

**Authority:** 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

2. Section 868.2480 is amended by revising paragraph (b) to read as follows:

**§ 868.2480 Cutaneous carbon dioxide (PcCO<sub>2</sub>) monitor.**

\* \* \* \* \*

(b) *Classification.* Class II (special controls). The special control for this device is FDA's "Class II Special Controls Guidance Document: Cutaneous Carbon Dioxide (PcCO<sub>2</sub>) and Oxygen (PcO<sub>2</sub>) Monitors; Final Guidance for Industry and FDA."

3. Section 868.2500 is revised to read as follows:

**§ 868.2500 Cutaneous oxygen (PcO<sub>2</sub>) monitor.**

(a) *Identification.* A cutaneous oxygen (PcO<sub>2</sub>) monitor is a noninvasive, heated sensor (e.g., a Clark-type polarographic electrode) placed on the patient's skin that is intended to monitor relative changes in the cutaneous oxygen tension.

(b) *Classification.* Class II (special controls). The special control for this device is FDA's "Class II Special Controls Guidance Document: Cutaneous Carbon Dioxide (PcCO<sub>2</sub>) and Oxygen (PcO<sub>2</sub>) Monitors; Guidance for Industry and FDA."

Dated: January 29, 2002.

**Linda S. Kahan,**

*Deputy Director, Center for Devices and Radiological Health.*

[FR Doc. 02-3281 Filed 2-11-02; 8:45 am]

**BILLING CODE 4160-01-S**

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**DEPARTMENT OF STATE**

**22 CFR Part 89**

[Public Notice 3843]

**Foreign Prohibitions on Longshore Work by U.S. Nationals**

**AGENCY:** Department of State.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In accordance with the Immigration and Nationality Act of 1952, as amended, the Department of State is issuing a proposed rule updating the list of countries whose laws regulations or practices prohibit crewmembers on U.S. ships from performing longshore work. Ships registered in or owned by nationals of the countries listed are ineligible for the reciprocity exception to the prohibition of longshore work by alien crewmembers in U.S. ports and waters.

**DATES:** Interested parties are invited to submit comments in triplicate by March 12, 2002.

**ADDRESSES:** Comments may be submitted to Office of Transportation Policy (EB/TRA/OTP/MA), Room 5828, Department of State, Washington, DC 20852-5816.

**FOR FURTHER INFORMATION CONTACT:**

Stephen M. Miller, Office of Transportation Policy (EB/TRA/OTP/MA), Room 5828, Department of State, Washington DC 20852-5816; (202) 647-4915.

**SUPPLEMENTARY INFORMATION:** Section 258 of the Immigration and Nationality Act of 1952 (the "Act"), 8 U.S.C. 1288, as added by the Immigration Act of 1990, Public Law 101-649, and subsequently amended, has the effect that alien crewmen may not perform longshore work in the United States. Longshore work is defined to include "any activity relating to the loading or unloading of cargo, the operation of cargo-related equipment (whether or not integral to the vessel), and the handling of mooring lines on the dock when the vessel is made fast or let go, in the United States or the coastal waters thereof." The Act goes on, however, to define a number of exceptions to the general prohibition on such work.

Section 258(b)(2), entitled the "Exception for safety and environmental protection," excludes from the definition of longshore work under this statute "the loading or unloading of any cargo for which the Secretary of Transportation has, under the authority contained in chapter 37 of Title 46 (relating to Carriage of Liquid Bulk Dangerous Cargoes), section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), section 4106 of the Oil Pollution Act of 1990, or sections 5103(b), 5104, 5106, 5107, or 5110 of Title 49 prescribed regulations which govern—(A) the handling or stowage of such cargo, (B) the manning of vessels and the duties, qualifications, and training of the officers and crew of vessels carrying such cargo, and (C) the reduction or elimination of discharge during ballasting, tank cleaning, handling of such cargo."

Section 258(c), entitled the "Prevailing practice exception," exempts particular activities of longshore work in and about a local port if there is a collective bargaining agreement covering at least 30 percent of the longshore workers in the area that permits the activities or if there is no such collective bargaining agreement and the employer of the alien crewmen files an appropriate attestation, in a timely fashion, that the performance of the activity by alien crewmen is permitted under the prevailing practice of the particular port. The attestation is

required for activities consisting of the use of an automated self-unloading conveyor belt or vacuum-actuated system on a vessel only if the Secretary of Labor finds, based on a preponderance of evidence which may be submitted by any interested party, that the performance of such particular activity by alien crewmen is not permitted under the prevailing practice in the area, is during a strike or lockout in the course of a labor dispute, or is intended or designed to influence an election of a bargaining representative for workers in the local port.

