

SUBCHAPTER N—OUTER CONTINENTAL SHELF ACTIVITIES

PART 140—GENERAL

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

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

Subpart A—General

§ 140.1 Purpose.

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

§ 140.3 Applicability.

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

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

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

§ 140.4 Relationship to other law.

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

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

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

§ 140.5 Exemptions during construction.

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

§ 140.7 Incorporation by reference.

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

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Coast Guard, Office of Design and Engineering Standards (CG-ENG-4), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593-7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030 or go to http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(b) American National Standards Institute (ANSI), 25 West 43rd Street, New York, NY 10036, 212-642-4900, <https://www.ansi.org>.

(1) ANSI A10.14-1975, Requirements for Safety Belts, Harnesses, Lanyards, Lifelines, and Drop Lines for Construction and Industrial Use, IBR approved for § 142.42(b).

(2) ANSI/UL 1123-1987, Standard for Marine Buoyant Devices, IBR approved for § 143.405(a).

(3) ANSI Z41-1983, American National Standard for Personal Protection-Protective Footwear, IBR approved for § 142.33(a) and (b).

(4) ANSI Z87.1-1979, Practice for Occupational and Educational Eye and Face Protection, IBR approved for § 142.27(a) and (c).

(5) ANSI Z88.2-1980, Practices for Respiratory Protection, IBR approved for § 142.39(a) through (c).

(6) ANSI Z89.1-1981, Safety Requirements for Industrial Head Protection, IBR approved for § 142.30(a) and (b).

(c) International Maritime Organization (IMO) Publishing, 4 Albert Embankment, London SE1 7SR, United Kingdom, +44 (0)20 7735 7611, <http://www.imo.org>.

(1) IMO Assembly Resolution A.414 (XI), Code for Construction and Equipment of Mobile Offshore Drilling Units, IBR approved for §§ 143.207(c) and 146.205(c).

(2) [Reserved]

(d) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02169, 617-770-3000, <http://www.nfpa.org>.

(1) NFPA 10, Standard for Portable Fire Extinguishers, 2010 Edition, effective December 5, 2009, IBR approved for § 145.01(b).

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(2) [Reserved]

[USCG-2012-0196, 81 FR 48242, July 22, 2016]

§ 140.10 Definitions.

As used in this subchapter:

Act means the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331 *et seq.*), as amended by the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372).

Approved means approved by the Commandant, unless otherwise indicated.

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

Bureau of Safety and Environmental Enforcement inspector or BSEE inspector means an individual employed by the Bureau of Safety and Environmental Enforcement who inspects fixed OCS facilities on behalf of the Coast Guard to determine whether the requirements of this subchapter are met.

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

Constructed means the date—

(1) The vessel's keel was laid; or

(2) Construction identifiable with the vessel or facility began and assembly of that vessel or facility commenced comprising of 50 metric tons or at least 1 percent of the estimated mass of all structural material, whichever is less.

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

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

Exploration means the process of searching for minerals, including, but not limited to, (1) geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such minerals, and (2) any drilling, whether on or off known geological structures, including

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

Fixed OCS facility means a bottom founded OCS facility permanently attached to the seabed or subsoil of the OCS, including platforms, guyed towers, articulated gravity platforms, and other structures.

Floating OCS facility means a buoyant OCS facility securely and substantially moored so that it cannot be moved without a special effort. This term includes tension leg platforms and permanently moored semisubmersibles or shipshape hulls but does not include mobile offshore drilling units and other vessels.

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

Manned facility means an OCS facility on which people are routinely accommodated for more than 12 hours in successive 24 hour periods.

Manned platform means a fixed OCS facility on which people are routinely accommodated for more than 12 hours in successive 24 hour periods.

Marine inspector means a person designated as such by an Officer in Charge, Marine Inspection, to perform inspections of units to determine whether or not the requirements of laws administered by the Coast Guard and of Coast Guard regulations are met.

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

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

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

Operator means—(1) In the case of a vessel, a charterer by demise or any other person who is responsible for the operation, manning, victualing, and supplying of the vessel; or

(2) In the case of an OCS facility, the operator as defined in 30 CFR 250.2(gg).

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

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

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

Owner means a person holding title to or, in the absence of title, other indicia of ownership of a unit; however, this does not include a person who holds indicia of ownership primarily to protect a security interest in the unit and does not participate in the management or operation of the unit.

Person means an individual, association, partnership, consortium, joint venture, private, public, or municipal

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firm or corporation, or a government entity.

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

Personnel means individuals who are employed by leaseholders, permit holders, operators, owners, contractors, or subcontractors and who are on a unit by reason of their employment.

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

Rebuilt means having had substantial alteration or reconstruction of the hull or principal structural component.

Standby vessel means a vessel meeting the requirements of part 143, subpart E, of this chapter and specifically designated in an Emergency Evacuation Plan under § 146.140 or § 146.210 of this chapter to provide rapid evacuation assistance in the event of an emergency.

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

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

Unmanned platform means a fixed, bottom-founded OCS facility which is not a manned facility even though it may be continuously serviced by an attending vessel.

