October 31, 2015.

ADDRESSES: The docket for this deviation, [USCG–2015–0222] is available at <http://www.regulations.gov>. Type the docket number in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140, on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, contact Ms. Judy K. Leung-Yee, Project Officer, First Coast Guard District, telephone (212) 514–4330, judy.k.leung-yee@uscg.mil. If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION: The Sara M. Long Bridge across the Piscataqua River, mile 2.5, between Portsmouth, New Hampshire and Kittery, Maine, has a vertical clearance in the closed position of 8 feet at mean high water and 18 feet at mean low water.

The secondary draw section will remain closed during construction. The existing bridge operating regulations are found at 33 CFR 117.531(c).

The waterway is transited by seasonal recreational vessels and commercial vessels of various sizes.

The bridge owner, Maine Department of Transportation, requested a

temporary deviation from the normal operating schedule to facilitate bridge construction.

Under this temporary deviation the Sara M. Long Bridge secondary draw may remain in the closed position from May 15, 2015 through October 31, 2015.

There is an alternate route for vessel traffic under the main span of the Sara M. Long Bridge. Vessels are advised to remain clear of the secondary draw and related construction activities during this closure. The secondary draw may be opened in the event of an emergency.

The Coast Guard will inform the users of the waterways through our Local and Broadcast Notice to Mariners of the change in operating schedule for the bridges so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: April 6, 2015.

C.J. Bisignano,

Supervisory Bridge Management Specialist, First Coast Guard District.

[FR Doc. 2015–08660 Filed 4–14–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2015–0202]

RIN 1625–AA00

Safety Zone, Eastern Branch Elizabeth River; Norfolk, VA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone on the navigable waters of the Eastern Branch of the Elizabeth River in support of the Old Dominion University (ODU) versus University of Virginia (UVA) Baseball Game fireworks event. This safety zone will restrict vessel movement in the specified area during the fireworks display. This action is necessary to provide for the safety of life and property on the surrounding navigable waters during the fireworks display.

DATES: This rule is effective and enforced from 9:30 p.m. to 10:30 p.m. on April 28, 2015.



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Part III

Department of Homeland Security

Coast Guard

33 CFR Parts 140, 145, 148, *et al.*

46 CFR Parts 25, 27, 28, *et al.*

Harmonization of Standards for Fire Protection, Detection, and
Extinguishing Equipment; Final Rule

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 140, 145, 148, and 149

46 CFR Parts 25, 27, 28, 30, 31, 32, 34, 50, 56, 70, 71, 72, 76, 78, 90, 91, 92, 95, 107, 108, 113, 114, 115, 116, 118, 122, 125, 132, 147, 159, 160, 161, 162, 164, 167, 169, 175, 176, 177, 181, 182, 185, 188, 189, 190, and 193

[Docket No. USCG–2012–0196]

RIN 1625–AB59

Harmonization of Standards for Fire Protection, Detection, and Extinguishing Equipment

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is issuing a final rule for certain design and approval standards for fire protection, detection, extinguishing equipment, and materials on inspected and uninspected vessels, outer continental shelf facilities, deepwater ports, and mobile offshore drilling units. This rule harmonizes Coast Guard approval processes for fire detection and alarm systems, and revises Coast Guard regulations for other types of equipment, materials, and components, such as spanner wrenches, non-metallic pipes, and sprinkler systems. This rule ensures Coast Guard regulations remain current and addresses advances in technology.

DATES: This final rule is effective August 22, 2016. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register on August 22, 2016.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2012–0196. You may find this docket on the Internet by going to <http://www.regulations.gov>, inserting USCG–2012–0196 in the “Keyword” box, and then clicking “Search.”

FOR FURTHER INFORMATION CONTACT: For information about this document, call or email Laurence E. Fisher, Office of Design and Engineering Standards, Lifesaving and Fire Safety Division (CG–ENG–4), Coast Guard; telephone 202–372–1447, email Laurence.E.Fisher@uscg.mil.

SUPPLEMENTARY INFORMATION:

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I. Abbreviations

- AHJ Authority having jurisdiction
- ANSI American National Standards Institute
- BLS Bureau of Labor Statistics
- BSEE Bureau of Safety and Environmental Enforcement
- CFR Code of Federal Regulations
- EC European Community
- E.O. Executive Order
- FM FM Global
- FR Federal Register
- GT Gross Tons
- FSS Code International Code for Fire Safety Systems
- IMO International Maritime Organization
- MISLE Marine Information for Safety and Law Enforcement
- MODU Mobile Offshore Drilling Unit
- MRA Mutual Recognition Agreement
- MSC Marine Safety Committee
- NAICS North American Industry Classification System
- NFPA National Fire Protection Association
- NPRM Notice of proposed rulemaking
- NRTL Nationally Recognized Testing Laboratory
- OCMI Officer in Charge, Marine Inspection
- OCS Outer Continental Shelf
- OMB Office of Management and Budget
- OSHA Occupational Safety and Health Administration
- RA Regulatory Analysis
- § Section Symbol
- SOLAS International Convention for the Safety of Life at Sea
- UL Underwriters Laboratory
- U.S.C. United States Code

II. Executive Summary

A. Purpose of the Final Rule

This final rule updates Coast Guard regulations pertaining to certain design and approval standards for fire detection and alarm systems, fire extinguishers, and other fire prevention equipment used on inspected and uninspected vessels, Outer Continental

Shelf (OCS) facilities, deepwater ports, and mobile offshore drilling units (MODUs). These updates harmonize our regulations with national and international industry consensus standards, and incorporate other advances in fire protection technologies and standards.

The basis of this regulatory action is the Secretary of Homeland Security's regulatory authority under the following statutes: Section 1333 of Title 43, United States Code (U.S.C.), mandates the issuance of safety equipment regulations for OCS facilities; 46 U.S.C. 3306 mandates the issuance of fire fighting material and equipment regulations for Coast Guard-inspected vessels and the issuance of structural fire protection and equipment regulations for small passenger vessels; 46 U.S.C. 3703 mandates fire fighting equipment and material regulations for vessels carrying liquid bulk dangerous cargoes; 46 U.S.C. 4102 authorizes marine safety equipment regulations for fire extinguishers, life preservers, engine flame arrestors, engine ventilation, and emergency locating equipment on uninspected vessels, and authorizes regulations, after consultation with the Towing Safety Advisory Committee, for fire protection and suppression measures on towing vessels; 46 U.S.C. 4302 authorizes safety equipment such as fire fighting equipment regulations for recreational vessels; and 46 U.S.C. 4502 mandates fire extinguisher regulations for some uninspected commercial fishing vessels and authorizes safety equipment regulations for certain other uninspected commercial fishing vessels. Section 1509 of Title 33, U.S.C., authorizes the Coast Guard to promulgate regulations for safety equipment relating to the promotion of safety of life and property in deepwater ports. The Secretary of Homeland Security has delegated these statutory authorities to the Coast Guard through Delegation No. 0170.1.

Under the statutory authorities listed above, the Coast Guard is authorized to develop and maintain standards for fire protection, detection, extinguishing equipment, and materials on inspected and uninspected vessels, OCS facilities, deepwater ports, and MODUs. The Coast Guard implements these authorities through regulations specified in Table 1. Table 1 lists the subchapters in Titles 33 and 46 of the Code of Federal Regulations (CFR) affected by this regulatory action (collectively referred to as “affected subchapters”), and provides a breakdown of each subchapter by subject matter.

TABLE 1—AFFECTED SUBCHAPTERS

| CFR title | Subchapter | Parts | Topic |
|-----------|------------|---------|---|
| 33 | N | 140–147 | Outer Continental Shelf Activities. |
| 33 | NN | 148–150 | Deepwater Ports. |
| 46 | C | 24–28 | Uninspected Vessels. |
| 46 | D | 30–39 | Tank Vessels. |
| 46 | F | 50–64 | Marine Engineering. |
| 46 | H | 70–89 | Passenger Vessels. |
| 46 | I | 90–105 | Cargo and Miscellaneous Vessels. |
| 46 | I–A | 107–109 | Mobile Offshore Drilling Units. |
| 46 | J | 110–113 | Electrical Engineering. |
| 46 | K | 114–124 | Small Passenger Vessels Carrying more than 150 Passengers or Vessels with Overnight Accommodations for more than 49 Passengers. |
| 46 | L | 125–139 | Offshore Supply Vessels. |
| 46 | N | 140–149 | Dangerous Cargoes. |
| 46 | Q | 159–165 | Equipment, Construction and Material Specifications and Approval. |
| 46 | R | 166–169 | Nautical Schools. |
| 46 | T | 175–187 | Small Passenger Vessels (Under 100 Gross Tons (GT)). |
| 46 | U | 188–196 | Oceanographic Research Vessels. |

B. Summary of the Major Provisions

The major provisions of this regulatory action harmonize Coast Guard regulations with national and international industry consensus standards and update Coast Guard regulations to incorporate advances in fire protection technology for specific types of fire protection, detection, extinguishing equipment, and materials. These provisions are discussed below and are grouped by equipment type or topic.

Fire detection and alarm systems:

- Provides vessels with the option to meet either the applicable International Convention for the Safety of Life at Sea, 1974 (SOLAS) and the International Maritime Organization (IMO) Fire Safety Systems (FSS) Code requirements, or updated Coast Guard regulations for the design and installation of fire detection and alarm systems. These changes provide vessel owners and/or operators and designers greater flexibility in fire detection and alarm system design for U.S. domestic vessels.

- Consolidates and updates the fire detection and alarm system requirements in 46 CFR subchapter H (passenger vessels). These changes also affect 46 CFR subchapters C, I, K, and T vessels where the regulations refer to subchapter H for fire detection and alarm system requirements. The consolidation of these requirements makes it easier for industry to locate and meet these requirements. These requirements reflect advancements in the fire detection and alarm systems industry, which include the development of digital technology and modern seamless electronic technology for the much larger land-based market. The Coast Guard does not require

retrofitting of currently installed systems, but does require any modifications to installed systems or new installations to comply with the updated requirements after a 5-year compliance period.

- Revises Coast Guard approval processes for fire detection and alarm systems by allowing manufacturers of fire detection and alarm systems equipment the option of seeking approval for an entire system or an individual device; making approval processes easier for manufacturers by allowing some approval tests to be completed by an approved third party nationally recognized testing laboratory (NRTL); and requiring the use of the most current and widely used national consensus standards for approval of fire detection and alarm systems. These revisions allow for an easier replacement of individual devices and open the market to small manufacturers or to those dedicated to making components but not producing all components necessary for a complete detection system. They also provide manufacturers more flexibility and options for choosing a laboratory; and align our regulations with the most up-to-date national consensus standards that are already widely used by the fire detection industry.

Fire extinguishers:

- Replaces the Coast Guard's weight-based rating system for fire extinguishers with the UL performance-based rating system. Adopting the national industry standard rating system streamlines the selection, inspection, and approval processes for marine fire extinguishers.

- Revises inspection, maintenance and testing requirements for fire

extinguishers by adopting National Fire Protection Association (NFPA) 10 “Standard for Portable Fire Extinguishers” (2010 Edition). NFPA 10 distinguishes between monthly inspections (a visual check) and annual maintenance (a thorough inspection of materials and components, and associated repairs). Vessel crewmembers can continue to perform monthly inspections; however, a certified person is required to conduct annual maintenance. This change aligns Coast Guard regulations with the current industry practice of having annual maintenance performed by certified persons as defined in NFPA 10.

- Codifies the use of UL standards for testing and labeling of fire extinguishers. These standards provide detailed, technical requirements for construction, performance, testing, packaging, and marking of the specific type of extinguisher. This change aligns Coast Guard regulations with current industry practice.

- Reduces the number of spare portable fire extinguishers required on vessels traveling domestic routes. This change is implemented due to the enhanced maintenance requirements that result in more reliable spares, as well as making new spares easier to obtain.

Other fire protection equipment:

- Requires small passenger vessels to carry spanner wrenches for fire hydrants that use 1½ inch diameter hoses. This requirement for small passenger vessels is consistent with spanner wrench carriage requirements for other vessel types, and is necessary to ensure that firehoses can be replaced and deployed as needed.

Fire protection equipment approvals:

- Adds new specification subparts in 46 CFR subchapter Q to address existing and new approval series for fire protection equipment, materials, and components required for use on SOLAS ships. The new approval series and associated subparts codify the standards and procedures currently used by industry to obtain Coast Guard approval for fire protection equipment, materials, and components required on SOLAS ships, and set forth design, construction, testing, and performance requirements satisfying SOLAS requirements for such equipment, materials, and components.

- Codifies an alternative path to Coast Guard approval through an established Mutual Recognition Agreement (MRA) to which the U.S. is a party. The MRA allows for Coast Guard approvals of certain fire protection equipment and materials issued by other nations that are members of the European Community (EC). This change will reduce manufacturer costs and burdens associated with duplicative testing and evaluation for multiple national approvals.

III. Regulatory History

On January 13, 2014, we published a notice of proposed rulemaking (NPRM) titled “Harmonization of Standards for Fire Protection, Detection, and Extinguishing Equipment” in the *Federal Register* (79 FR 2254). We received twelve letters consisting of 44 separate comments in response to the NPRM. No public meeting was requested and none was held.

IV. Discussion of Comments and Changes

The Coast Guard received 44 comments in response to the NPRM. These comments were from several maritime organizations, international associations, private companies, and individuals. Eight comments concerned fire alarm and detection systems, eighteen comments concerned fire extinguishers, nine comments concerned other fire protection equipment, and nine comments were classified as general comments. Each comment is discussed below.

A. Comments Concerning Fire Alarm and Detection Systems

1. New Approval Processes for Fire Detection and Alarm Systems

The Coast Guard received six comments from four commenters on the changes to approval processes for fire detection and alarm systems.

Two commenters requested that, in addition to the Coast Guard requiring electrical control units and accessories

for fire alarm systems to meet UL 864 “Standards for Control Units and Accessories for Fire Alarm Systems, 2003”, the Coast Guard should also require these products to meet FM Global (FM) 3010 “Approval Standard for Fire Alarm Signaling Systems.” The Coast Guard disagrees with this request. It is a long-standing Coast Guard policy to harmonize its shipping regulations with voluntary consensus standards whenever possible. UL 864 is a voluntary consensus standard and it reflects the input of a balanced group of contributors (e.g., producers, testing organizations, authorities having jurisdiction, and government) combined with the solicitation of public input. Although FM 3010 is a credible resource, it is a proprietary standard developed in-house by FM to enable its personnel to evaluate alarm systems, and it is not a voluntary consensus standard.

Another commenter noted that UL 864 “Standards for Control Units and Accessories for Fire Alarm Systems, 2003” is a consensus standard and should be the preferred standard when determining the appropriate product certification. The Coast Guard agrees with this comment.