Section 258(d), the "State of Alaska exception," provides detailed conditions under which alien crewmen may be allowed to perform longshore activities in Alaska, including the filing of an attestation with the Secretary of Labor at least 30 days before the performance of the work setting forth facts and evidence to show that the employer will make a bona fide request for U.S. longshore workers who are qualified and available, will employ all such workers made available who are needed, and has informed appropriate labor unions, stevedores, and dock operators of the attestation, and that the use of alien crewmembers is not intended or designed to influence an election of bargaining representatives.

Finally, Section 258(e), entitled the "Reciprocity exception," allows the performance of activities constituting longshore work by alien crewmen aboard vessels flagged and owned in countries where such activities are permitted by crews aboard U.S. ships. The Secretary of State (hereinafter, "the Secretary") is directed to compile and annually maintain a list, of longshore work by particular activity, of countries where performance of such a particular activity by crewmembers aboard United States vessels is prohibited by law, regulation, or in practice in the country. The Attorney General will use the list to determine whether to permit an alien crew member to perform an activity constituting longshore work in the United States or its coastal waters, in accordance with the conditions set forth in the Act.

The Department of State (hereinafter, "the Department") published such a list as a final rule on December 27, 1991 (56 FR 66970), corrected on January 14, 1992 (57 FR 1384). An updated list was initially published on December 13, 1993 (57 FR 65118), and was last published on June 13, 1996 (61 FR 29941).

The Department bases the list on reports from U.S. diplomatic posts abroad and submissions from interested parties in response to the notice-and-comment process. On July 14, 2000, the Department sent instructions to U.S. Embassies and Consulates in countries, dependencies and other areas with seaports to determine whether crewmembers aboard U.S. vessels are prohibited from performing longshore work by law, regulation, or in practice in those countries. On the basis of the information received from the Embassies and Consulates, the Department is hereby issuing an amended list.

The list includes 24 new countries: Albania, Antigua, Barbados, Burnei, Chile, Cook Islands, Grenada, Kazakhstan, Latvia, Lebanon, Macau, Namibia, Nigeria, Oman, Russia, St. Christopher and Nevis, Singapore, Sudan, Syria, Tonga, Turkey, Tuvalu, United Arab Emirates and Vietnam. Two countries were dropped from the list because the most recent information indicates that they do not restrict longshore activities by crewmembers of U.S. vessels: Estonia and Micronesia.

#### Analysis of Comments

In a letter to the Secretary of State dated October 5, 2000 and through separate discussions, the International Longshore and Warehouse Union (hereinafter, "ILWU") has provided several comments based on the Department's updated list published on June 13, 1996 (69 FR 29941).

1. *Comment:* The ILWU believes that a country must be included on the list unless it is conclusively established by each seaport country that application of the reciprocity exception is warranted.

*Reply:* The Act directs the Department to maintain a list, of longshore work by particular activity, of countries where such activities are restricted by crewmembers aboard United States vessels. The reciprocity exception, by its terms, does not place the burden of proof on a particular party, including any seaport country, to establish that no restrictions on longshore activities exist. The Department has sought to compile a complete record of longshore law, regulation, and practice in all countries, states and other geographic entities with seaports.

2. *Comment:* The ILWU urges the Department to put all landlocked countries on the list, since the crews of U.S. vessels cannot do any longshore work in those countries.

*Reply:* The Department does not believe that it has excluded areas whose vessels are likely to call on U.S. ports and that have imposed restrictions on

the longshore activities by crewmembers aboard U.S. vessels by law, regulation or practice. The Department does not believe that landlocked countries, which lack ports, restrict or in other ways govern, by law, regulation or practice, port activities. Interested parties are encouraged to provide the Department with information concerning any longshore rules, regulations, or practices that may exist in such landlocked areas.

3. *Comment:* The ILWU urges the Department to deny reciprocity to all countries with restrictive laws, regulations or practices, whether or not U.S. ships have called since January 1, 1996, and that the Department no longer request information about the calls of U.S. ships in foreign ports.

*Reply:* The Act instructs the Secretary of State to maintain a list of countries that restrict longshore activity by crewmembers aboard United States vessels. The Department believes that general restrictions by law, regulation or in practice on longshore activities by the crews of foreign vessels in the port of a third country would ordinarily apply equally to a U.S. vessel if a U.S. vessel were to call on the port of that country. The Department lists countries based on the existence of restrictions imposed by law, regulation or in practice irrespective of whether U.S. vessels have actually called at ports in the country in question and in future surveys will no longer ask whether a U.S. vessel has called on a foreign port.

4. *Comment:* The ILWU notes that the Department has not examined longshore policy in countries whose vessels are prohibited from calling at U.S. ports and believes that it would be preferable for the Department to make a determination as to these countries and to include them on the list where appropriate.

*Reply:* The Department is prepared to consider the situation with respect to such countries at the time their ships become eligible to enter U.S. waters, and revise the list as necessary.

