

■ 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) \* \* \*

(i) 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](mailto: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:**

**Table of Contents for Preamble**

I. Abbreviations

II. Regulatory History  
III. Basis and Purpose  
IV. Background  
V. Discussion of Comments and Changes  
VI. Regulatory Analyses  
A. Regulatory Planning and Review  
B. Small Entities  
C. Assistance for Small Entities  
D. Collection of Information  
E. Federalism  
F. Unfunded Mandates Reform Act  
G. Taking of Private Property  
H. Civil Justice Reform  
I. Protection of Children  
J. Indian Tribal Governments  
K. Energy Effects  
L. Technical Standards  
M. Environment

**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,<sup>1</sup> which requires publication, within 180 days of enactment, of regulations that “update and finalize” NOA procedures for foreign vessels<sup>2</sup> 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.<sup>3</sup>

### *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.

<sup>1</sup> 33 U.S.C. 1223 note (West 2009).

<sup>2</sup> 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).

<sup>3</sup> 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 NOA 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 NOA 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.<sup>4</sup> 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.

<sup>4</sup> 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/m<sup>3</sup>.

**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](mailto: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