One commenter expressed concern that as MODUs are built and have initial acceptance tests conducted overseas, it may prove difficult for the ship builder and/or facility owner to utilize a specific testing entity as required in 46 CFR 161.002–6(a), Testing Requirements, which states that “[d]evices must be tested and listed for fire service by an accepted independent laboratory, as accepted in accordance with § 159.010 of this subchapter, or by a NRTL as set forth in 29 CFR 1910.7.” The Coast Guard disagrees. Certain safety equipment installed or carried on U.S. flag MODUs and foreign flag MODUs operating on the U.S. OCS must be type approved by the Coast Guard as set forth in the applicable inspection subchapters of the U.S. shipping regulations. The testing required to obtain these type approvals is the responsibility of the manufacturer of the equipment and is usually done by accepted independent laboratories. Later, when this equipment is installed on the MODU, the installation must be inspected and approved by a classification society and/or Coast Guard inspector. These are two different approvals. Section 161.002 of CFR 46 applies to testing of the equipment for Coast Guard type approval. Under this section, manufacturers seeking type approval of their equipment must have the equipment tested by an independent laboratory accepted by the Coast Guard

in accordance with § 159.010 or by an NRTL accepted by the Occupational Safety and Health Administration (OSHA) under 29 CFR 1910.7. This final rule gives the equipment manufacturer the additional option of using an NRTL. These tests are different from the initial acceptance tests of safety equipment after installation on vessels, including MODUs, which are not affected by this provision. Instead, acceptance tests of individual installations of type approved systems on inspected vessels will continue to be carried out by classification societies and/or Coast Guard inspectors.

One commenter endorsed the Coast Guard’s proposal to allow the different components of alarm and detection systems to be approved individually under the “device method” in 46 CFR 161.002–19, or continue to be approved collectively under the current “system method” in 46 CFR 161.002–18. The Coast Guard acknowledges this comment.

2. Grandfathering and Compliance Period

The Coast Guard received two comments on grandfathering and the 2½ year compliance period. One commenter stated that the 2½ year period proposed in 46 CFR 76.27–1; 76.27–80; 76.30–1; 76.33–1; 76.35–1, and 161.002–4 for compliance with the new fire alarm and detection system regulations is inadequate, and requested that the Coast Guard consider providing a longer compliance period. The Coast Guard agrees. The Coast Guard is extending the compliance period for the grandfathering of existing fire detection and alarm installations and approvals from 2½ years to five years. This longer compliance period should provide fire alarm and detection system users and manufacturers enough time to comply with the new regulations. In extending the compliance period, the Coast Guard considered that the new fire alarm and detection regulations were proposed in order to harmonize with voluntary consensus standards and not to address a perceived safety deficiency. Similarly, the Coast Guard will extend the period for completing approval programs under the current criteria from 180 days to 1 year, as specified in 46 CFR 161.002–4.

The same commenter found the manner in which the Coast Guard chose to organize the NPRM’s discussion of changes on the grandfathering clause and compliance period for the fire alarm and detection regulations to be confusing and requested the time periods be in numbered paragraphs. Upon review of the discussion in the NPRM (see Section V. A. 4.,

“Grandfathering and 2 and ½ year Compliance Period”), the Coast Guard concurs that the paragraphs in this discussion were confusing and clarifies the discussion of the grandfathering and compliance clauses set forth in 46 CFR 76.27–1, 76.27–80, 76.30–1, 76.33–1, 76.35–1, and 161.002–4 as follows: (1) Existing systems. These existing fire alarm and detection systems (other than certain smoke sampling systems) may be kept and used for the life of the vessel unless and until they are altered. Guidance on what is considered a mere repair versus changes that constitute an altered alarm and detection system is found in 46 CFR 76.27–80(d). Owners and operators are encouraged to contact the local Coast Guard Officer in Charge, Marine Inspection (OCMI) if there is a question on whether a system will be considered altered or repaired. (2) Systems installed during the 5-year compliance period. New systems installed or existing systems altered within five years of the effective date of the final rule will be allowed to use systems meeting the requirements in place just prior to the effective date of the final rule for the life of the vessel unless and until they are altered after the 5-year compliance period. (3) Systems installed after 5-year compliance period. New systems and altered systems installed or altered five years after the effective date of the final rule will have to meet the new regulation requirements and use systems approved under the new approval criteria.

B. Comments Concerning Fire Extinguishers

1. Ratings

The Coast Guard received ten comments on ratings. One commenter agreed with the Coast Guard’s action to replace the Coast Guard-unique fire extinguisher rating system with the performance-based fire extinguisher rating system of UL 711, “Standard for Rating and Testing of Fire Extinguishers” referenced in 46 CFR 162.028–2 and 162.039–2. The Coast Guard acknowledges this comment.

In contrast, another commenter questioned the replacement of the existing Coast Guard weight-based fire extinguisher rating system, *circa* 1952, with the UL 711 fire extinguisher rating system. The commenter was concerned that the application and coverage of fire extinguishers for vessel fires will be compromised. This commenter raised five specific issues, which we address separately in the next paragraph. The Coast Guard disagrees that the adoption of the UL 711 rating system will

compromise fire safety on vessels. While we agree that the 1952 Coast Guard extinguishing rating system was valid and useful, maintaining a separate rating system is not warranted in light of the general and broad acceptance of the UL 711 rating system, the demonstrated effectiveness of the UL 711 system, and the potential for confusion caused by having a separate rating system for marine use. Moreover, any differences between the two rating systems were taken into account by the Coast Guard in its development of the new requirements for the number, location, size, and type of fire extinguishers that must be carried on vessels, so the same level of fire safety is maintained under the new regulations. For example, see 46 CFR 76.50–10, Table 76.50–10(a).

Turning to the specific issues cited by the commenter, the first issue concerns changes over time in the UL 711 rating system for Class A fire extinguishers, leading to different ratings for the same size extinguishers depending on the year of manufacture. The Coast Guard acknowledges that the UL 711 Class A rating system has changed more than once over the years, whereas the Coast Guard rating system has not. However, such changes may be in response to changes in technology or the end user market and are subject to consensus review. Thus, such changes are the reason the maritime industry will benefit from the incorporation of the consensus-based, voluntary UL 711 standard rather than being a reason not to adopt the standard.

Similarly, the second issue concerns two changes to the UL 711 rating system of Class B fire extinguishers, leading to higher recent ratings for the same size extinguishers. Again, these changes reflect changes in technology and are subject to consensus review; these are not a reason not to incorporate the UL 711 standard.

The third issue concerns the test that is used in the UL 711 standard to rate Class B extinguishers, wherein professional test operators extinguish heptane (a flammable liquid) fires in open, flat and unobstructed test pans. Specifically, the commenter is concerned that this test covers only one fire scenario and that the tests on which the rating is based are too difficult for most novices to accomplish. The Coast Guard acknowledges that the UL 711 Class B fire extinguisher ratings are based on only one fire scenario and that the test results reflect the skill of the professional test operators. However, the UL 711 rating system is an effective way of broadly ranking the effectiveness of various extinguishers on Class B fires

in a consistent and repeatable manner, carried out by a professional laboratory. Moreover, the Coast Guard’s new rules on the number, location, sizes and types of fire extinguishers required onboard for various hazards take into account the rating process.

The fourth issue concerns some extinguisher standards moving away from numerical ratings for Class B fires and instead specifying minimum agent capacities and flow rates for certain fire scenarios. The commenter cites NFPA 10 as requiring minimum quantities and flow rates for certain hazards. While NFPA 10 does specify quantities and flow rates of agents for certain hazards, it still relies on the fire test standard of UL 711 in its general prescriptions for the size and placement of extinguishers for general fire hazards. Again, the Coast Guard’s new rules on the number, location, sizes and types of fire extinguishers required onboard for various hazards take into account the expected capabilities of extinguishers classified according to the fire test standards of UL 711.

The fifth issue concerns the commenter’s views that the UL 711 test for electrical conductivity is inadequate because it measures the conductivity across the fire extinguishers’ discharge stream and not across a pool of the extinguishing agent, and that use of extinguishers approved under the standard could be dangerous. The Coast Guard disagrees. The Coast Guard believes that the UL 711 test adequately measures electrical conductivity of extinguishing agents, that the extinguishers are safe when used properly, and the Coast Guard is not aware of any casualty analysis demonstrating the inadequacy of the UL 711 conductivity test. Moreover, as a voluntary consensus standard, the UL 711 test has broad acceptance and is almost universally used in domestic residential, municipal and industrial applications to good effect.

Another commenter noted that UL 711 is not a certification standard and therefore, those laboratories referenced would strictly be testing laboratories. The Coast Guard acknowledges this comment and notes that the regulations in question, 46 CFR 162.028–2 and 162.039–2, refer to “approval tests.” The commenter added that the appropriate references to the fire extinguisher certification standards are ANSI/UL 8, ANSI/UL 154, ANSI/UL 299, ANSI/UL 626, and ANSI/UL 2129. The Coast Guard acknowledges these designations; however, per guidance from the Office of the Federal Register stating that UL published documents must be incorporated by reference as UL

documents, the Coast Guard will not add "ANSI" in the title of these documents since they are not ANSI published documents.

The same commenter recommends that the requirements in 46 CFR 162.039–3(b) be revised to be consistent with the UL 8 (Section 6.11), UL 154 (Section 6.10), UL 299 (Section 6.11), UL 626 (Section 6.11), and UL 2129 (Section 6.11) such that semi-portable fire extinguishers are designated based on overall weight of 60 pounds rather than 50 pounds. The Coast Guard is maintaining the weight limit at which fire extinguishers are designated as semi-portable at 50 pounds. The 50-pound weight limit was chosen to harmonize with the 23 kg portable extinguisher limit that is prescribed by the International Code for Fire Safety Systems ("FSS Code"). U.S.-flagged vessels engaged in international trade are required to meet the International Convention for Safety of Life at Sea ("SOLAS") and FSS Code regulations.

One commenter endorsed the Coast Guard's effort to reduce unnecessary complexity and confusion for fire equipment standards on vessels by providing an efficient approach to regulating fire extinguishers through less complex carriage requirements and incorporation of the UL rating system. The Coast Guard acknowledges this comment.

2. Maintenance Requirements

The Coast Guard received five comments on the new maintenance requirements. One commenter suggested that the Coast Guard identify acceptable training organizations to certify personnel before they are allowed to maintain and recharge fire extinguishers. We disagree. In the Coast Guard's experience, service providers who are licensed and certified in the local communities have proven reliable and there does not appear to be a need to change this.

One commenter endorsed the Coast Guard's action of requiring an annual inspection of portable fire extinguishers by qualified service personnel while allowing the appropriate vessel crew members to perform the required monthly visual inspection of portable fire extinguishers. The Coast Guard acknowledges this comment.

Another commenter suggested that our regulations account for the different fire extinguisher designs, special types of service equipment, and personnel training required to service them. While the Coast Guard acknowledges that different types of fire extinguishers may require different equipment and techniques to service and recharge

them, we have relied upon service providers who are licensed and certified by local authorities. This practice has proven to be reliable and there does not appear to be a need to change it.

One commenter expressed concern with the requirements in 33 CFR 145.01 and 46 CFR 107.235 and several other regulations which state that fire extinguisher servicing agencies are required to be certified by the state or local jurisdiction, suggesting that this would be problematic on waters bordered by multiple jurisdictions. The Coast Guard agrees with the commenter. We did not intend to specify any particular jurisdiction but rather want to ensure that the certification is conducted by an appropriate authority having jurisdiction (AHJ) to perform the certifications. The Coast Guard has revised these regulations by changing "the" to "a," to state that "[c]ertification or licensing by a state or local jurisdiction as a fire extinguisher servicing agency will be accepted by the Coast Guard as meeting the personnel certification requirements of NFPA 10 for annual maintenance and recharging of cylinders."

One commenter endorsed requiring qualified service personnel certified by local AHJs to conduct annual inspections of fire extinguishers, while endorsing vessel crew members to perform monthly visual inspections of fire extinguishers. The Coast Guard acknowledges this comment.

3. Spare-Extinguisher Requirements

The Coast Guard received three comments on the new spare-extinguisher requirements. One commenter suggested that the new spare extinguisher requirements must specifically address details of the procedures and equipment for recharging spent fire extinguishers. This comment mentioned three specific issues, which we address in the following paragraph. In general, however, the Coast Guard disagrees that the requirements for spare extinguishers require detailed regulations relating to recharging fire extinguishers. The spare fire extinguisher requirements in 46 CFR 34.50–10(a), 76.50–10(a), 95.50–10(a), 108.495, 169.567(a), and 193.50–10(a) refer to the number of complete and ready-to-use fire extinguisher units that must be carried on a vessel. These regulations do not address the carriage of spare charges for extinguishers; therefore, it is unnecessary to include spare-recharge requirements in these regulations.

Turning to the specific issues cited by this commenter, the first is a suggestion that the spare extinguisher regulations

establish which types of fire extinguishers may be recharged and serviced by crews underway. First, as mentioned above, the new spare extinguisher regulations refer to complete units and not spare charges. Second, while the Coast Guard acknowledges that some types of fire extinguishers are more easily recharged than others, there have been no indications that existing practices warrant regulatory change. Instead, the Coast Guard will continue to rely on the AHJs to certify personnel to recharge extinguishers, and to rely on these certified personnel to recharge the extinguishers properly.

The third issue raised is that the number of spare fire extinguishers should take into account the different storage, recharge, service and calibration requirements for the different types of fire extinguishers carried. Under the new regulations, however, required spares must be complete and ready-to-go fire extinguisher units. Any spare recharges that may be carried onboard are surplus to this requirement and need not be addressed in the regulations.

C. Comments Concerning Other Fire Protection Equipment

1. Spanner Wrench Carriage Requirements

The Coast Guard received two comments on the spanner wrench carriage requirements. One commenter agrees with the revisions in 46 CFR 181.310 that will allow 46 CFR subchapter T vessel operators to use two 1½ inch-diameter firehoses at external vessel locations instead of one 2½ inch hose. The Coast Guard acknowledges this comment.

The same commenter agreed with our requirements to install spanner wrenches at all 1½ inch fire hydrants; however, the organization represented by the commenter, expressed concern with the 30-day compliance period upon the publication of this rule. The organization noted that small passenger vessels comprise half of the inspected U.S.-flagged vessel fleet and that information dissemination, purchase, and installation all have an impact on a reasonable response time. When the current rules for 46 CFR Subchapter T small passenger vessels were written, we inadvertently omitted the requirement to have spanner wrenches at all 1½ inch hydrants. The commenter suggests that a more appropriate interval for compliance might be 60 days or the date of the vessel's first annual inspection after this final rule is published, or whichever is later. The Coast Guard agrees with the commenter

and will revise the regulations in 46 CFR 118.310 and 181.310 to establish a 180-day compliance period.

2. Use of Non-Metallic Pipe

One commenter agreed with the revisions in 46 CFR 182.720 that will allow 46 CFR subchapter T vessels to use non-metallic piping in non-vital systems per the requirements in 46 CFR 56.60–25(a)(3), as an alternative to those prescribed in subchapter T. The Coast Guard acknowledges this comment.

3. Use of Plastic Pipe

One commenter noted that the requirement in 46 CFR 56.60–25(a)(7) limits the certification of plastic pipe being used for potable water to certain laboratories. It was not our intent to unnecessarily exclude any appropriately qualified independent laboratories. Therefore, the Coast Guard is amending the requirement in 46 CFR 56.60–25(a)(7) to require “[p]ipe that is to be used for potable water must bear the appropriate certification mark of a nationally-recognized, ANSI-accredited third-party certification laboratory” rather than referring to one particular set of laboratories.