5. *Comment:* The ILWU agrees with the Department's decision to seek information about International Labor Organization Convention 137 Concerning the Social Repercussions of New Methods of Cargo Handling in Docks ("ILO Convention 137"). The ILWU believes that the Convention by its terms plainly requires signatory countries, as a national policy, to preserve and promote existing longshore work for local dockworkers, and that these countries, as a consequence, prohibit or restrict foreign crewmembers from performing longshore activities. The ILWU therefore requests that the

countries signatory to ILO Convention 137 be included on the reciprocity list.

*Reply:* In its most recent survey, the Department asked whether a country was a party to ILO Convention 137, and if so, whether that country restricted the longshore activities of foreign crewmembers in order to implement the Convention. Most countries party to Convention 137 replied that they did not restrict the longshore activities of foreign crewmembers as an implementation measure. The Department has listed those countries party to Convention 137 that have imposed restrictions on the longshore activities for foreign crewmembers.

6. *Comment:* In relation to the eligibility of Greece for the reciprocity exception, the ILWU expresses concern that the Department's treatment of Greece could imply that a blanket grant of reciprocity includes the right of an alien crewmember to perform longshore work "on the docks." The ILWU takes the position that the reciprocity exception relates only to work "on board" vessels by foreign crewmembers.

*Reply:* The Department interprets the reciprocity exception to apply to all activities constituting longshore work, as defined by section 258(b) of the Immigration and Nationality Act:

\* \* \* any activity relating to the loading or unloading of cargo, the operation of cargo-related equipment (whether or not integral to the vessel), and the handling of mooring lines on the dock when the vessel is made fast or let go, in the United States or coastal waters thereof.

The definition of longshore work does not restrict the scope of such activities to longshore work performed aboard a vessel and in fact, includes explicit reference to activities on the dock. Section 258(e) on the reciprocity exception does not contain a different, more limited definition.

7. *Comment:* The ILWU believes that Canada should be denied a reciprocity exception for all activities because, as its claims, Government of Canada regulations require employment validation for all work by foreign crewmembers that is not related to the operation of the ship. The ILWU contends that this requirement should result in the inclusion of Canada on the list, whether or not it is enforced for crewmembers aboard United States vessels.

*Reply:* The Government of Canada has advised the Department that pursuant to Canadian immigration regulations the requirement for employment authorization (work permit) does not apply to foreign nationals entering

Canada for the purpose of engaging in employment as a member of the crew of a ship of foreign ownership or registry engaged predominantly in the international transportation of goods or passengers. The Government of Canada notes that ship owners and operators may apply for a work permit if they are uncertain whether work performed by crewmembers is related to the operation of the ship, which requires for other than U.S. mariners the completion of an "employment validation" establishing that no Canadian residents are available to perform the work in question. The Government of Canada advises, however, that by virtue of Canadian immigration regulations crews of United States vessels are exempted from this employment validation requirement because of the reciprocity exception in U.S. law. In addition, owners and operators of U.S. ships report that the crews of their ships do in fact perform certain longshore activities in Canadian ports. The Department therefore does not believe that the requirement that foreign crewmembers obtain employment validation disqualifies Canada for a reciprocity exception because Canadian regulations specifically exempt crewmembers aboard United States vessels from the employment validation requirement. While the Department looks at the treatment of foreign vessels generally, Canada offers a clear example where national rules and regulations provide for treatment of foreign vessels that differs depending on the nationality of their crews.

8. *Comment:* The ILWU also expresses particular concern about the Department's decision to grant Canada a reciprocity exception for the "operation of specialized self loading/unloading log carriers on the Pacific Coast." The ILWU believes that this finding is inconsistent with the decision of the U.S. Court of Appeals for the Ninth Circuit in *ILWU v. Meese*, 891 F.2d 1374 (9th Cir. 1989), that the immigration laws do not permit alien crewmen to perform this longshore activity in the United States.

*Reply:* The 1990 amendments to the Immigration and Nationality Act adding the reciprocity exception provides that for the purposes of 8 U.S.C. 1101(a)(15)(D)(i) (defining the class of nonimmigrant aliens to include "alien crewman") "the term 'normal operation and service on board a vessel' does not include any activity that is longshore work (as defined in subsection (b) of [section 258 of the Act]), except as provided under subsection (c), (d), or (e)" of section 258 of the Act. Section 258(e) provides that, subject to the determination of the Secretary of State

pursuant to section 258(e)(2), the Attorney General shall permit an alien crew member to perform an activity constituting longshore work if two specific criteria are satisfied. Section 258(e)(2) directs the Secretary of State to compile and annually maintain a list, of "longshore work" by particular activity, of countries where performance of such a particular activity by crewmembers aboard United States vessels is prohibited by law, regulation, or in practice in the country. Section 258(b)(1) clearly defines the term "longshore work" to mean "any activity relating to the loading and unloading of cargo, the operation of cargo-related equipment \* \* \*" The Department believes that the "operation of specialized self loading/unloading log carriers on the Pacific Coast" falls within the scope of this definition. The Department has also consulted extensively with U.S. diplomatic posts in Canada, U.S. carriers operating into Canada, union and industry officials and the Canadian Government. Two U.S. operators of specialized self-loading/unloading log carriers have confirmed that they are able to operate in Canadian Pacific ports and waters without restrictions on their U.S. crews and support the Department's determination that such activity is not prohibited by law, regulation or in practice in Canada.