4. Sprinkler System Requirements

The Coast Guard received one comment on 46 CFR 76.25–1, “Application.” The commenter suggested that in addition to requiring Chapter 25 of NFPA 13, “Standard for the Installation of Sprinkler Systems” (2010 Edition), for the design and installation of sprinkler systems, the Coast Guard should also require sprinkler systems to meet the design and installation requirements found in NFPA 15, “Standard for Water Spray Fixed Systems for Fire Protection,” and NFPA 16, “Standard for the Installation of Foam-Water Sprinkler and Foam-Water Spray Systems.” The Coast Guard disagrees. Chapter 25 of NFPA 13 is specifically directed to the unique requirements of marine, onboard, fixed fire extinguishing systems. In contrast, neither NFPA 15 nor NFPA 16 has such specific sections dealing with specifically address marine installations. Although most shore side fire protection engineering principles are adaptable to marine use, nevertheless the design and operating environment of ships is different enough to warrant special consideration. For instance, marine layout and configuration is different from buildings, and the marine environment is harsher due to salt air, salt water, vibrations and rough seas. Thus, fire extinguishing systems must be adapted to this environment.

5. Carbon Dioxide Fire Extinguishing System Requirements

The Coast Guard received one comment on 46 CFR 147.65, “Carbon dioxide and Halon fire extinguishing systems.” The commenter suggested that the Coast Guard extend the visual inspection requirements of Halon 1301 fire extinguishing systems to clean agent fire extinguishing systems. The Coast Guard disagrees. Halon 1301 fire extinguishing systems no longer need to be periodically emptied, hydrostatically tested, and refilled. In part, this is because the international ban on the production of Halon 1301 requires carefully controlled reclamation and collection of Halon 1301, making the emptying and refilling of Halon 1301 cylinders expensive and impractical for vessel owners. Instead, this testing will be replaced with a visual inspection. This change was made to avoid the risk of accidentally releasing Halon, an ozone-depleting agent that is very harmful to the atmosphere. As an alternative, halocarbon clean agents may be visually inspected per the existing regulations in 46 CFR 147.67. However, the hydrostatic testing method is being kept for the inert gas clean agents, in keeping with the recommendations of NFPA 2001, “Clean Agent Fire Extinguishing Systems” (2012), which is a consensus standard.

6. Portable Foam Applicators

One commenter agreed with the Coast Guard’s action to allow the use of UL 162, “Standard for Foam Equipment and Liquid Concentrates,” (Seventh Edition) for the type approval of portable foam applicators found in 46 CFR 162.163–3 and 162.163–4. The Coast Guard acknowledges this comment.

7. Independent Laboratories

Two commenters endorsed the standards in 46 CFR 159.010–3 for the acceptance of independent laboratories. These comments are acknowledged.

D. General Comments

The Coast Guard received nine comments on the NPRM that we have categorized as general comments. Below we discuss the comments and our responses.

1. Testing Laboratories

One commenter noted that the list of OSHA nationally recognized testing laboratories referenced in “Table 46 CFR 34.50–10(a) Portable and Semi-Portable Extinguishers” footnote 13 should have included UL. The Coast Guard acknowledges that UL is listed as an OSHA NRTL (see <https://www.osha.gov/dts/otpca/nrtl/>

[nrtl.html](#)). No change in footnote 13 is required in response to this correction since the footnote only refers to OSHA NRTLs in general, and does not list them.

2. Incorporation by Reference

One commenter endorsed the Coast Guard’s incorporation by reference of UL 8 “Standard for Foam Fire Extinguishers,” UL 154 “Standard for Safety for Carbon-Dioxide Fire Extinguishers,” UL 299 “Standard for Safety for Dry Chemical Fire Extinguishers,” UL 626 “Standard for Safety for Water Fire Extinguishers” and UL 2129 “Standard for Halocarbon Agent Fire Extinguishers” for the testing and labeling of fire extinguishers in 46 CFR 162.028–2 and 162.039–2. The Coast Guard acknowledges this comment.

One commenter advised us that the title to UL 626 was changed to “Standard for Safety for Water Fire Extinguishers.” In response, the Coast Guard has amended the title of UL 626 to reflect the correct name of the standard.

3. Acceptance of Equipment Approved to Solas Requirements as Equivalent to CFR Requirements

One commenter supported the Coast Guard’s recognition and acceptance of certain equipment, materials, and components approved under SOLAS. The Coast Guard acknowledges this comment. However, the commenter requested to know how industry could alleviate any possible conflicts that may exist in other regulations and in published Navigation and Vessel Inspection Circulars with regard to the SOLAS/Coast Guard equivalency provisions referenced in the NPRM (e.g., 33 CFR 140.15 (b), which requires specific Coast Guard type approval). The Coast Guard does not detect a conflict. Where Coast Guard regulations require type approval of equipment they clearly state such approval shall be made by the Commandant of the Coast Guard. This is in accord with SOLAS, which has regulations that call for approved equipment, but leaves the approval of the equipment to the Administration, which in the United States means the Commandant, for vessels and MODUs under the United States’ flag. The new rules simplify which standards must be used for the approval of materials and equipment for use on domestic vessels by allowing these vessels an option to have structural fire protection in accordance with SOLAS and applicable FTP Code provisions, and by adopting FTP Code and FSS Code provisions for certain

types of fire extinguishing and detecting equipment. This is not a blanket adoption of these international standards for the approval of all materials and equipment on domestic vessels. However, the applicable regulations must be consulted for specific situations, especially if the SOLAS option for structural fire protection is not selected. Interested parties also are referred to the applicable regulations, and NVIC 06–05, Unified Interpretations of SOLAS Chapter II–2, the FSS Code, the FTP Code and related fire test procedures, and NVIC 9–97, CH1, Guide to Structural Fire Protection.

4. Harmonization

The Coast Guard received four comments regarding harmonization with national and/or international standards.

While endorsing the new fire extinguisher regulations, one commenter expressed concern about the fire protection, detection, and extinguishing equipment provisions for harmonizing Coast Guard requirements with international standards because they are so complex that it is difficult to determine exactly how they impact towboats that operate only in domestic inland waters. If these standards do apply to such vessels, the commenter requested that the Coast Guard extend the comment period and hold public meetings to better explore the impacts of these revisions on inland towing vessels to ensure that international standards are not automatically applied to inland U.S. mariners and vessel operations since their operating environment is drastically different. The commenter added that it seems as though there are no direct impacts to the domestic towboat industry; however, the commenter urged the Coast Guard to ensure that any future considerations to apply international standards to domestic-only vessels be done only after discussions with domestic inland towing vessel operators. The Coast Guard acknowledges the commenter's concerns. Where international SOLAS or consensus standards apply to domestic vessels in the rule, these standards provide flexibility by allowing for regulatory alternatives to the existing regulations and do not change the existing domestic requirements. For this reason, neither an extension of the comment period nor a public meeting on this subject is needed. One commenter endorsed the Coast Guard's harmonization of standards for fire protection, detection, and extinguishing equipment. This comment is acknowledged.

Two commenters supported the Coast Guard's objective of harmonizing fire protection requirements; however, consistent with that objective and the Coast Guard's commitment to a "one shelf, one standard policy," the commenter's recommended that in the interest of safety and regulatory efficiency, the Coast Guard and the Department of Interior Bureau of Safety and Environmental Enforcement (BSEE) should promulgate joint fire protection requirements for OCS facilities. Both the Coast Guard and the BSEE have statutory authority for regulation of MODUs and facilities on the OCS. Generally, the Coast Guard regulates the MODUs as inspected and certificated vessels, while the BSEE regulates the MODUs when attached and engaging in drilling operations. Accordingly, the Coast Guard and the BSEE have apportioned the responsibilities for the regulation of the various systems associated with MODUs between themselves as the lead agencies. Under this apportionment, the Coast Guard is responsible for fire protection on MODUs except for the drill floor and related areas. None of the regulations in the current rulemaking affect the drill floor and related areas, therefore the Coast Guard has determined that this final rule does not conflict with any BSEE regulations. Moreover, the Coast Guard and the BSEE systematically coordinate so as to promulgate regulations that foster fire safety, among other objectives, in an efficient manner.

5. Preemption

One commenter agrees with the revisions to existing regulations and the issuance of new regulations that preempt state and local regulation with regard to fire protection, detection, extinguishing equipment, and materials on several types of vessels. These vessels include inspected vessels, uninspected vessels, uninspected commercial fishing vessels, towing vessels, deepwater ports, MODUs, and OCS facilities. This commenter urged the Coast Guard to add specific regulatory language stating that the requirements in 46 CFR subchapters H, K, and T completely preempt state and local regulations. The Coast Guard acknowledges this comment, and refers to the preemption section of this preamble below which is consistent with applicable law.

V. Summary of Changes From NPRM

Changes made in the final rule in response to comments are discussed in detail above in Section IV, "Discussion of Comments and Changes". Additional

changes are discussed individually below.

The Coast Guard has added a comma to sections 46 CFR 76.10–10(b)(2) and 95.10–10(b)(2) to make clear that one wye connection supplies two 1½ inch hoses. Section 193.10–10(b) of Title 46 of the CFR already had this comma.

In 46 CFR 76.10–10(d), the existing requirement that there be enough hydrants such that two hose streams reach all parts of the vessel accessible to passengers and crew other than machinery and cargo spaces was inadvertently deleted. We are restoring this two-hose-stream requirement in the final rule.

In the NPRM, the Coast Guard proposed that the number of spare fire extinguishers that must be carried on domestic vessels be reduced from 50 percent of the number of extinguishers required to as low as 10 percent. We also sought specific comments on the appropriate percentage of spares necessary, along with a brief explanation. Because we received no specific comments or suggested percentages of spares in response, we are setting the percentage of spares required at 10 percent in the final rule based on the rationale set forth in the NPRM that a reduction in the number of spares required is warranted by the enhanced maintenance provided by the new regulations and by the ease in the ability to source spares when needed. The tables that specify the 10 percent spare requirement are 46 CFR 34.50–10(a), 76.50–10(a), 95.50–10(a), and 108.495. Tables to 46 CFR 132.220 and 193.50–10(a) are already set at the 10 percent requirement rate. Other fire extinguisher tables do not reference spares, so they remain unchanged.

Spacing and indentation have been changed for the "Spares" row in the required fire extinguishers tables in order to clarify that the "Spares" row is a separate category and not part of the category immediately above it. This change was made to the tables to 46 CFR 76.50–10(a), 95.50–10(a), 108.495, 132.220, and 193.50–10(a). Table to 46 CFR 34.50–10(a) was already correctly spaced.

In response to comments, the Coast Guard revised 46 CFR 56.60–25(7) to allow all nationally-recognized, ANSI-accredited, third-party certification laboratories to be used to certify plastic pipe carrying potable water, rather than specific laboratories.

In response to comments, the Coast Guard revised the following sections to clarify that any appropriate AHJ can be used: See 33 CFR 145.01(b)(1), and 149.408(b); and 46 CFR 25.30–10(b), 31.10–18(a)(1), 91.25–20(a)(1)(i),

107.235(a)(1), 169.247(a)(1)(i), 176.810(b)(1)(i), and 189.25–20(a)(1)(i).

In response to comments specifically requesting a change in the compliance period, we revised the following sections to extend the compliance period for new and altered detection and alarm systems from 2½ years to 5 years: 46 CFR 76.27–1, 76.27–80, 76.30–1, 76–33–1(a) & (b), and 76.35–1(b). Furthermore, the Coast Guard revised 46 CFR 161.002–4(b) and (c) to extend the allowable period for obtaining approvals of detection and alarm systems based on the provisions in place prior to the effective date of this rule.

The Coast Guard revised sections 46 CFR 118.310 and 181.310 to extend the compliance period for obtaining 1½ inch spanner wrenches from 30 to 180 days from date of publication of the final rule in response to comments.

As a result of one comment, the Coast Guard revised the following sections to correct the name of UL 626 to “Standard for Safety for Water Fire Extinguishers:” 46 CFR 162.028–1(b)(4), 162.028–3(a)(4), 162.039–1(c)(4), and 162.039–3(a)(4).

To harmonize this regulation with a separate and concurrent rulemaking for commercial towing vessels (see the Inspection of Towing Vessels notice of proposed rulemaking (76 FR 49976, August 11, 2011)), the Coast Guard deleted requirements regarding excess non-approved fire detection systems onboard uninspected towing vessels in proposed 46 CFR 27.203(b)(2) and 27.203(b)(3), respectively. Specifically, the requirements for installation of these systems to conform to 46 CFR chapter I, subchapter J, (Electrical Engineering) and for the Coast Guard to review wiring plans were removed because they exceed those found in the towing vessels proposed rulemaking. Proposed § 27.203(b)(4) was renumbered to § 27.203(b)(2). The Coast Guard does not

require these excess systems to be inspected aboard uninspected vessels therefore the requirement for testing and inspection was removed from new § 27.203(b)(2) in the final rule.

Commercial fishing vessels are also uninspected. Proposed 46 CFR 28.155(a)(2) and 28.155(a)(3), mirrored the proposed §§ 27.203(b)(2) and 27.203(b)(3) above and were likewise removed to maintain consistency with uninspected towing vessels. Additionally, proposed § 28.155(a)(4) was renumbered to § 28.155(a)(2), and the statement requiring testing and inspection was removed from new § 28.155(a)(2) for the same reason as discussed for proposed § 27.203(b)(4) above.

The Coast Guard has the authority to test and inspect any and all systems required under the various inspection subchapters in both Title 33 and Title 46 CFR. Superfluous proposed requirements in 33 CFR 149.404(b)(4); and 46 CFR 34.01–5(b)(4), 76.01–5(b)(4), 95.01–5(b)(4), 118.120(b)(4), 132.340(b)(4), 167.45–30(b)(4), 181.120(b)(4), and 193.01–5(b)(4) were subsequently removed in this final rule.

VI. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders (E.O.s) related to rulemaking. Below we summarize our analyses based on these statutes or E.O.s.

A. Regulatory Planning and Review

Executive Orders 12866 (“Regulatory Planning and Review”) and 13563 (“Improving Regulation and Regulatory Review”) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety

effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a “significant regulatory action,” under section 3(f) of Executive Order 12866. Accordingly, the rule has not been reviewed by the Office of Management and Budget. A final Regulatory Assessment follows.

As previously noted in Section IV, “Discussion of Comments and Changes”, we received 44 comments in response to the NPRM. These comments were from several maritime organizations, international associations, private companies, and individuals. Eight comments concerned fire alarm and detection systems, 18 comments concerned fire extinguishers, nine comments concerned other fire protection equipment, and nine comments we classified as general comments. We received no comments regarding the regulatory analysis (RA) performed for the NPRM. Therefore, we adopt the methodology and assumptions for the costs and benefits from the NPRM as final. However, we have updated the analysis with the current affected population, wage rates, training costs, and equipment cost estimates as reflected in the revised analysis below. For brevity, we omit all items which we previously determined will impose no new burden on industry and are not expected to result in additional costs. For a detailed discussion refer to the January 13, 2014 NPRM publication entitled, “Harmonization of Standards for Fire Protection, Detection, and Extinguishing Equipment” in the **Federal Register** (79 FR 2254). The table below summarizes the elements in the analysis that were updated between the NPRM and the final rule.