9. *Comment:* The ILWU questions the Department's decision not to collect information about countries, dependencies, and other geographic entities with a population of less than 5,000 inhabitants.

*Reply:* The Department believes that this limit will capture all countries, dependencies, and other geographic entities whose vessels or whose nationals own vessels that are likely to call on U.S. ports. Interested parties are encouraged to provide the Department with information concerning longshore rules, regulations, or practices in areas not on the list.

10. *Comment:* The ILWU has asked the Department to scrutinize carefully the reports about China, Latvia, and Russia because crews on vessels from these countries have been doing longshore work that the ILWU believes should be reserved for U.S. longshore workers. The ILWU has provided the Department with information about Latvian law and regulations that the ILWU believes disqualifies Latvia for a reciprocity exception. According to the ILWU, any foreign worker, including crewmembers aboard U.S. vessels, paid in the territory of Latvia must have authorization from the Government of

Latvia prior to performing any activity constituting longshore work.

*Reply:* The U.S. Embassy in Beijing reports that work and residence permits are required for any longshore activity by crewmembers on U.S. vessels calling on Chinese ports. Local agents must be used for loading and unloading cargo using gantry cranes, making fast and letting go the vessel, and husbanding cargo at port. The Department has therefore amended the listing for China to reflect these restrictions.

The Department asked the U.S. Embassy in Riga, Latvia to investigate the reports from the ILWU and to provide further information. According to the information supplied by the ILWU, the restrictions only apply to foreign workers who draw a salary from a Latvian company. Since the crewmembers of U.S. vessels are paid by U.S.-based owners or operators of the ships, the Latvian authorization requirement does not apply to the crews of U.S. vessels. The U.S. Embassy reports that Latvia does restrict longshore activities of foreign crews outside of their vessels. The Department has therefore added Latvia to the list to account for this restriction.

The U.S. Embassy in Moscow reports that collective bargaining agreements negotiated at the local level often give preference to local workers for longshore activities performed with the assistance of local port equipment. The Department has therefore amended the list for Russia to reflect these restrictions.

#### List of Subjects in 22 CFR Part 89

Longshore and harbor workers, Seamen.

For the reasons set out in the preamble, 22 CFR Chapter I is proposed to be amended as follows:

#### PART 89—PROHIBITIONS ON LONGSHORE WORK BY U.S. NATIONALS

1. The authority citation for part 89 continues to read as follows:

**Authority:** 8 U.S.C. 1288, Public Law 101-649, 104 Stat. 4878.

2. Part 89 is amended by revising § 89.1 to read as follows:

##### § 89.1 Prohibitions on longshore work by U.S. nationals; listing by country.

The Secretary of State has determined that, in the following countries, longshore work by crewmembers aboard United States vessels is prohibited by law, regulation, or in practice, with respect to the particular activities noted:

**Albania**

- (a) Cargo loading and discharge.
- (b) Exceptions:
  - (1) Operation of cargo related equipment,
  - (2) Opening and closing of hatches, and
  - (3) Rigging of ship's gear.

**Algeria**

- (a) All longshore activities.
- (b) Exception: Opening and closing of hatches.

**Angola**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Opening and closing of hatches,
  - (2) Rigging of ship's gear, and
  - (3) Loading and discharge of cargo on board the ship if local labor is paid as if had done the work.

**Antigua**

- (a) All longshore activities.
- (b) Exceptions: activities on board ship.

**Argentina**

- (a) All longshore activities.
- (b) Exceptions: activities on board ship.

**Australia (including Norfolk and Christmas Islands)**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) When shore labor cannot be obtained at rates prescribed by collective bargaining agreements,
  - (2) Operation of cargo-related equipment and opening and closing of hatches in small ports where there is insufficient shore labor, and
  - (3) Rigging of ship's gear.

**Bahamas**

- (a) Longshore activities on the pier.

**Bangladesh**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Operation of cargo related equipment integral to the vessel when there is a shortage of port workers able to operate the equipment and with the permission of the port authority, and
  - (2) Opening and closing of hatches.

**Barbados**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Operation of cargo related equipment,
  - (2) Opening and closing of hatches,
  - (3) Rigging of ship's gear, and
  - (4) Loading and discharge of cargo of less than 10 tons.

**Belgium**

- (a) All longshore activities.
- (b) Exception: Rigging of ship's gear.

**Belize**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Operation of cargo related equipment,
  - (2) Opening and closing of hatches, and
  - (3) Rigging of ship's gear.