TABLE 2—SUMMARY OF CHANGES BETWEEN NPRM AND FINAL RULE

| Category | Description | Rationale |
|---------------------------|--|---|
| Affected Population | Updated estimates for the affected population of vessels, offshore facilities, MODUs, and recreational vessels. | Updated the 2012 data pull with 2013 data to reflect the most current full year estimates in MISLE and Recreational Boating Statistics. |
| Wages | Loaded wage for BLS occupation code 53–5011, Sailors and Marine Oilers. | Updated the 2012 BLS loaded wage estimates with 2013 estimates. |
| Wages | Loaded wage for BLS occupation code 53–5021, Captains, Mates, and Pilots of Water Vessels. | Updated the 2012 BLS loaded wage estimates with 2013 estimates. |
| Compliance Period | Compliance period proposed in 46 CFR 76.27–1; 76.27–80; 76.30–1; 76.33–1; 76.35–1, and 161.002–4 for new fire alarm and detection system increased from 2½-years to 5 years. | Facilitate harmonizing with voluntary consensus standards without imposing additional costs on industry, lining up with our initial assessment. |
| Compliance Period | Compliance period for carriage of spanner wrenches in 46 CFR 181.310 increased from 30 days following publication of the final rule to 180 days. | Response to public comment. No impact on initial assessment. |

This RA provides an evaluation of the economic impacts associated with this final rule. The table which follows provides a summary of the final rule costs and benefits.

TABLE 3—SUMMARY OF THE IMPACTS OF THE FINAL RULE

| Category | Summary |
|---|---|
| Affected Population | Affected population varies by CFR title and subchapter, see Table 4 below. |
| Total and Annualized Costs (7 percent discount rate). | \$1.1 million total costs; \$156,588 annualized costs. |
| Unquantified Benefits | <ul style="list-style-type: none"> • Harmonization and compliance with international standards; • Harmonization with industry consensus standards; • Increased compliance choices, reducing regulatory compliance burdens; • Reduction in risk from potentially toxic or flammable gases no longer being routed into human-occupied spaces; and, • Increased safety through the availability of tools and equipment during emergency situations. |

The final rule contains provisions amending the CFR requirements for fire protection equipment, materials, components, and systems. In the NPRM, Section V, “Discussion of Proposed Rule”, laid out the proposed changes and the rationale for those changes. The provisions fell into two broad categories: (1) Provisions that harmonize Coast Guard regulations with national and international industry consensus standards; and (2) provisions that correct or adjust existing regulations referring to specific issues or equipment. Most of the provisions, both harmonizing and non-harmonizing, were not expected to impose additional costs upon the industry. However, we

identified three provisions which we expect to have a cost impact on industry:
 (1) Sample extraction type smoke detection systems requirements, which specify that all existing vessels using sample extraction fire detection methods route the gases outside the vessel and install a sensing device that will trigger a visual and audible alarm in the bridge;
 (2) Fire extinguisher carriage and maintenance requirements, which eliminate the current Coast Guard-specific rating system for fire extinguisher classification, and specify that individuals performing annual inspection, maintenance, or necessary

recharging of fire extinguishers must be certified in accordance with the standards of NFPA 10; and,
 (3) Spanner wrench carriage requirements for small passenger vessels, which specify that all subchapter K and T vessels carry a spanner wrench for each 1½ inch diameter hose installation.
 Based on these elements, Table 4 shows the total affected population and the numbers of vessels, offshore facilities, and MODUs organized by CFR subchapter. For each of the three provisions noted before, we identified the affected population and the respective economic impacts.

TABLE 4—AFFECTED POPULATION

| CFR Title | Subchapter | Topic | Population |
|-----------|------------|---|------------|
| 33 | N | Outer Continental Shelf Facilities | 8,573 |
| 33 | NN | Deepwater Ports | 56 |
| 46 | C | Uninspected Vessels | 11,232,060 |
| | | Towing Vessels | 7,961 |
| | | Uninspected Vessels | 86,370 |
| | | Fishing Vessels | 34,723 |
| | | Recreational Vessels* | 11,103,006 |
| 46 | D | Tank Vessels | 5,362 |
| 46 | F | Marine Engineering | n/a |
| 46 | H | Passenger Vessels | 308 |
| 46 | I | Cargo and Miscellaneous Vessels | 1,750 |
| 46 | I-A | Mobile Offshore Drilling Units (MODU) | 259 |
| 46 | J | Electrical Engineering | n/a |
| 46 | K | Small Passenger Vessels Carrying more than 150 Passengers or with Overnight Accommodations for more than 49 Passengers. | 591 |
| 46 | L | Offshore Supply Vessels | 1,548 |
| 46 | N | Dangerous Cargoes | 42 |
| 46 | Q | Equipment, Construction and Material Specifications and Approval. | n/a |
| 46 | R | Nautical Schools | 127 |
| 46 | T | Small Passenger Vessels (Under 100 Gross Tons) | 11,157 |
| 46 | U | Oceanographic Research Vessels | 888 |

* Mechanically propelled recreational vessels

Source: USCG MISLE database for all non-recreational populations. Recreational vessel population is from COMDTPUB P16754.27—2013 Recreational Boating Statistics, Table 37, available at <http://www.uscgboating.org/assets/1/AssetManager/2013RecBoatingStats.pdf>.

Costs

In the following discussion, we describe the impacts for each of the three categories for the provisions listed in the previous paragraphs. As previously noted, we received no comments regarding the RA we performed for the NPRM. We therefore adopt the methodology and cost assumptions as final. However, we have updated this section using 2014 population estimates, wage rates, training costs, and equipment costs.

(1) Sample Extraction Type Smoke Detection Systems

This requirement implements changes regarding the ventilation of potentially toxic or flammable gases. Previous regulations allowed systems to route these potentially toxic or flammable gases or smoke from the cargo hold to the bridge so that a watchstander could detect a problem by smell. International consensus standards consider this practice unacceptably dangerous, and SOLAS has required routing of sampled

gases out of manned spaces since the 1978 protocol, which went into effect May 25, 1980. The new provisions, found in 46 CFR 76.33, require that existing vessels using sample extraction fire detection methods route the gases outside the vessel and install a sensing device that will trigger a visual and audible alarm on the bridge. Existing vessels will have 5 years in which to comply with this provision. Currently, all U.S. vessels that are SOLAS-certificated and built after May 25, 1980, are in compliance with this provision. According to the Coast Guard Marine Information for Safety and Law Enforcement (MISLE) database which documents the types of fire detection systems installed on vessels, the affected population for this provision includes three vessels: two active SOLAS vessels built before May 25, 1980, and one active non-SOLAS vessel.

Information from the U.S. Bureau of Labor Statistics (BLS) indicates that the loaded mean hourly labor cost (wages and benefits) is \$28 for Sailors and

Marine Oilers (BLS occupation code 53-5011¹). This loaded wage rate includes the hourly base wage rates of \$19.56 multiplied by a load factor of 1.43 (rounded).² We estimate the cost per vessel to comply with this provision at \$1,243. This includes the installation of a ventilation fan (average catalogue price \$375) and a fixed gas detector (average price \$700) and the cost of installation (6 hours at the equivalent wage of a crewmember \$28.00 per hour × 6 hours = \$168). We assume that one of the affected vessels will comply each year (given 5 years to meet compliance) beginning in the third year after publication of this final rule.³

Over the 10-year period of analysis, we estimate the total present value costs of this provision to be about \$2,849 and \$3,314 discounted at 7 and 3 percent, respectively. We estimate the annualized costs to be approximately \$695 and \$724 discounted at 7 and 3 percent, respectively. Table 5 summarizes the costs of this provision to industry.

TABLE 5—REQUIREMENT FOR ROUTING POTENTIALLY TOXIC OR FLAMMABLE GASES OR SMOKE

| Year(s) | Affected vessels | Avg. cost per vessel | Total cost all vessels | | |
|------------|------------------|----------------------|------------------------|--------------------|--------------------|
| | | | Undiscounted | 7 percent discount | 3 percent discount |
| 1 | 0 | \$1,243 | \$0 | \$0 | \$0 |
| 2 | 0 | 1,243 | 0 | 0 | 0 |
| 3 | 1 | 1,243 | 1,243 | 1,015 | 1,138 |
| 4 | 1 | 1,243 | 1,243 | 948 | 1,104 |
| 5 | 1 | 1,243 | 1,243 | 886 | 1,072 |
| 6–10 | 0 | 1,243 | 0 | 0 | 0 |
| Totals* | 3 | — | 3,729 | 2,849 | 3,314 |
| Annualized | | | | 695 | 724 |

* Totals may not sum due to rounding

(2) Fire Extinguishers

This rule makes parallel changes in each of the subchapters which require vessels, offshore facilities, and deepwater ports to carry Coast Guard approved portable or semi-portable fire extinguishers.

Ratings: UL 711 and NFPA 10:2010

These provisions apply to all the affected populations carrying portable and semi-portable fire extinguishers listed in Table 4, including recreational vessels. These provisions eliminate the current Coast Guard-specific rating system for fire extinguisher

classifications, in favor of the classifications specified in the relevant national industry standards. The Coast Guard rating system relied on a prescriptive weight-based standard for the retardant, while the modern industry standards, UL 711 and NFPA 10, are performance-based. Currently, all Coast Guard-approved fire extinguishers are rated by their testing laboratories using both the Coast Guard and the NFPA 10 and UL 711 rating systems. Sections 162.028–4 and 162.039–4 of Title 46 of the CFR require labeling of approved extinguishers with specific language which includes the Coast Guard rating of the extinguisher.

As a result, the Coast Guard rating system was a duplicative and confusing requirement that was inconsistent with current industry standards.

With this change, manufacturers of fire extinguishers no longer have to label their extinguishers with the Coast Guard rating. Extinguisher labeling will remain consistent with current industry formats and styles, and manufacturers will not need to redesign their current labels. This simplifies labeling requirements for manufacturers and limits confusion for purchasers of fire extinguishers for marine use. Currently, all fire extinguishers with Coast Guard-specific approval are marked with a UL

¹ <http://www.bls.gov/oes/2013/may/oes535011.htm>.

² Load factor is determined by dividing the reported total average compensation for all private industry workers of \$30.11 per hour worked as reported in June, 2014 by the wages and salaries per

hour worked of \$21.02. “Table 9. Private industry workers, by major occupational group: employer costs per hours worked for employee compensation and costs as a percentage of total compensation, 2004–2014,” available at: <http://www.bls.gov/ncs/ect/sp/ecccqrtn.txt>.

³ We anticipate that vessel owners will use the first two years, after this rule goes into effect, for planning purposes to schedule for upgrading to the new requirement.

rating. Therefore, 46 CFR 162.028–4 and 162.039–4 will no longer require labeling of approved extinguishers with Coast Guard rating language. The removal of these requirements eliminates confusion and has no impact on the approval procedure. We anticipate that manufacturers will continue using their current supply of labels and will only remove the Coast Guard-specific rating information when they order new labels. Industry therefore will not incur any additional expense from this requirement.

The changes also include adjusting the current carriage requirements for fire extinguishers found in each subchapter that are currently based on the Coast Guard ratings (example: B–II) to an equivalent requirement that is based on the NFPA 10 and UL 711 ratings (example: 20–B). However, as previously noted in the NPRM, section “V. Discussion of Proposed Rule”, we established close correlation between Coast Guard ratings and the NFPA 10 and UL 711 ratings, so that the number and relative size of extinguishers does not change. In some cases, however, a slightly larger or smaller extinguisher may be required.

This rule does not require existing vessels to replace serviceable portable and semi-portable fire extinguishers as long as the equipment is properly maintained. When equipment is replaced, replacement fire extinguishers will have to meet the requirements of this rule. New vessels, constructed after the publication of the final rule, are required to be equipped with extinguishers that conform to the new requirements.

Whenever they become unserviceable, all portable and small semi-portable fire extinguishers will require replacement with UL-rated extinguishers. The examination of marine casualty reports from the MISLE database found positive correlations in extinguisher performance between the Coast Guard weight-based standard and the UL performance standard. The prices of extinguishers obtained from industry catalogues indicate there is no differential in prices between extinguishers approved under the previous Coast Guard standard and comparable extinguishers rated according to the UL standards. For this reason, we do not expect these provisions relating to fire extinguishers in non-machinery spaces to result in any additional cost to industry.

The provisions requiring UL class fire extinguishers will affect certain vessels using large semi-portable CO₂ extinguishers (class B–IV and B–V). Extinguishers of this size are required in

certain machinery spaces of vessels described under the different subchapters as shown in Table 4. The Coast Guard’s previous weight-based rating system allowed CO₂ extinguishers to be used where larger semi-portable extinguishers were required. However, CO₂ extinguishers cannot meet the UL performance standards to receive a sufficient rating to be considered equivalent to class B–IV and B–V extinguishers under those standards, therefore semi-portable CO₂ extinguishers will no longer be permitted to be used in these circumstances. However, as with all other extinguishers, existing vessels do not have to replace their currently operational extinguishers and may continue to use these extinguishers in machinery spaces until they become unserviceable, when they will have to be replaced with extinguishers of comparable classification under the UL rating scale. Vessels using CO₂ based extinguishers will be required to replace their semi-portable CO₂ extinguisher with an extinguisher that uses another extinguishing agent.

To determine if there is a cost differential between the current Coast Guard-approved CO₂ semi-portable fire extinguishers and the comparable UL rated fire extinguishers, the Coast Guard Lifesaving and Fire Safety Division (CG–ENG–4) examined the catalogue pricing of B–V extinguishers that use other fire-retardant agents. The average price of the CO₂ based B–V extinguisher is approximately \$5,000, whereas the B–V extinguishers using other agents range in price from \$1,200 to \$2,000. This cost differential will result in a net savings⁴ for all vessels that replace these larger CO₂ extinguishers as we will not require replacement ahead of the normal replacement schedule.

Maintenance: NFPA 10: 2010

These provisions require that individuals performing the annual inspection, maintenance, and necessary recharging of fire extinguishers be certified in accordance with the standards of NFPA 10. Currently, all Coast Guard approved portable fire extinguishers have language on the label stating that the extinguisher is to be inspected and maintained in accordance with NFPA 10. The NFPA 10 requirements are consistent with long-standing industry standard practices in the U.S., both shoreside and marine, and refer to the inspection and

maintenance of fire extinguishers. We do not collect or maintain records of personnel who are currently NFPA 10 certified, so we estimated compliance costs below based on our best available information.

Non-rechargeable (non-refillable) fire extinguishers are replaceable units that are expected to require little or no maintenance; after one use or a maximum service life of 12 years, they are replaced. For these extinguishers, all inspections (monthly and annual) and maintenance can continue to be done by owners, operators or designated crewmembers. Uninspected vessels, including recreational vessels, generally carry these types of extinguishers and are therefore not expected to be subject to any additional costs due to these provisions.

The Coast Guard is not requiring that the vessel owners, operators, or designated crewmembers performing monthly inspections and annual maintenance of rechargeable fire extinguishers be NFPA 10 certified. NFPA 10 requires that a “certified” person perform all annual maintenance of rechargeable extinguishers. Under this rule, monthly inspections can continue to be performed by the owner, operator or a designated crewmember. For annual maintenance required by this rule carried out by persons certified under NFPA 10, the Coast Guard will accept the certification or licensing of a fire extinguisher servicing company according to NFPA 10, granted by an appropriate state or local AHJ for servicing and maintenance.