**Benin**

- (a) All longshore activities.

**(b) Exceptions:**

- (1) Opening and closing of hatches, and
- (2) Rigging of ship's gear.

**Bermuda**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Opening and closing of hatches, and
  - (2) Rigging of ship's gear.

**Brazil**

- (a) Cargo handling.
- (b) Operation of cargo-related equipment.
- (c) Watchmen.
- (d) Handling of mooring lines on the pier.
- (e) Other longshore activities on the pier.
- (f) Exceptions:
  - (1) Opening and closing of hatches, and
  - (2) Rigging of ship's gear.

**Brunei**

- (a) All longshore activities.
- (b) Exceptions: Longshore activities on board ship.

**Bulgaria**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Opening and closing of hatches,
  - (2) Mooring and line handling on board ship, and
  - (3) Loading and discharge of supplies for the crew's own needs, spare parts for small repairs and other non-commercial longshore activities.

**Burma**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Opening and closing of hatches, and
  - (2) Rigging of ship's gear.

**Cameroon**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Opening and closing of hatches, and
  - (2) Rigging of ship's gear.

**Canada**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Operation of specialized self-loading/unloading log carriers on the Pacific Coast,
  - (2) Operation of self-loading/unloading equipment and line handling by the crews of bulk vessels calling at private terminals,
  - (3) Opening and closing of hatches,
  - (4) Cleaning of holds and tanks,
  - (5) Loading of ship's stores,
  - (6) Operation of onboard rented equipment,
  - (7) Ballasting and deballasting, and
  - (8) Rigging of ship's gear.
  - (c) Exceptions in connection with bulk cargo at Great Lakes ports only:
    - (1) Handling of mooring lines on the pier when the vessel is made fast or let go,
    - (2) Moving the vessel to place it under shoreside loading and unloading equipment,
    - (3) Moving the vessel in position to unload the vessel onto specific cargo piles, hoppers or conveyor belt systems, and
    - (4) Operation of cargo related equipment integral to the vessel.

**Cap Verde**

- (a) All longshore activities.

**Chile**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Operation of cargo related equipment,
  - (2) Opening and closing of hatches, and
  - (3) Rigging of ship's gear.

**China**

- (a) Longshore activities on shore.

**Colombia**

- (a) All longshore activities.
- (b) Exceptions: When local workers are unable or unavailable to provide longshore services.

**Comoros**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Operation of cargo related equipment, and
  - (2) Opening and closing of hatches.

**Congo, Democratic Republic of**

- (a) All longshore activities.
- (b) Exception: Operation of cargo-related equipment, when authorized by the Port Authority.

**Cook Islands**

- (a) Longshore activities.
- (b) Exceptions:
  - (1) Operation of cargo related equipment,
  - (2) Opening and closing of hatches, and
  - (3) Rigging of ship's gear.

**Costa Rica**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Operation of cargo related equipment,
  - (2) Opening and closing of hatches, and
  - (3) Rigging of ship's gear.

**Cote d'Ivoire**

- (a) All longshore activities.

**Croatia**

- (a) All longshore activities.

**Cyprus**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Opening and closing of hatches, and
  - (2) Rigging of ship's gear.

**Djibouti**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Opening and closing of hatches, and
  - (2) Rigging of ship's gear.

**Dominica**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Operation of cargo related equipment,
  - (2) Opening and closing of hatches, and
  - (3) Rigging of ship's gear.

**Dominican Republic**

- (a) Local longshore workers get paid if crewmembers operate loading and unloading equipment.

**Ecuador**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Operation of cargo related equipment,

- (2) Opening and closing of hatches, and
- (3) Rigging of ship's gear.

**Egypt**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Operation of cargo related equipment integral to the ship except to load and discharge cargo,
  - (2) Opening and closing of hatches,
  - (3) Rigging of ship's gear, and
  - (4) Handling of mooring lines on the ship.

**El Salvador**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Operation of cargo related equipment belonging to the vessel,
  - (2) Opening and closing of hatches,
  - (3) Rigging of ship's gear, and
  - (4) Special operations requiring special expertise, provided that local port workers are paid.

**Eritrea**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Operation of cargo-related equipment,
  - (2) Opening and closing of hatches,
  - (3) Rigging of ship's gear, and
  - (4) Longshore activities for LASH vessels.

**Fiji**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Operation of cargo related equipment,
  - (2) Opening and closing of hatches,
  - (3) Rigging of ship's gear, and
  - (4) Operation of computerized off-loading equipment when local expertise is not available.

**Finland**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Opening and closing of hatches, and
  - (2) Rigging of ship's gear.

**France (including the French Antilles, French Guiana, French Polynesia, Mayotte, New Caledonia, Reunion, St. Pierre and Miquelon and Wallis and Fortuna)**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Loading and discharge of the ship's own material and provisions if done by the ship's own equipment or by the owner of the merchandise using his own personnel,
  - (2) Opening and closing of hatches,
  - (3) Rigging of ship's gear,
  - (4) Operation of cargo-related equipment to shift cargo internally,
  - (5) Handling operations connected with shipbuilding and refitting, and
  - (6) Offloading fish by the crew or personnel for the shipowner.

**Gabon**

- (a) All longshore activities.
- (b) Exception: All longshore activities if local workers are paid as if they had done the work.

**Gambia**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Operation of cargo related equipment,

- (2) Opening and closing of hatches, and
- (3) Rigging of ship's gear,

**Georgia**

- (a) All longshore activities.
- (b) Exception: All longshore activities if local workers are paid as if they had done the work.

**Germany**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Opening and closing of hatches, and
  - (2) Rigging of ship's gear.

**Ghana**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Operation of cargo related equipment,
  - (2) Opening and closing of hatches, and
  - (3) Rigging of ship's gear.

**Greece**

- (a) Operation of shore-based equipment to load/unload a vessel.

**Grenada**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Operation of cargo related equipment,
  - (2) Opening and closing of hatches, and
  - (3) Rigging of ship's gear.

**Guatemala**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Operation of cargo related equipment,
  - (2) Opening and closing of hatches, and
  - (3) Rigging of ship's gear.

**Guinea**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Operation of cargo related equipment aboard ship,
  - (2) Opening and closing of hatches,
  - (3) Rigging of ship's gear, and
  - (4) Other activities with the prior approval of the port authority.

**Guyana**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Operation of cargo related equipment aboard ship except to load or discharge cargo,
  - (2) Opening and closing of hatches, and
  - (3) Rigging of ship's gear.

**Haiti**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Opening and closing of hatches, and
  - (2) Rigging of ship's gear.

**Honduras**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Operation of cargo related equipment,
  - (2) Opening and closing of hatches, and
  - (3) Rigging of ship's gear.

**Hong Kong**

- (a) Operation of equipment on the pier.

**Iceland**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Opening and closing of hatches,

- (2) Rigging of ship's gear, and
- (3) Longshore activities in smaller harbors where there are no local port workers.

**India**

- (a) All longshore activities.
- (b) Exception: Operation of shipboard equipment that local port workers cannot operate.

**Indonesia**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) With the permission of the port administrator, when no local port workers with requisite skills are available, and
  - (2) In the event of an emergency.

**Ireland**

- (a) All longshore activities on pier or on land at port.

**Israel**

- (a) All longshore activities.
- (b) Exceptions, other than for loading or discharging cargoes to and from the pier:
  - (1) Operation of cargo-related equipment,
  - (2) Opening and closing of hatches, and
  - (3) Rigging of ship's gear.

**Italy**

- (a) All longshore activities.
- (b) Exceptions: Cargo loading, discharge and transfer upon presentation of the following information:
  - (1) Documentation listing the vessel's mechanical apparatus for cargo handling,
  - (2) A list of crewmembers who will perform the longshore activities, and
  - (3) An insurance policy guaranteeing recovery for damages to persons or property in relation to the longshore activities.

**Jamaica**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Opening and closing of unusual hatches,
  - (2) Rigging of unusual ship's gear, and
  - (3) Longshore activities on foreign government vessels or ships engaged on a community development or humanitarian project.

**Japan**

- (a) All longshore activities.

**Jordan**

- (a) All longshore activities.

**Kazakhstan**

- (a) All longshore activities.

**Kenya**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Opening and closing of hatches,
  - (2) Rigging of ship's gear,
  - (3) In an emergency declared by the port authority, and
  - (4) Direct transfer of cargo from one ship to another.

**Korea**

- (a) All longshore activities.
- (b) Exceptions, when done in relation to ship safety, ship operation or supervisory

work to ensure that stevedoring is done correctly:

- (1) Operation of cargo related equipment,
- (2) Opening and closing of hatches, and
- (3) Rigging of ship's gear.

#### **Kuwait**

- (a) Longshore activities on shore.

#### **Latvia**

- (a) All longshore activities.
- (b) Exceptions: activities on board the vessel.

#### **Lebanon**

- (a) Longshore activities on shore.

#### **Liberia**

- (a) Longshore activities on shore.

#### **Lithuania**

- (a) All longshore activities.

#### **Macau**

- (a) Longshore activities on the pier.

#### **Madagascar**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Opening and closing of hatches, and
  - (2) Rigging of ship's gear.

#### **Malaysia**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Operation of cargo related equipment,
  - (2) Opening and closing of hatches,
  - (3) Rigging of ship's gear, and
  - (4) Loading and discharge of hazardous materials.

#### **Maldiv Islands**

- (a) All longshore activities on shore.

#### **Malta**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Opening and closing of hatches, and
  - (2) Rigging of ship's gear.