The Coast Guard’s MISLE database contains records on approximately 114,395 fire extinguishers on 17,228 U.S.-flagged vessels which may be affected by these provisions. We do not have information as to which of these extinguishers are disposable and which are rechargeable; for the cost analysis we assumed that all of the extinguishers are rechargeable. We also estimated that more than 90 percent⁵ of inspected vessels currently use private servicing companies (which are already in compliance with NFPA 10) in lieu of doing their own annual maintenance, and are therefore not expected to incur any additional costs due to these provisions.

The costs associated with these provisions include the certification costs for owner/operators who wish to continue performing annual maintenance according to NFPA 10

⁴ We are unable to provide a cost estimate for the savings that vessels may incur from replacing CO₂ extinguishers, because there is no way of knowing the exact number of CO₂ extinguishers being carried on vessels or the rate of future replacements.

⁵ The 90 percent is an estimate provided by subject matter experts from Coast Guard’s Lifesaving & Fire Safety Division, Office of Design & Engineering Standards based on input from field marine inspectors.

specifications. We estimate that 10 percent or 1,723 vessels are currently not using a private servicing company to maintain their extinguishers. We, therefore, assume that a designated

individual from each of these vessels will continue to perform annual maintenance on their extinguishers and will therefore need to obtain certification. Table 6 summarizes the

population of vessels and fire extinguishers, as well as the average extinguisher count per vessel.

TABLE 6—AFFECTED POPULATION FOR VESSELS CHOOSING CERTIFICATION

| CFR Subchapter | Existing population | | Affected population (10 percent of existing) | | Average per vessel |
|--|---------------------|---------------|--|---------------|--------------------|
| | Vessels | Extinguishers | Vessels | Extinguishers | |
| D—Tank Vessels | 3,261 | 12,715 | 326 | 1,272 | 3.90 |
| H—Passenger Vessels | 278 | 8,282 | 28 | 828 | 29.79 |
| I—Cargo and misc. Vessels | 1,609 | 30,674 | 161 | 3,067 | 19.06 |
| I—A—MODU | 81 | 4,222 | 8 | 422 | 52.12 |
| K—Small Passenger Carrying 150+ PAX or 49+ Overnight | 455 | 3,646 | 46 | 365 | 8.01 |
| L—Offshore Supply Vessels | 563 | 11,881 | 56 | 1,188 | 21.10 |
| N—Dangerous Cargoes (Dry Bulk) | 44 | 323 | 4 | 32 | 7.34 |
| R—Nautical Schools | 44 | 865 | 4 | 87 | 19.66 |
| T—Small Passenger Vessels (<100 Gross Tons) .. | 10,354 | 38,286 | 1,035 | 3,829 | 3.70 |
| U—Oceanographic Vessels | 75 | 1,900 | 8 | 190 | 25.33 |
| Unspecified | 464 | 1,601 | 46 | 160 | 3.45 |
| Totals * | 17,228 | 114,395 | 1,722 | 11,440 | 6.64 |

* Totals may not sum due to rounding.

NFPA 10 certification can be obtained by either taking an online examination that lasts 2½ hours, or by attending an 8-hour seminar concluding with an examination. Upon successful completion, a certificate is awarded which will be valid for three years. We assume that individuals currently servicing fire extinguishers are familiar with proper maintenance methods and any necessary training prior to the exam will be accomplished through on-the-job training. We also assume that owners and operators will choose the least-costly and time-consuming means of obtaining certification. Therefore, we assume that certification will be obtained using the online method. Based on an online price quote from Fire Protection Certification Ltd,⁶ we estimate the cost for NFPA 10 certification using the online method of certification to be \$139 per course.⁷

As previously discussed, information from the BLS indicates that the loaded mean hourly labor cost (wages and

benefits) is \$28 (rounded) for crew members (BLS occupation code 53–5011—Sailors and Marine Oilers). This loaded wage rate includes the hourly base wage rates of \$19.56 multiplied by a load factor of 1.43. We assume one crew member per vessel will be certified. We also anticipate that in the initial year of this rule, all vessels performing their own maintenance will have a crewmember certified. Thereafter, we anticipate that ⅓ of the affected population will have one crewmember certified each year.⁸ Certification through online examination will cost approximately \$209 per mariner (\$139 + (2.5 hrs × \$28/hr)). The annual cost of online examination for 10 percent of the affected population is approximately \$360,000 (undiscounted) for the first year and approximately \$120,000 (undiscounted) for the recurring years.

Additionally, we anticipated that industry will incur a cost burden for recordkeeping of crew members'

certifications. Vessel owners and operators must have crew members' certificates available when asked by an inspector to verify crew member training. We assume that a person in charge of the vessel will spend 2 minutes filing the certificate and 2 minutes to produce the certificate upon request. Based on information from the BLS, we estimate a loaded wage rate⁹ of \$52 (rounded) and an estimated annual cost of this requirement to be \$3.47 per vessel (\$52 × 4 minutes ÷ 60 min/hr). We have included a detailed Paperwork Reduction Analysis in the collection of information section of the RA.

Over the 10-year period of analysis, we estimate the present total value cost at approximately \$1.08 million discounted at 7 percent with an annualized cost of approximately \$154,000 discounted at 7 percent. Table 7 summarizes the cost impact of this rule on industry.

TABLE 7—CERTIFICATION COSTS FOR NFPA 10

| Year | Certifications per year | Undiscounted costs | | Total discounted costs | |
|---------|-------------------------|----------------------------|--------------------------------|--------------------------------|--------------------------------|
| | | Cost of online examination | Total with recordkeeping costs | Online examination (7 percent) | Online examination (3 percent) |
| 1 | 1,722 | \$359,898 | \$365,873 | \$341,938 | \$355,217 |

⁶ <http://www.fpcltd.com/index.html>.

⁷ <http://train.fpcltd.com/>.

⁸ The ⅓ certification estimate is based on vessels having employee turnover and/or crewmember needing to re-certify every three years. In this analysis we assume that for years 2 and 3, ⅓ of the

affected population will be required to get certified due to an equal number of crew turnover or change in job status that would require new certification of another crewmember. Thereafter, we assume that the number of crewmember turnover, change of job

status and re-certification would equate to ⅓ of the affected population per year.

⁹ Mean hourly wage of \$36.34 for BLS occupation code 53–5021, Captains, Mates, and Pilots of Water Vessels (<http://www.bls.gov/oes/2012/may/oes535021.htm>), multiplied by a load factor of 1.43.

TABLE 7—CERTIFICATION COSTS FOR NFPA 10—Continued

| Year | Certifications per year | Undiscounted costs | | Total discounted costs | |
|------------------|-------------------------|----------------------------|--------------------------------|--------------------------------|--------------------------------|
| | | Cost of online examination | Total with recordkeeping costs | Online examination (7 percent) | Online examination (3 percent) |
| 2 | 574 | 119,966 | 121,958 | 106,523 | 114,957 |
| 3 | 574 | 119,966 | 121,958 | 99,554 | 111,609 |
| 4 | 574 | 119,966 | 121,958 | 93,041 | 108,358 |
| 5 | 574 | 119,966 | 121,958 | 86,954 | 105,202 |
| 6 | 574 | 119,966 | 121,958 | 81,266 | 102,138 |
| 7 | 574 | 119,966 | 121,958 | 75,949 | 99,163 |
| 8 | 574 | 119,966 | 121,958 | 70,981 | 96,275 |
| 9 | 574 | 119,966 | 121,958 | 66,337 | 93,470 |
| 10 | 574 | 119,966 | 121,958 | 61,997 | 90,748 |
| Totals * | | 1,439,592 | 1,463,493 | 1,084,539 | 1,277,136 |
| Annualized | | | | 154,414 | 149,719 |

* Totals may not sum due to rounding.

(3) Spanner Wrench Carriage Requirement for Small Passenger Vessels

These provisions require that all subchapter K and T vessels carry a spanner wrench for each 1½ inch diameter hose installation. According to the Coast Guard’s MISLE database, there are approximately 2,613 subchapter K and T vessels with 1½ inch diameter

hose installations. The total number of 1½ inch diameter hose installations onboard the vessels is 6,645, for an average of approximately 2.5 hose installations per vessel. The individual catalogue prices of spanner wrenches indicate a cost of \$15 to \$25 each.

Table 8 summarizes the vessel population and the cost of the potential distribution of spanner wrenches per vessel costs depending on the number of

1½ inch diameter hose installations. Coast Guard marine inspectors report that over 90 percent of subchapter K and T vessels already have the necessary spanner wrenches. We therefore assume that 261 vessels, or 10 percent of vessels in the affected population, will need to purchase spanner wrenches based on the number of 1½ inch diameter hose installations on board.

TABLE 8—SUMMARY OF VESSEL POPULATION AND POTENTIAL PER-VESSEL COSTS

| Number of 1½"-hose installations | Total vessel count | 10 Percent of affected vessels | Costs per vessel | |
|----------------------------------|--------------------|--------------------------------|------------------|-------------|
| | | | Low | High |
| 1 | 645 | 65 | \$15 | \$25 |
| 2 | 1,295 | 130 | 30 | 50 |
| 3 | 267 | 27 | 45 | 75 |
| 4 | 158 | 16 | 60 | 100 |
| 5 | 125 | 13 | 75 | 125 |
| 6–9 | 81 | 8 | 90–135 | 150–225 |
| 10–20 | 33 | 3 | 150–300 | 250–500 |
| >20 | 9 | 1 | 300–\$750 | 525–\$1,250 |
| Total * | 2,613 | 261 | | |

Table 9 summarizes the total costs of this requirement to industry. Although we increased the compliance period from 30 days to 180 days following the publication of the rule, we still assume the costs of this requirement to be incurred in the first year. We estimated costs for this provision based on the

average cost range of spanner wrenches to be \$20 per spanner wrench. Based on information from MISLE, there are approximately 6,645 1½ inch diameter hose installations onboard 2,613 vessels for an average of 2.5 (rounded) 1½ inch diameter hose installations per vessel. Based on an average of 2.5 hose

installations per vessel (as noted above, for cost calculation purposes in this analysis we use an average cost for the wrench of \$20), the average per vessel cost is approximately \$50 (\$20 per unit × 2.5 units per vessel).

TABLE 9—TOTAL COSTS OF SPANNER WRENCH-CARRIAGE REQUIREMENT

| | Affected vessels (A) | 10 Percent of count of 1½" installations (B) | Wrench costs (C) | Total* (B × C) |
|----------------------------|----------------------|--|------------------|----------------|
| Spanner Wrench Price | 261 | 665 | \$20 | \$13,290 |

* Totals may not sum due to rounding.

Summary of Total Costs From All Provisions

The total cost of this rule stems from three provisions: (1) Installation of a sensing device for vessels using sample extraction fire detection methods; (2) the NFPA 10 certification costs for

owners and operators who wish to continue performing annual maintenance themselves; and (3) the spanner wrench carriage requirement. Table 10 summarizes the total costs for these provisions and Table 11 presents the average total discounted and annualized costs by inspection

subchapter (7 percent discount rate). Over the 10-year period of analysis, we estimate total discounted costs of these provisions to be approximately \$1.1 million and the annualized (rounded) cost at \$156,600 using a discount rate of 7 percent.

TABLE 10—ESTIMATE FOR TOTAL COSTS

| Year | Undiscounted costs | | | | Discounted costs | |
|------------|--------------------|---|------------------|--------------------------|-------------------------|-------------------------|
| | Sample extraction | NFPA 10 Certification and recordkeeping | Spanner wrenches | Undiscounted total costs | Total costs (7 percent) | Total costs (3 percent) |
| 1 | \$0 | \$365,873 | \$13,290 | \$379,163 | \$354,358 | \$368,120 |
| 2 | 0 | 121,958 | | 121,958 | 106,523 | 114,957 |
| 3 | 1,243 | 121,958 | | 123,201 | 100,569 | 112,746 |
| 4 | 1,243 | 121,958 | | 123,201 | 93,989 | 109,462 |
| 5 | 1,243 | 121,958 | | 123,201 | 87,840 | 106,274 |
| 6 | | 121,958 | | 121,958 | 81,266 | 102,138 |
| 7 | | 121,958 | | 121,958 | 75,949 | 99,163 |
| 8 | | 121,958 | | 121,958 | 70,981 | 96,275 |
| 9 | | 121,958 | | 121,958 | 66,337 | 93,470 |
| 10 | | 121,958 | | 121,958 | 61,997 | 90,748 |
| Totals * | 3,729 | 1,463,493 | 13,290 | 1,480,512 | 1,099,809 | 1,293,353 |
| Annualized | | | | | 156,588 | 151,620 |

* Totals may not sum due to rounding.

Total Costs by CFR Subchapter

As this rule affects a range of commercial vessels regulated under a number of 46 CFR subchapters, we present a summary of those affected vessels organized by CFR subchapter

designation in Table 11. This summary aggregates the per-vessel costs based on a vessel's inspection subchapter designation. The summary in Table 11 presents the average 10-year and annualized costs, discounted at 7 percent. We also present the total

number of affected vessels and the average annualized discounted cost per vessel (7 percent). Over the 10-year period of analysis, we estimate approximately 1,986 vessels will incur an average annualized cost of \$79 per vessel.

TABLE 11—AVERAGE DISCOUNTED TOTAL COSTS BY INSPECTION SUBCHAPTER [7 percent]

| CFR Subchapter designation | Description | Discounted total costs (7 percent) | Annualized costs (7 percent) (A) | Affected population (B) | Annualized costs per vessel (A/B) |
|----------------------------|------------------------------|------------------------------------|----------------------------------|-------------------------|-----------------------------------|
| C | Uninspected Vessels | \$0 | \$0 | n/a | n/a |
| D | Tank Vessels | 205,319 | 29,233 | 326 | \$90 |
| H | Passenger Vessels >100 GT | 18,585 | 2,646 | 29 | 91 |
| I | Cargo Vessels | 103,299 | 14,708 | 163 | 90 |
| IA | MODU | 5,039 | 717 | 8 | 90 |
| K | Small Passenger Vessels | 39,298 | 5,595 | 90 | 49 |
| L | Offshore Supply Vessels | 35,270 | 5,022 | 56 | 90 |
| N | Dangerous Cargoes (Dry Bulk) | 2,519 | 359 | 4 | 90 |
| R | Nautical Schools | 2,519 | 359 | 4 | 90 |
| T | Small Passenger Vessels | 653,951 | 93,108 | 1,252 | 75 |
| U | Oceanographic Research | 5,039 | 717 | 8 | 90 |
| UNSPECIFIED | | 28,971 | 4,125 | 46 | 90 |
| Totals * | | 1,099,809 | 156,588 | 1,986 | ** 79 |

* Totals may not sum due to rounding.

** Average across all vessels.

Benefits

1. Harmonization and Compliance with International and National Standards

The benefits of the rule include harmonization and compliance with current international consensus standards, and harmonization with national industry consensus standards.

For U.S. vessels to receive SOLAS certification, they must be constructed and maintained to international SOLAS standards in addition to Coast Guard regulations. Therefore, harmonizing our regulations with SOLAS requirements reduces the regulatory burden on vessel owners and operators. Further, for SOLAS vessels, compliance with SOLAS standards is necessary to prevent a vessel from being subject to potential detention by Port State Control officers. Port State Control officers can detain a ship in a foreign port and require that any deficiencies be rectified before the ship can depart. Delays of this type can be costly to the owners and operators of vessels. Additionally, permitting non-SOLAS vessels to use certain equipment and materials approved to international SOLAS standards instead of domestic standards will give these vessels more options during the design, installation and outfitting process of the vessel.