#### **Mauritania**

- (a) Loading and discharge of cargo.
- (b) Exceptions:
  - (1) Operation of cargo-related equipment,
  - (2) Opening and closing of hatches, and
  - (3) Rigging of ship's gear.

#### **Mauritius**

- (a) All longshore activities.
- (b) Exceptions, other than for normal cargo handling activities:

- (1) Operation of cargo-related equipment,
- (2) Opening and closing of hatches, and
- (3) Rigging of ship's gear.

#### **Mexico**

- (a) All longshore activities.
- (b) Exception: Preparation of cargo handling equipment to be operated by local port workers.

#### **Morocco**

- (a) Loading and discharge of merchandise.
- (b) Rigging of ship from dockside.
- (c) Other longshore activities not onboard vessel.
- (d) Exceptions:

- (1) Operation of onboard cargo related equipment, and
- (2) Rigging of ship's gear onboard the ship, in coordination with local port workers.

#### **Mozambique**

- (a) Loading and discharge of cargo.
- (b) Exceptions:
  - (1) Operation of cargo-related equipment,
  - (2) Opening and closing of hatches, and
  - (3) Rigging of ship's gear.

#### **Namibia**

- (a) Longshore activities on shore.
- (b) Exceptions:
  - (1) Operation of cargo-related equipment,
  - (2) Opening and closing of hatches, and
  - (3) Rigging of ship's gear.

#### **Nauru**

- (a) All longshore activities.
- (b) Exceptions, with the authorization of the Harbor Master:
  - (1) Operation of cargo-related equipment,
  - (2) Opening and closing of hatches, and
  - (3) Rigging of ship's gear.

#### **Netherlands**

- (a) All longshore activities.
- (b) Exception: Regular crew activities on board ship, including operation of cargo-related equipment, opening and closing of hatches and rigging of ship's gear.

#### **Netherlands Antilles**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Operation of ship's gear,
  - (2) Opening and closing of hatches, and
  - (3) Rigging of ship's gear.

#### **New Zealand**

- (a) All longshore activities that take longer than 28 days of arriving in territorial waters.

#### **Nicaragua**

- (a) All longshore activities.
- (b) Exception: Opening and closing of hatches and rigging of ships gear if local workers are paid as if they had done the work.

#### **Nigeria**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Operation of ship's gear,
  - (2) Opening and closing of hatches,
  - (3) Rigging of ship's gear, and
  - (4) Instructing local employees on equipment.

#### **Oman**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Assisting in the operation of cargo related equipment if required,
  - (2) Opening and closing of hatches, and
  - (3) Rigging of ship's gear.

#### **Pakistan**

- (a) Longshore activities on shore.
- (b) Handling of mooring lines.
- (c) Exception: Operation of equipment which pier workers are not capable of operating.

#### **Panama**

- (a) All longshore activities.

(b) Exceptions:

- (1) Operation of cargo related equipment,
- (2) Opening and closing of hatches, and
- (3) Rigging of ship's gear.

#### **Papua New Guinea**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Opening and closing of hatches, and
  - (2) Rigging of ship's gear.

#### **Peru**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Operation of sophisticated cargo-related equipment on container vessels,
  - (2) First opening and last closing of hatches and holds, and
  - (3) Cleaning of holds.

#### **Philippines**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Opening and closing of hatches, if not related to cargo handling,
  - (2) Rigging of ship's gear, if not related to cargo handling,
  - (3) Longshore activities for hazardous or polluting cargoes, and
  - (4) Longshore activities on government vessels.

#### **Poland**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Operation of cargo-related equipment,
  - (2) Opening and closing of hatches, and
  - (3) Rigging of ship's gear.

#### **Portugal (including Azores and Madeira)**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Military operations,
  - (2) Operations in an emergency, when under the supervision of the maritime authorities,
  - (3) Security or inspection operations,
  - (4) Loading and discharge of supplies for the vessel and its crew,
  - (5) Loading and discharge of fuel and petroleum products at special terminals,
  - (6) Loading and discharge of chemical products if required for safety reasons,
  - (7) Placing of trailers and similar material in parking areas when done before loading or after discharge,
  - (8) Cleaning of the vessel,
  - (9) Loading, discharge and disposal of merchandise in other boats, and
  - (10) Opening and closing hatches.

#### **Qatar**

- (a) All longshore activities.

#### **Romania**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Operation of specialized shipboard equipment, and
  - (2) Loading and discharge of cargo requiring special operations.

#### **Russia**

- (a) All longshore activities performed with local port equipment.
- (b) Exceptions:
  - (1) Operation of cargo related equipment,

- (2) Opening and closing of hatches, and
- (3) Rigging of ship's gear.

**St. Christopher and Nevis**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Operation of cargo related equipment,
  - (2) Opening and closing of hatches, and
  - (3) Rigging of ship's gear.

**St. Lucia**

- (a) Loading, discharge and handling of general cargo.
- (b) Exceptions: activities on board the ship.

**St. Vincent and the Grenadines**

- (a) All longshore activities.
- (b) Exceptions: activities on board the ship.

**Saudi Arabia**

- (a) All longshore activities on shore.

**Senegal**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Opening and closing of hatches,
  - (2) Rigging of ship's gear, and
  - (3) Cargo handling when necessary to ensure the safety or stability of the vessel.

**Seychelles**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Opening and closing of hatches, and
  - (2) Rigging of ship's gear.

**Sierra Leone**

- (a) All longshore activities.

**Singapore**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Operation of cargo-related equipment,
  - (2) Opening and closing of hatches, and
  - (3) Rigging of ships gear.

**Slovenia**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Opening and closing of hatches, and
  - (2) Rigging of ship's gear.

**Solomon Islands**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Operation of cargo related equipment,
  - (2) Opening and closing of hatches, and
  - (3) Rigging of ship's gear.

**South Africa**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Opening and closing of hatches, and
  - (2) Rigging of ship's gear.

**Spain**

- (a) All longshore activities.

**Sri Lanka**

- (a) Longshore activities on shore.
- (b) Operation of cargo related equipment to load and discharge cargo.

**Sweden**

- (a) All longshore activities.

**Sudan**

- (a) All longshore activities.

**Syria**

- (a) All longshore activities on shore.

**Taiwan**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Opening and closing of hatches operated automatically, and
  - (2) Raising and lowering of ship's gear.

**Tanzania**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Operation of cargo related equipment,
  - (2) Opening and closing of hatches, and
  - (3) Rigging of ship's gear.

**Thailand**

- (a) Longshore activities on shore.

**Togo**

- (a) Loading and discharge of cargo.
- (b) Exceptions:
  - (1) Operation of cargo-related equipment on board the ship,
  - (2) Opening and closing of hatches, and
  - (3) Rigging of ships gear.

**Tonga**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Operation of cargo-related equipment,
  - (2) Opening and closing of hatches, and
  - (3) Rigging of ship's gear.

**Trinidad and Tobago**

- (a) All longshore activities on shore.

**Tunisia**

- (a) All longshore activities.
- (b) Exception: Operation of specialized equipment that local port workers cannot operate.

**Turkey**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Operation of cargo-related equipment,
  - (2) Opening and closing of hatches, and
  - (3) Rigging of ship's gear.

**Tuvalu**

- (a) Longshore activities on shore.

**United Arab Emirates**

- (a) All longshore activities on shore.

**Uruguay**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Operation of on-board cranes requiring expert operation or at the master's request,
  - (2) Opening and closing of hatches, and
  - (3) Rigging of ship's gear.

**Vanuatu**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Opening and closing of hatches, and
  - (2) Rigging of ship's gear.

**Venezuela**

- (a) Longshore activities on shore, at the discretion of the companies leasing and operating port facilities.

**Vietnam**

- (a) All longshore activities.

**(b) Exceptions:**

- (1) Operation of cargo-related equipment,
- (2) Opening and closing of hatches,
- (3) Rigging of ship's gear, and
- (4) Loading and discharge of cargo with on-board equipment when the port of call does not have the necessary equipment.

**Western Samoa**

- (a) All longshore activities.
- (b) Exceptions:
  - (1) Opening and closing of hatches, and
  - (2) Rigging of ship's gear.

**Yemen**

- (a) Longshore activities on shore.

Dated: November 9, 2001.

**E. Anthony Wayne,**

*Assistant Secretary, Bureau for Economic and Business Affairs.*

[FR Doc. 02-3335 Filed 2-11-02; 8:45 am]

**BILLING CODE 4710-07-P**

**DEPARTMENT OF THE INTERIOR****Minerals Management Service****30 CFR Part 250****RIN 1010-AC85****Oil and Gas and Sulphur Operations in the Outer Continental Shelf-Fixed and Floating Platforms and Documents Incorporated by Reference**

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Extension of comment period for proposed rule.

**SUMMARY:** This document extends to March 27, 2002, the previous deadline of February 25, 2002, for submitting comments on the proposed rule published December 27, 2001 (66 FR 66851) that addresses fixed and floating offshore platforms and floating production systems (FPSs). These FPSs are variously described as column-stabilized units (CSUs); floating production, storage and offloading facilities (referred to by industry as "FPSOs"); tension-leg platforms (TLPs); spars, etc. We are also incorporating into our regulations a body of industry standards pertaining to platforms and FPSs that will save the public the costs of developing separate and, in some cases, unnecessarily duplicative government standards.

**DATES:** We will consider all comments received by March 27, 2002, and we may not fully consider comments received after March 27, 2002.

**ADDRESSES:** Mail or hand-carry written comments (three copies) to the Department of the Interior; Minerals Management Service; 381 Elden Street; Mail Stop 4024; Herndon, Virginia