For both SOLAS and non-SOLAS vessels, the harmonization with national industry consensus standards allows vessels to take advantage of modern technologies developed for shoreside use. The marine market for fire safety equipment is much smaller than that for the shoreside industry and, by incorporating the use of appropriate national industry consensus standards, this rule allows vessels a wider choice of equipment that still meets the standards required for vessel safety. This increase in availability and selection of products and services allows owners and operators to increase their purchasing power by improving the product and pricing options available through greater competition.

Most of the harmonization provisions, whether international standards or modern industry consensus standards are not expected to impose any additional costs on industry because they will not require the immediate replacement of serviceable current equipment. Current equipment will be replaced only at the end of its serviceable life, in most cases. The cost

of replacement equipment that meets the new standards is expected to be the same or less costly than its current counterpart in the marine market. Additionally, these provisions provide additional economic efficiencies through the expansion of markets, particularly international markets.

2. NFPA 10 Certification

Because of its relatively large size, the shoreside fire fighting industry drives innovations and the establishment of standards. NFPA 10 certification for individuals maintaining fire extinguishers is an established shoreside standard and practice helping to ensure that pressure vessels are properly handled and maintained. Similarly, NFPA 10 certification for mariners servicing fire extinguishers helps to ensure that those performing the maintenance have been trained to a uniform acceptable standard. These certifications help to preserve the margin of safety necessary when handling pressure vessels, such as portable fire extinguishers. Additionally, national industry consensus standards, incorporated by reference, help to ensure that maintenance is performed in a consistent manner. This allows vessel owners and operators to take advantage of improved methodologies and safe operating procedures as well as removing barriers for the maintenance industry to service the maritime sector, potentially expanding the market of service providers and reducing costs.

3. Ventilation of Potentially Toxic or Flammable Gases for Systems Using Sample Gas Extraction

Sample gas extraction systems which route environmental samples from the cargo holds to the bridge so a watchstander can detect a problem by smell are considered by international consensus standards to be unacceptably dangerous. These potentially toxic or flammable gases may create hazardous conditions and may present unnecessary and avoidable risks to the watchstander. In recognition of this, the 1978 SOLAS protocol, which went into effect May 25, 1980, directed that the gases be vented to the exterior rather than to the bridge. The need for a reduction of human exposure to potentially hazardous environments is well recognized by OSHA as noted in their implementation of ventilation

standards, including exhaust ventilation systems (29 CFR 1910.94(a)(4)). These standards specify that potentially toxic gasses should be routed away from human-occupied spaces.

Additionally, the installation of a detection system provides increased warning capabilities as both a visual and audible alarm are installed. As such, the detection system reduces detection time as the sensitivity to gases, which indicates potential problems, is much more sensitive and consistent than an individual crew member's olfactory sense. Finally, the environmental conditions are improved as potentially toxic or flammable gases are no longer routed into human-occupied spaces.

4. Spanner Wrench Carriage Requirement

The requirement for spanner wrenches ensures that the safety equipment installed onboard vessels is available for use. These requirements ensure that a 1½ inch hose can be used in the case of an emergency. Additionally, requiring the placement of the wrench near the hose installation may reduce response time as the necessary tool is readily available.

B. Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, we have considered whether this rule will have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

In order to determine whether this rule will have a significant impact on a substantial number of small entities, we assume the maximum potential impact any single vessel and entity will incur when estimating costs. Table 12 illustrates this possibility should a single entity choose to implement these requirements on the same vessel during the first year. We anticipate that the estimated average annualized discounted cost (7 percent) per vessel to be \$79. Table 11 (above) discusses the distribution of costs by CFR subchapter and we note that the annualized discounted costs (7 percent) range from approximately \$49 to \$90.

TABLE 12—ESTIMATED MAXIMUM UNDISCOUNTED FIRST YEAR COSTS

| CFR subchapter designation | Description | Sample extraction costs | NFFPA 10 costs | Spanner wrench costs | Totals (undiscounted) | | |
|----------------------------|-------------------------------|-------------------------|----------------|----------------------|-----------------------|--------------|-----------------|
| | | | | | Total costs | Vessel count | Cost per vessel |
| C | Uninspected Vessels .. | | \$0 | | \$0 | n/a | n/a |
| D | Tank Vessels | | 69,265 | | 69,265 | 326 | \$212 |
| H | Passenger Vessels > 100 GT. | \$1,243 | 5,949 | | 7,192 | 28 | 257 |
| I | Cargo Vessels | 2,486 | 34,208 | | 36,694 | 161 | 228 |
| IA | MODU | | 1,700 | | 1,700 | 8 | 212 |
| K | Small Passenger Vessels. | | 9,774 | \$2,240 | 12,014 | 46 | 261 |
| L | Offshore Supply Vessels. | | 11,898 | | 11,898 | 56 | 212 |
| N | Dangerous Cargoes (Dry Bulk). | | 850 | | 850 | 4 | 212 |
| R | Nautical Schools | | 850 | | 850 | 4 | 212 |
| T | Small Passenger Vessels. | | 219,906 | 11,050 | 230,956 | 1,035 | 223 |
| U | Oceanographic Research. | | 1,700 | | 1,700 | 8 | 212 |
| UNSPECIFIED | | | 9,774 | | 9,774 | 46 | 212 |

We next calculate the expected impact on small entities using a 1 percent revenue impact as a threshold level. In order for a small entity to incur this threshold value, their average annual revenue must be less than the 1 percent revenue listed in table 13 below. Using information from several industry

sources which contain revenue and employee size information (such as Manta, Cortera, and ReferenceUSA), the Coast Guard has developed a database of entities in the maritime industry which includes the vessels they own. Table 13 presents the distribution of these entities which is broken down by the

vessel inspection subchapter designation, the estimated number of small entities, and the estimated count of small entities with revenue under the threshold value based on the cost impact presented in Table 12.

TABLE 13—ESTIMATED DISTRIBUTION OF SMALL ENTITIES BY INSPECTION SUBCHAPTER

| CFR Subchapter designation | Number of small entities | Average revenue | Maximum revenue | Minimum revenue | Revenue for a 1 percent impact | Count of entities under the threshold |
|----------------------------|--------------------------|-----------------|-------------------|-----------------|--------------------------------|---------------------------------------|
| C | 1,094 | \$1,380,864,403 | \$187,437,000,000 | \$15,000 | n/a | n/a |
| D | 146 | 21,494,060,774 | 187,437,000,000 | 62,000 | 21,247 | 0 |
| H | 45 | 100,290,000 | 500,000,000 | 500,000 | 25,686 | 0 |
| I | 142 | 86,252,652 | 1,070,988,000 | 70,000 | 22,791 | 0 |
| IA | 16 | 242,016,333 | 1,767,445,000 | 390,000 | 21,247 | 0 |
| K | 48 | 5,915,538 | 50,000,000 | 110,000 | 26,118 | 0 |
| L | 18 | 4,532,613 | 20,000,000 | 150,000 | 21,247 | 0 |
| N | 3 | 27,075,000 | 100,000,000 | 500,000 | 21,247 | 0 |
| R | 6 | 849,996 | 1,549,979 | 200,000 | 21,247 | 0 |
| T | 1,015 | 12,532,100 | 1,000,000,000 | 9,000 | 22,315 | 4 |
| U | 8 | 27,500,000 | 50,000,000 | 5,000,000 | 21,247 | 0 |
| UNSPECIFIED | 347 | 46,920,905 | 1,390,835,000 | 2,000 | 21,247 | 5 |
| BLANK* | 24 | 58,153,333 | 741,370,000 | 140,000 | n/a | n/a |
| Totals** | 2,912 | | | | | |

* Vessels with 'BLANK' inspection subchapters are treated as 'Uninspected.'

** Totals may not sum due to rounding.

We classify small entities using the North American Industry Classification System (NAICS) codes for those entities that had revenue and size data. The 2,912 small entities with data are represented by 262 different NAICS codes or categories. We used the Small

Business Administration size standards for each NAICS code to determine if a business was small. We found that the top 10 NAICS categories represent about 41 percent, or 1,191 of the 2,912 small entities that we analyzed. The remaining 59 percent, or 1,721 small

entities, are represented by 252 different NAICS categories. The top 10 NAICS categories as described by the United States Census Bureau and their approximate revenues are presented in Table 14.

TABLE 14—TOP 10 NAICS CODES AND THEIR MINIMUM, MAXIMUM, AND AVERAGE REVENUE

| NAICS | Description | Average revenue | Minimum revenue | Maximum revenue |
|--------|---|-----------------|-----------------|-----------------|
| 487210 | Scenic and Sightseeing Transportation, Water | \$1,944,343 | \$50,000 | \$50,000,000 |
| 488330 | Navigational Services to Shipping | 8,345,361 | 44,000 | 500,000,000 |
| 713990 | All Other Amusement and Recreation Industries | 1,102,422 | 36,000 | 69,921,582 |
| 238910 | Site Preparation Contractors | 32,709,859 | 300,000 | 1,767,445,000 |
| 713930 | Marinas | 4,630,929 | 78,000 | 50,000,000 |
| 488390 | Other Support Activities for Water Transportation | 18,174,058 | 30,000 | 1,390,835,000 |
| 561990 | All Other Support Services | 1,102,015 | 46,000 | 50,000,000 |
| 441222 | Boat Dealers | 10,158,095 | 130,000 | 80,000,000 |
| 336611 | Ship Building and Repairing | 46,894,870 | 99,000 | 500,000,000 |
| 813410 | Civic and Social Organizations | 2,517,346 | 80,000 | 6,308,457 |

The Coast Guard assumes that entities will choose to minimize revenue impacts for any given year; therefore, we estimate the revenue impact will more closely resemble the discussion presented in Table 11. However, based on the analysis presented in Tables 12 and 13, at most 9 out of 1,362 (1,015 + 347) entities may experience annual costs exceeding the 1 percent threshold. As a result, the Coast Guard assumes this rule will not significantly impact revenues on a substantial number of small entities (i.e., annual costs are expected to be less than one percent of annual revenues), and therefore, does not represent a significant economic impact on affected small entities. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we offered to assist small entities in understanding this rule so that they could better evaluate its effects on them and participate in the rulemaking. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

This final rule calls for a collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. As defined in 5 CFR 1310.3 (c), “collection of information” comprises reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The Title and description of the information collection, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection. This rule will modify an existing collection as discussed below.

Title: Certificates of Compliance, Boiler/Pressure Vessel Repairs, Cargo Gear Records, and Shipping Papers.

OMB Control Number: 1625–0037.

Summary of Collection of Information: These requirements provide the marine inspector with information regarding the condition of a vessel and its equipment, a list of the type and amount of cargo that has been or is being carried on a vessel, plus information about the owner of the vessel. Each of these requirements relate to the promotion of safety of life at sea and protection of the marine environment.

Need for Information: The certification requirement will provide proof that the crewmember assigned to perform the annual fire extinguisher maintenance for rechargeable fire extinguishers onboard a vessel is trained and certified in accordance with NFPA 10 industry standards. Vessel owners and operators must have crew members’ certificates available when asked by an inspector to verify crew member training.

Use of Information: The certificate verifies that crewmembers performing annual maintenance on rechargeable fire extinguishers are current on NFPA 10 training and standards.

Description of the Respondent: We anticipate that a small number of the affected population (1,722 vessel owner/operators) will perform their own annual maintenance on rechargeable fire extinguishers. Vessel owners and operators do have the option of hiring servicing companies to perform the annual maintenance instead of performing the task themselves. However, if a vessel owner or operator elects to perform the annual maintenance on rechargeable fire extinguishers themselves, the crewmember selected for the duty must be trained and certified in NFPA 10 industry standards. We assume the vessel Master will maintain the certificate on file.

Number of Respondents: We estimate that a Master for each of 1,722 vessels will be affected by this rule. See Table 6 for an estimated detailed description of the number of vessels affected by this requirement.

Frequency of the Response: We anticipate that all 1,722 vessels will have a crewmember trained and certified in accordance with NFPA 10 industry standards to perform annual maintenance on rechargeable fire extinguishers. We estimate that in the first year all vessels in the affected population will require certification. After the first year, we estimate that 1/3 of the affected population, or 574 crewmembers, will require new certification or re-certification. See footnote 8 above for an explanation of the assumption used in the certification for years 2 and 3. We estimate the three year average number of respondents to be 957 ((1,722 + 574 + 574)/3).

Burden of Response: We estimate an additional burden imposed by this rule to be 4 minutes on a per-vessel basis. The amount of annual recordkeeping required is anticipated to be less than two minutes for filing the certificate, and another two minutes for producing the certificate during periodic inspections.

Estimate of Total Annual Burden: We estimate the total annual burden for the affected population in the initial year of this rule to be 114.8 hours (4 min × 1,722 total affected population)/60 minutes). After the initial year, we anticipate that 1/3 of the affected population, 574 vessel Masters,¹⁰ will be burdened with this new requirement each year. We estimate the annual burden, after the initial year, to be 38.3 hours (4 min × 574)/60 minutes). The annual cost of this burden in the initial year is estimated to be \$5,970 (114.8 hours × \$52 Vessel Masters), and after the initial year to be \$1,990 (38.3 hours × \$52 Vessel Masters). The per-vessel burden cost is estimated to be \$3.47 (\$1,990/574) (note that the per-vessel cost burden in the initial year will be equal to the burden in the subsequent years).

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507 (d)), we have submitted a copy of this rule to OMB for its review of the collection of information.

You are not required to respond to a collection of information unless it displays a currently valid OMB control number. OMB has not yet completed its review of this collection. Therefore, we are not making 33 CFR 145.01 and 149.408; 46 CFR 25.30–10; 31.01–2; 31.10–18; 71.25–20; 91.25–7; 91.25–20; 107.235; 169.247; 176.810; 188.01–5; and 189.25–20 effective until OMB completes action on our information collection request, at which time we will publish a **Federal Register** notice describing OMB's action and, if OMB grants approval, notifying you when 33 CFR 145.01 and 149.408; 46 CFR 25.30–10; 31.01–2; 31.10–18; 71.25–20; 91.25–7; 91.25–20; 107.235; 169.247; 176.810; 188.01–5; and 189.25–20 take effect.

E. Federalism

A rule has implications for federalism under E.O. 13132 ("Federalism") if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental principles and preemption requirements described in E.O. 13132. Our analysis is explained in the following paragraphs.

It is well settled that States may not regulate in categories reserved for

regulation by the Coast Guard, including categories for inspected vessels. It is also well-settled, now, that all of the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within the field foreclosed from regulation by the States. (See the decision of the Supreme Court in the consolidated cases of *United States v. Locke* and *Intertanko v. Locke*, 529 U.S. 89, 120 S.Ct. 1135 (March 6, 2000)).

This rule regulates fire prevention, protection, detection, extinguishing equipment, and materials on inspected vessels, and therefore the States may not regulate within this category of fire prevention equipment. Therefore, the rule is consistent with the principles of federalism and preemption requirements in E.O. 13132.

Additionally, towing vessels are now subject to inspection under 46 U.S.C. 3301 and 3306. As mentioned above, it is well-settled that states may not regulate within categories covered in 46 U.S.C. 3306 for inspected vessels. Since this rule creates comprehensive regulations for fire prevention, protection, detection, extinguishing equipment, and materials on towing vessels, states may not regulate within this category of fire prevention equipment. Therefore, the rule is consistent with the principles of federalism and preemption requirements in E.O. 13132.

Congress also granted to the Coast Guard, through delegation by the Secretary, the authority to promulgate regulations with respect to fire fighting equipment on uninspected vessels. 46 U.S.C. 4102(a) requires that "[e]ach uninspected vessel propelled by machinery shall be provided with the number, type, and size of fire extinguishers, capable of promptly and effectively extinguishing burning liquid fuel, that may be prescribed by regulation." This rule regulates, among other things, fire extinguishing equipment on uninspected vessels, and therefore the States may not regulate within this category. Therefore, the rule is consistent with the principles of federalism and preemption requirements in E.O. 13132.

Additionally, with regard to regulations promulgated under 46 U.S.C. 4302 concerning recreational vessels, under 46 U.S.C. 4306, those Federal regulations that establish

minimum safety standards for recreational vessels and their associated equipment, as well as regulations that establish procedures and tests required to measure conformance with those standards, preempt State law, unless the State law is identical to a Federal regulation or a State has specifically provided an exemption to those regulations, or permitted to regulate marine safety articles carried or used to address a hazardous condition or circumstance unique to that State. This rule establishes minimum requirements for fire extinguishing equipment for recreational vessels, and therefore the States may not issue regulations that differ from Coast Guard regulations within these fire equipment categories for recreational vessels. Therefore, the rule is consistent with the principles of federalism and preemption requirements in E.O. 13132. Congress also granted the authority, through delegation by the Secretary, to promulgate regulations for uninspected commercial fishing vessels, which requires these vessels to "be equipped with readily accessible fire extinguishers capable of promptly and effectively extinguishing a flammable or combustible liquid fuel fire." 46 U.S.C. 4502(a)(1). Also, Congress permitted the Secretary to establish minimum safety standards for certain uninspected commercial fishing vessels, including standards for "fire protection and fire fighting equipment, including fire alarms and portable and semi-portable fire extinguishing equipment." 46 U.S.C. 4502(c)(2)(C). As this rule regulates fire prevention, protection, detection, extinguishing equipment, and materials on uninspected commercial fishing vessels, the States may not regulate within this category of equipment, therefore, this rule is consistent with the principles of federalism and preemption requirements in E.O. 13132.

Additionally, Congress specifically granted the authority to regulate artificial islands, installations, and other devices permanently or temporarily attached to the OCS and in the waters adjacent thereto as it relates to the safety of life to the Secretary of the Department in which the Coast Guard is operating. 43 U.S.C. 1333(d)(1) states that the Secretary "shall have the authority to promulgate and enforce such reasonable regulations with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property on the artificial islands, installations, and other devices . . . as he may deem necessary." As this rule

¹⁰ As discussed above in section VII, *Regulatory Analysis*, we assume a vessel master will be responsible for filing and producing the certificate upon request.

regulates fire prevention, protection, detection, extinguishing equipment, and materials to ensure safety of life on these OCS installations, it falls within the scope of authority Congress has granted exclusively to the Secretary. This authority has been delegated to the Coast Guard and is exercised in this rulemaking, and the States may not regulate within this category of safety equipment. Therefore, the rule is consistent with the principles of federalism and preemption requirements in E.O. 13132.

Finally, Congress granted the authority to regulate deepwater ports to the Secretary of Transportation. 33 U.S.C. 1509(b) states that the Secretary of Transportation “shall issue and enforce regulations with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property in any deepwater port and the waters adjacent thereto.” When the Coast Guard was an agency within the Department of Transportation, the authority to issue regulations with respect to safety on deepwater ports was delegated to the Coast Guard. See 49 CFR 1.46(s). The Homeland Security Act of 2002, Public Law 107–296, transferred the Coast Guard to the Department of Homeland Security. Pursuant to the Homeland Security Act, authorities that were delegated to the Coast Guard remained intact during this transfer by operation of law. The authority was then delegated to the Commandant of the Coast Guard through Department of Homeland Security Delegation 0170.1. Since this rule regulates fire prevention, protection, detection, extinguishing equipment and materials to ensure safety on deepwater ports, it falls within the scope of authority that has been transferred, delegated to, and exercised by the Coast Guard. The States may not regulate within this category of safety equipment. Therefore, the rule is consistent with the principles of federalism and preemption requirements in E.O. 13132.

While it is well settled that States may not regulate in categories in which Congress intended the Coast Guard to be the sole source of a vessel’s obligations, the Coast Guard recognizes the key role that State and local governments may have in making regulatory determinations. Additionally, for rules with implications and preemptive effect, E.O. 13132 specifically directs agencies to consult with State and local governments during the rulemaking process.

The Coast Guard invited State and local governments and their

representative national organizations to indicate their desire for participation and consultation in this rulemaking process by submitting comments to the NPRM. In accordance with Executive Order 13132, Federalism, the Coast Guard provides this federalism impact statement:

(1) There were no comments submitted by State or local governments to the Notice of Proposed Rulemaking published in the **Federal Register** on January 13, 2014 (79 FR 2254).

(2) There were no concerns expressed by State or local governments.

(3) As no concerns were expressed or comments received from State or local governments, there is no statement required to document the extent to which any concerns were met.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under E.O. 12630 (“Governmental Actions and Interference with Constitutionally Protected Property Rights”).

H. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988 (“Civil Justice Reform”), to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this rule under E.O. 13045 (“Protection of Children from Environmental Health Risks and Safety Risks”). This rule is not an economically significant rule and will not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This rule does not have tribal implications under E.O. 13175 (“Consultation and Coordination with Indian Tribal Governments”), because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal

Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this final rule under E.O. 13211 (“Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use”). We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under E.O. 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under E.O. 13211.

L. Technical Standards and 1 CFR Part 51

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule incorporates by reference the following new voluntary consensus standards, which are listed and summarized below:

- ANSI/FM 3260 Approvals, American National Standard for Radiant Energy-Sensing Fire Detectors for Automatic Fire Alarm Signaling, February 2004. This standard sets performance requirements for radiant energy sensing fire detectors used for automatic fire alarm signaling.

- ASTM F1546/F1546 M—96 (Reapproved 2012), Standard Specification for Fire Hose Nozzles, approved May 1, 2012. This specification covers the material and performance requirements for adjustable-pattern water spray nozzles intended for general and marine fire fighting use.

- CGA C-6-2007, Standards for Visual Inspection of Steel Compressed Gas Cylinders, Tenth Edition. This standard covers visual inspections required to ensure that compressed gas

cylinders, including those used on ships for gaseous fire suppression systems, are in a safe working condition.

- FSS Code, International Code for Fire Safety Systems, Second Edition, 2007 Edition (Resolution MSC.98(73)). This code provides standards for design, installation, and performance of marine fire safety systems including fire detection, alarm, and extinguishing systems.

- 2010 FTP Code, International Code for Application of Fire Test Procedures, 2010 (Resolution MSC.307(88)), 2012 Edition. This code sets forth fire test procedures for testing, evaluating and approving products used as the materials of construction of vessels.

- IEC 60092–504:2001(E), Electrical Installations in Ships—Part 504: Special Features—Control and Instrumentation, Third edition, March 2001. This standard is intended to ensure safety in the design, selection, installation, maintenance and use of electrical equipment for the generation, storage, distribution and utilization of electrical energy for all purposes in seagoing ships.

- IMO Resolution A.653(16), Recommendation on Improved Fire Test Procedures for Surface Flammability of Bulkhead, Ceiling and Deck Finish Materials, adopted on 19 October 1989. This resolution specifies a procedure for measuring fire characteristics of bulkhead, ceiling and deck finish materials for characterizing their flammability and resultant suitability for shipboard use.

- IMO Resolution A.753(18), Guidelines for the Application of Plastic Pipes on Ships, adopted on 4 November 1993. This resolution sets forth material design properties, performance criteria, and test methods for plastic pipe used in vessels.

- IMO Resolution A.754(18), Recommendation on Fire Resistance Tests for “A”, “B” and “F” Class Divisions, adopted 4 November 1993. This resolution sets forth the fire test procedures for determining the acceptability of products for use as parts of fire resistive decks, bulkheads, etc. in vessels.

- IMO Resolution A.1021(26), Code on Alerts and Indicators, 2009, adopted on 2 December 2009. This code provides general design guidance for shipboard alarms and indicators including information on type, location and priority of alarms and components.

- IMO Resolution MSC.313(88), Amendments to the Guidelines for the Application of Plastic Pipes on Ships, adopted 26 November 2010. This resolution sets forth material design properties, performance criteria, and

test methods for plastic pipe used in vessels.

- International Convention for the Safety of Life at Sea (SOLAS), as amended, Consolidated Edition, 2009, including Erratum. This convention sets forth uniform principles and rules for the promotion of maritime safety, including passive and active elements of ship construction and equipment for fire protection, detection, and extinction.

- ISO/IEC 17025:2005(E), International Standard: General requirements for the competence of testing and calibration laboratories, Second edition, 15 May 2005. This standard sets forth management and technical requirements for the accreditation of testing and calibration laboratories.

- NFPA 12A, Standard on Halon 1301 Fire Extinguishing Systems, 2009 Edition, effective July 18, 2008. This standard provides guidance in purchasing, designing, installing, testing, inspecting, approving, listing, operating, maintaining, decommissioning and removing halogenated agents extinguishing systems such as the legacy Halon 1301 systems used on some ships.

- NFPA 1964, Standard for Spray Nozzles, 2008 Edition, effective December 31, 2007. This standard covers the material and performance requirements for adjustable-pattern water spray nozzles intended for general and marine fire fighting use.

- UL 8, Standard for Safety for Water Based Agent Fire Extinguishers, Sixth Edition, dated February 28, 2005, as amended through July 27, 2010. This standard covers the construction, performance and testing, exclusive of performance during fire tests, of portable foam-type fire extinguishers.

- UL 154, Standard for Safety for Carbon-Dioxide Fire Extinguishers, Ninth Edition, dated February 28, 2005, as amended through November 8, 2010. This standard covers the construction, performance and testing, exclusive of performance during fire tests, of portable carbon-dioxide fire extinguishers.

- UL 162, Standard for Safety for Foam Equipment and Liquid Concentrates, Seventh Edition, dated March 30, 1994, as amended through October 10, 2014. This standard sets forth requirements and tests for the approval of fire fighting foam equipment and liquid concentrates.

- UL 299, Standard for Safety for Dry Chemical Fire Extinguishers, Eleventh Edition, dated April 13, 2012. This standard covers the construction, performance and testing, exclusive of

performance during fire tests, of portable dry chemical fire extinguishers.

- UL 464, Standard for Safety for Audible Signaling Appliances, Ninth Edition, dated April 14, 2009, as amended through April 16, 2012. This standard covers the construction, performance and testing of electrically and electronically operated bells, buzzers, horns, and similar audible signal appliances for fire protective signaling systems.

- UL 626, Standard for Safety for Water Fire Extinguishers, Eighth Edition, dated February 28, 2005, as amended through November 8, 2010. This standard covers the construction, performance and testing, exclusive of performance during fire tests, of portable water fire extinguishers.

- UL 711, Standard for Safety for Rating and Fire Testing of Fire Extinguishers, Seventh Edition, dated December 17, 2004, as amended through April 28, 2009. This standard covers rating, and performance during fire tests, of fire extinguishers intended for use on various classes of fires.

- UL 1480, Standard for Safety for Speakers for Fire Alarm, Emergency, and Commercial and Professional Use, Fifth Edition, dated January 31, 2003, as amended through June 23, 2010. This standard covers the construction and performance of speakers for use in, among other things, fire alarm systems.

- UL 1971, Standard for Safety for Signaling Devices for the Hearing Impaired, Third Edition, approved November 29, 2002, as amended through October 15, 2008. This standard covers the construction and performance of emergency signaling devices for the hearing impaired.

- UL 2129, Standard for Safety for Halocarbon Clean Agent Fire Extinguishers, Second Edition, dated February 28, 2005, as amended through March 30, 2012. This standard covers the construction, performance and testing, exclusive of performance during fire tests, of portable halocarbon agent fire extinguishers.

This final rule also incorporates by reference the following updated voluntary consensus standards:

- NFPA 10, Standard for Portable Fire Extinguishers, 2010 Edition, effective December 5, 2009. This standard applies to the selection, installation, inspection, maintenance, recharging, and testing of portable fire extinguishers.

- NFPA 13, Standard for the Installation of Sprinkler Systems, 2010 Edition, effective August 26, 2009. This standard provides requirements for the design and installation of automatic fire sprinkler systems.

- NFPA 70, National Electronic Code, 2011 Edition. This standard addresses the installation of electrical conductors, equipment, and raceways; signaling and communications conductors, equipment, and raceways; and optical fiber cables and raceways in commercial, residential, and industrial occupancies.

- NFPA 72, National Fire Alarm and Signaling Code, 2010 Edition, effective August 26, 2009. This standard covers the application, installation, location, performance, inspection, testing, and maintenance of fire alarm systems and their components.

- UL 19, Standard for Safety for Lined Fire Hose and Hose Assemblies, Twelfth Edition, approved November 30, 2001. This standard covers the construction, performance, and testing of firehoses.

- UL 38, Standard for Safety for Manual Signaling Boxes for Fire Alarm Systems, Eighth Edition, dated July 3, 2008, as amended through December 11, 2008. This standard covers the construction, performance, and testing of manual signaling boxes used in fire alarm systems.

- UL 268, Standard for Safety for Smoke Detectors for Fire Alarm Systems, Sixth Edition, dated August 14, 2009. This standard covers the construction, performance, and testing of smoke detectors used in fire alarm and suppression systems.

- UL 521, Standard for Safety for Heat Detectors for Fire Protective Signaling Systems, Seventh Edition, dated February 19, 1999, as amended through October 3, 2002. This standard covers the construction, performance, and testing of heat detectors used in fire alarm and suppression systems.

- UL 864, Standard for Safety for Control Units and Accessories for Fire Alarm Systems, Ninth Edition, dated September 30, 2003, as amended through January 12, 2011. This standard covers the construction, performance, and testing of control units used in fire alarm systems.

Consistent with 1 CFR part 51 incorporation by reference provisions, this material is reasonably available. Interested persons have access to it through their normal course of business, may purchase it from organizations identified in 33 CFR 140.7 and 149.3, and 46 CFR 25.01–3, 31.01–2, 32.01–1, 34.01–15, 56.01–2, 71.25–3, 76.01–2, 91.25–7, 92.01–2, 95.01–2, 108.101, 114.600, 125.180, 147.7, 159.001–4, 161.002–1, 162.027–2, 162.028–1, 162.039–1, 162.163–2, 164.105–2, 164.106–2, 164.107–2, 164.108–2, 164.109–2, 164.110–2, 164.111–2, 164.112–2, 164.117–2, 164.136–2, 164.137–2, 164.138–2, 164.139–2,

164.141–2, 164.142–2, 164.144–2, 164.146–2, 164.201–2, 164.207–2, 169.115, 175.600, 188.01–5, and 193.01–3, or may view a copy by the means we have identified in those sections.

M. Coast Guard Authorization Act

Section 608 of the Coast Guard Authorization Act of 2010 (Pub. L. 111–281) adds new section 2118 to 46 U.S.C. Subtitle II (Vessels and Seamen), Chapter 21 (General). New section 2118(a) sets forth requirements for standards established for approved equipment required on vessels subject to 46 U.S.C. Subtitle II (Vessels and Seamen), Part B (Inspection and Regulation of Vessels). Those standards must be “(1) based on performance using the best available technology that is economically achievable; and (2) operationally practical.” See 46 U.S.C. 2118(a). This rule revises the standards for fire prevention, protection, detection, extinguishing equipment, and materials regulations on vessels subject to 46 U.S.C. Subtitle II, Part B, and the Coast Guard has ensured this rule satisfies the requirements of 46 U.S.C. 2118(a), by employing the most recent industry consensus standards, as necessary and appropriate.

N. Environment

We have analyzed this final rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID (National Environmental Policy Act Implementing Procedures and Policy For Considering Environmental Impacts Manual), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969, 42 U.S.C. 4321–4370f, and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves design and approval standards for fire protection, detection, extinguishing equipment, and materials and falls under section 2.B.2, figure 2–1, paragraphs (34)(a), (d), and (e) of the Instruction, and under Section 6(a) of the “Appendix to National Environmental Policy Act: Coast Guard Procedures for Categorical Exclusions, Notice of Final Agency Policy” as published in the **Federal Register**, 67 FR 48243, July 23, 2002. These paragraphs exempt regulations which are editorial or procedural, concern the inspection and equipping of vessels, involve equipment approval and carriage requirements, and vessel operation safety standards. An environmental analysis checklist and a categorical

exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects

33 CFR Part 140

Continental shelf, Incorporation by reference, Investigations, Marine safety, Occupational safety and health, Penalties, Reporting and recordkeeping requirements.

33 CFR Part 145

Continental shelf, Fire prevention, Incorporation by reference, Marine safety, Occupational safety and health.

33 CFR Part 148

Administrative practice and procedure, Environmental protection, Harbors, Petroleum.

33 CFR Part 149

Fire prevention, Harbors, Incorporation by reference, Marine safety, Navigation (water), Occupational safety and health, Oil pollution.

46 CFR Part 25

Fire prevention, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 27

Fire prevention, Marine safety, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 28

Alaska, Fire prevention, Fishing vessels, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 30

Cargo vessels, Foreign relations, Hazardous materials transportation, Penalties, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 31

Cargo vessels, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 32

Cargo vessels, Fire prevention, Incorporation by reference, Marine safety, Navigation (water), Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 34

Cargo vessels, Fire prevention, Incorporation by reference, Marine safety.

46 CFR Part 50

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 56

Reporting and recordkeeping requirements, Incorporation by reference, Vessels.

46 CFR Part 70

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 71

Marine safety, Incorporation by reference, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 72

Fire prevention, Incorporation by reference, Marine safety, Occupational safety and health, Passenger vessels, Seamen.

46 CFR Part 76

Fire prevention, Incorporation by reference, Marine safety, Passenger vessels.

46 CFR Part 78

Marine safety, Navigation (water), Passenger vessels, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 90

Cargo vessels, Marine safety.

46 CFR Part 91

Cargo vessels, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 92

Cargo vessels, Fire prevention, Incorporation by reference, Marine safety, Occupational safety and health, Seamen.

46 CFR Part 95

Cargo vessels, Fire prevention, Incorporation by reference, Marine safety.

46 CFR Part 107

Incorporation by reference, Marine safety, Oil and gas exploration, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 108

Fire prevention, Incorporation by reference, Marine safety, Occupational safety and health, Oil and gas exploration, Vessels.

46 CFR Part 113

Communications equipment, Fire prevention, Vessels.

46 CFR Part 114

Marine safety, Incorporation by reference, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 115

Fire prevention, Incorporation by reference, Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 116

Fire prevention, Incorporation by reference, Marine safety, Passenger vessels, Seamen.

46 CFR Part 118

Fire prevention, Incorporation by reference, Marine safety, Passenger vessels.

46 CFR Part 122

Marine safety, Passenger vessels, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 125

Administrative practice and procedure, Cargo vessels, Hazardous materials transportation, Incorporation by reference, Marine safety, Seamen.

46 CFR Part 132

Cargo vessels, Fire prevention, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 147

Hazardous materials transportation, Incorporation by reference, Labeling, Marine safety, Packaging and containers, Reporting and recordkeeping requirements.

46 CFR Part 159

Business and industry, Incorporation by reference, Laboratories, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 160

Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 161

Fire prevention, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 162

Fire prevention, Incorporation by reference, Marine safety, Oil pollution, Reporting and recordkeeping requirements.

46 CFR Part 164

Fire prevention, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 167

Fire prevention, Marine safety, Reporting and recordkeeping requirements, Schools, Seamen, Vessels.

46 CFR Part 169

Fire prevention, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements, Schools, Vessels.

46 CFR Part 175

Marine safety, Incorporation by reference, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 176

Fire prevention, Incorporation by reference, Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 177

Marine safety, Incorporation by reference, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 181

Fire prevention, Incorporation by reference, Marine safety, Passenger vessels.

46 CFR Part 182

Marine safety, Passenger vessels.

46 CFR Part 185

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 188

Marine safety, Incorporation by reference, Oceanographic research vessels.

46 CFR Part 189

Marine safety, Incorporation by reference, Oceanographic research vessels, Reporting and recordkeeping requirements.

46 CFR Part 190

Fire prevention, Marine safety, Occupational safety and health, Oceanographic research vessels.

46 CFR Part 193

Fire prevention, Incorporation by reference, Marine safety, Oceanographic research vessels.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 140, 145, 148, and 149, and 46 CFR parts 25, 27, 28, 30, 31, 32, 34, 50, 56, 70, 71, 72, 76, 78, 90, 91, 92, 95, 107, 108, 113, 114, 115, 116, 118, 122, 125, 132, 147, 159, 160, 161, 162, 164, 167, 169, 175, 176, 177, 181, 182, 185, 188, 189, 190, and 193 as follows:

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

PART 140—GENERAL

■ 1. The authority citation for part 140 continues to read as follows:

Authority: 43 U.S.C. 1333, 1348, 1350, 1356; Department of Homeland Security Delegation No. 0170.1.

■ 2. Amend § 140.3 by adding, at the end of the section, a sentence to read as follows:

§ 140.3 Applicability.

* * * The regulations in this subchapter (parts 140 through 147) have preemptive effect over state or local regulations in the same field.

■ 3. Revise § 140.7 to read as follows:

§ 140.7 Incorporation by reference.

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG-ENG-4), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593-7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030 or go to http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(b) American National Standards Institute (ANSI), 25 West 43rd Street, New York, NY 10036, 212-642-4900, <https://www.ansi.org>.

(1) ANSI A10.14-1975, Requirements for Safety Belts, Harnesses, Lanyards, Lifelines, and Drop Lines for Construction and Industrial Use, IBR approved for § 142.42(b).

(2) ANSI/UL 1123-1987, Standard for Marine Buoyant Devices, IBR approved for § 143.405(a).

(3) ANSI Z41-1983, American National Standard for Personal Protection-Protective Footwear, IBR approved for § 142.33(a) and (b).

(4) ANSI Z87.1-1979, Practice for Occupational and Educational Eye and Face Protection, IBR approved for § 142.27(a) and (c).

(5) ANSI Z88.2-1980, Practices for Respiratory Protection, IBR approved for § 142.39(a) through (c).

(6) ANSI Z89.1-1981, Safety Requirements for Industrial Head Protection, IBR approved for § 142.30(a) and (b).

(c) International Maritime Organization (IMO) Publishing, 4 Albert Embankment, London SE1 7SR, United Kingdom, +44 (0)20 7735 7611, <http://www.imo.org>.

(1) IMO Assembly Resolution A.414 (XI), Code for Construction and Equipment of Mobile Offshore Drilling Units, IBR approved for §§ 143.207(c) and 146.205(c).

(2) [Reserved]

(d) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02169, 617-770-3000, <http://www.nfpa.org>.

(1) NFPA 10, Standard for Portable Fire Extinguishers, 2010 Edition, effective December 5, 2009, IBR approved for § 145.01(b).

(2) [Reserved]

PART 145—FIRE FIGHTING EQUIPMENT

■ 4. The authority citation for part 145 continues to read as follows:

Authority: Sec. 633, 63 Stat. 545; sec. 4, 67 Stat. 462; 14 U.S.C. 633; 43 U.S.C. 1333.

■ 5. Revise § 145.01 to read as follows:

§ 145.01 Portable and semi-portable fire extinguishers.

(a) On all manned platforms and on all unmanned platforms where crews are continuously working on a 24-hour basis, Coast Guard-approved portable fire extinguishers and/or Coast Guard-approved semi-portable fire extinguishers must be installed and maintained. On all unmanned platforms where crews are not continuously working on a 24-hour basis, Coast Guard-approved portable fire extinguishers and/or Coast Guard-approved semi-portable fire extinguishers are required to be installed and maintained only when crews are working on them.

(b) Portable and semi-portable fire extinguishers must be inspected and maintained in accordance with NFPA 10 (incorporated by reference, see § 140.7 of this chapter) as amended here:

(1) Certification or licensing by a state or local jurisdiction as a fire extinguisher servicing agency will be accepted by the Coast Guard as meeting the personnel certification requirements of NFPA 10 for annual maintenance and recharging of extinguishers.

(2) Monthly inspections required by NFPA 10 may be conducted by the owner, operator, person-in-charge, or a designated member of the crew.

(3) Non-rechargeable or non-refillable fire extinguishers must be inspected and maintained in accordance with NFPA 10. However, the annual maintenance need not be conducted by a certified person and can be conducted by the owner, operator, person-in-charge, or a designated member of the crew.

(4) The owner or managing operator must provide satisfactory evidence of the required servicing to the marine inspector. If any of the equipment or records has not been properly maintained, a qualified servicing facility must perform the required inspections, maintenance procedures, and hydrostatic pressure tests. A tag issued by a qualified servicing organization, and attached to each extinguisher, may be accepted as evidence that the necessary maintenance procedures have been conducted.

§ 145.05 [Removed and Reserved]

■ 6. Remove and reserve § 145.05.

■ 7. Amend § 145.10 as follows:

■ a. Revise the section heading;

■ b. In paragraphs (a) and (b), remove the word “shall” and add, in its place, the word “must”;

■ c. Add paragraphs (c) and (d); and

■ d. Revise table 145.10(a).

The revisions and additions read as follows:

§ 145.10 Location, number, and installation of fire extinguishers.

* * * * *

(c) Semi-portable extinguishers must be fitted with a suitable hose and nozzle, or other practicable means, so all of the space can be protected.

(d) Table 145.10(a) of this section indicates the minimum number and size of fire extinguishers required for each space listed. Extinguishers with larger numerical ratings or multiple letter designations may be used if the extinguishers meet the requirements of the table.

TABLE 145.10(a)—PORTABLE AND SEMI-PORTABLE EXTINGUISHERS

| Space | Minimum required rating | Quantity and location |
|-------|-------------------------|-----------------------|
|-------|-------------------------|-----------------------|

Safety Areas:

TABLE 145.10(a)—PORTABLE AND SEMI-PORTABLE EXTINGUISHERS—Continued

| Space | Minimum required rating | Quantity and location |
|--|-------------------------|---|
| Communicating corridors | 2-A | 1 in each main corridor not more than 150 ft apart. (May be located in stairways.) |
| Radio room | 20-B:C | 1 in the vicinity of the exit. |
| <i>Accommodations:</i> | | |
| Sleeping accommodations | 2-A | 1 in each sleeping accommodation space outfitted for 4 or more persons. |
| <i>Service Spaces:</i> | | |
| Galleys | 40-B:C | 1 for each 2,500 sq ft of floor space or fraction thereof. |
| Storerooms | 2-A | 1 for each 2,500 sq ft of floor space or fraction thereof. The extinguisher must be located in the vicinity of the exits, either inside or outside of spaces. |
| <i>Machinery Spaces:</i> | | |
| Gas-fired boilers | 40-B | 2 required. |
| | 160-B | 1 required. ¹ |
| Oil-fired boilers | 40-B | 2 required. |
| | 160-B | 2 required. ¹ |
| Internal combustion or gas turbine engines | 40-B | 1 for each engine. ² |
| Electric motors or generators of open type | 40-B:C | 1 for each 2 motors or generators. ³ |

¹ Not required where a fixed extinguishing system is installed.

² When the installation is on the weather deck or open to the atmosphere at all times, then one 40-B extinguisher for every three engines is allowable.

³ Small electrical appliances, such as fans, are exempt.

■ 8. Add § 145.15 to read as follows:

§ 145.15 Location and number of fire extinguishers required for vessels contracted for prior to August 22, 2016.

(a) Vessels contracted for prior to August 22, 2016 must meet the following requirements:

(1) Previously installed extinguishers with extinguishing capacities smaller than what is required in table 145.10(a) of this part need not be replaced and may be continued in service so long as they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection.

(2) All new equipment and installations must meet the applicable requirements in this part for new vessels.

(b) [Reserved]

PART 148—DEEPWATER PORTS: GENERAL

■ 9. The authority citation for part 148 continues to read as follows:

Authority: 33 U.S.C. 1504; Department of Homeland Security Delegation No. 0170.1 (75).

■ 10. Amend § 148.1 by adding, at the end of the section, a sentence to read as follows:

§ 148.1 What is the purpose of this subchapter?

* * * The regulations in this subchapter (parts 148 through 150) have preemptive effect over state or local regulations in the same field.”

PART 149—DEEPWATER PORTS: DESIGN, CONSTRUCTION, AND EQUIPMENT

■ 11. The authority citation for part 149 is revised to read as follows:

Authority: 33 U.S.C. 1504, 1509; Department of Homeland Security Delegation No. 0170.1 (75).

■ 12. Add § 149.3 to read as follows:

§ 149.3 Incorporation by reference.

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish a notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG-ENG-4), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593-7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030 or go to http://www.archives.gov/federal-register/code_of_federal_regulations/ibr_locations.html.

(b) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02169, 617-770-3000, <http://www.nfpa.org>.

(1) NFPA 10, Standard for Portable Fire Extinguishers, 2010 Edition, effective December 5, 2009, IBR approved for § 149.408(a) through (d).

(2) [Reserved]

■ 13. Amend § 149.403 as follows:

- a. Revise the section heading; and
- b. In paragraph (a), remove the word “supplemental” and add, in its place, the word “excess”.

The revised section heading reads as follows:

§ 149.403 How can I request to use alternate or excess fire fighting and fire prevention equipment or procedures?

* * * * *

■ 14. Revise § 149.404 to read as follows:

§ 149.404 Can I use fire fighting equipment that is not Coast Guard approved?

(a) A deepwater port may use fire fighting equipment that is not Coast Guard approved as excess equipment, pursuant to § 149.403 of this subpart, if the equipment does not endanger the port or the persons aboard it in any way. This equipment must be listed and labeled by a nationally recognized testing laboratory (NRTL), as set forth in 29 CFR 1910.7, and it must be maintained in good working condition.

(b) Use of non-Coast Guard-approved fire detection systems may be acceptable as excess equipment provided that—

- (1) Components are listed by an NRTL as defined in 46 CFR 161.002-2, and are designed, installed, tested, and maintained in accordance with an appropriate industry standard and the manufacturer’s specific guidance;

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