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

[CGD 78-160, 47 FR 9376, Mar. 4, 1982, as amended by CGD 79-077, 51 FR 25059, July 10, 1986; CGD 84-098b, 54 FR 21571, May 18, 1989; USCG-2001-9045, 67 FR 5916, Feb. 7, 2002; USCG-2011-0257, 76 FR 31837, June 2, 2011; USCG-2013-0797, 79 FR 36405, June 27, 2014; USCG-2012-0850, 80 FR 16990, Mar. 31, 2015]

§ 140.15 Equivalents and approved equipment.

(a) The use of alternate equipment or procedures for those specified in this subchapter may be permitted by an Of-

ficer in Charge, Marine Inspection, to the extent and upon conditions as will insure a degree of safety comparable to or greater than that provided by the minimum standards in this subchapter.

(b) Where equipment in this subchapter is required to be of an approved type, the equipment requires the specific approval of the Commandant. Approvals are published in the FEDERAL REGISTER and COMDTINST M16714.3 (Series) Equipment List, available from Coast Guard Headquarters. Contact Commandant (CG-ENG), Attn: Office of Design and Engineering Standards, U.S. Coast Guard Stop 7509, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593-7509.

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

[CGD 78-160, 47 FR 9376, Mar. 4, 1982, as amended at CGD 88-052, 53 FR 25121, July 1, 1988; CGD 96-026, 61 FR 33665, June 28, 1996; USCG-2010-0351, 75 FR 36283, June 25, 2010; USCG-2014-0410, 79 FR 38434, July 7, 2014]

§ 140.20 Delegations.

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

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

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

§ 140.25 Appeals.

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

decision made. The District Commander issues a decision after reviewing the appeal submitted under this paragraph.

(b) Any person not satisfied with the decision of a District Commander may appeal that decision within 30 days to the Commandant, who issues a ruling after reviewing the appeal submitted under this paragraph. Rulings of the Commandant constitute final agency action.

(c) An appeal to the District Commander or Commandant:

(1) Must be made in writing, except in an emergency when an oral appeal may be accepted;

(2) Must be submitted to the District Commander of the District in which the action was taken or the decision made;

(3) Must describe the decision or action being appealed;

(4) Must state the reasons why the action or decision should be set aside or modified; and

(5) May contain any supporting documents and evidence that the appellant wishes to have considered.

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

§ 140.30 Judicial review.

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

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

§ 140.35 Sanctions.

(a) Any person who fails to comply with:

(1) Any provision of the Act;

(2) Any regulation in this subchapter; or

(3) Any order issued under the Act or the regulations in this subchapter by the Commandant, a District Com-

mander, or an Officer in Charge, Marine Inspection, after notice of the failure and after expiration of any reasonable period allowed for corrective action, shall be liable for a civil penalty for each day of the continuance of the failure.

(b) Any person who knowingly and willfully:

(1) Violates any provision of the Act;

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

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

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

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

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

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

(d) The penalties prescribed in this section are concurrent and cumulative and the exercise of one does not preclude the exercise of the others. Further, the penalties prescribed in this

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section are in addition to any other penalties afforded by any other law or regulation.

[CGD 78-160, 47 FR 9376, Mar. 4, 1982, as amended by CGD 96-052, 62 FR 16703, Apr. 8, 1997]

§ 140.40 Processing penalty cases.

Apparent violations of the regulations in this subchapter are processed in accordance with subpart 1.07 of 33 CFR part 1 on civil and criminal penalty proceedings, except as follows:

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

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

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

Subpart B—Inspections

§ 140.101 Inspection by Coast Guard marine inspectors or Bureau of Safety and Environmental Enforcement inspectors.

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

(b) On behalf of the Coast Guard, each fixed OCS facility engaged in OCS activities is subject to inspection by the Bureau of Safety and Environmental Enforcement (BSEE).

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

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Officer in Charge, Marine Inspection, or BSEE.

(d) As part of an inspection, a Coast Guard marine inspector or a BSEE inspector may review records and require and observe the conduct of emergency drills and other tests and procedures as may be necessary to demonstrate to that person's satisfaction that the unit and its equipment are in full compliance with applicable Coast Guard regulations. The Coast Guard marine inspector or the BSEE inspector consults with the person in charge of the unit before requiring a drill or other test or procedure to be conducted to minimize disruption of unit activities and risk to life or property.

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

(f) Coast Guard marine inspectors conduct an initial inspection of each fixed OCS facility to determine whether the facility is in compliance with the requirements of this subchapter.

[CGD 78-160, 47 FR 9376, Mar. 4, 1982, as amended by CGD 84-098a, 53 FR 18980, May 26, 1988; USCG-2001-9045, 67 FR 5916, Feb. 7, 2002; USCG-2011-0257, 76 FR 31837, June 2, 2011; USCG-2013-0797, 79 FR 35405, June 27, 2014]

§ 140.103 Annual inspection of fixed OCS facilities.

(a) The owner or operator of each fixed OCS facility shall ensure that the facility is inspected, at intervals not to exceed 12 months, to determine whether the facility is in compliance with the requirements of this subchapter.

(b) Except for initial inspections under § 140.101(f), inspections by Coast Guard marine inspectors and Bureau of Safety and Environmental Enforcement (BSEE) inspectors do not meet the requirements for an inspection under paragraph (a) of this section.

(c) Except for initial inspections under § 140.101(f), the results of the inspection under paragraph (a) of this

section must be recorded on form CG-5432. Forms CG-5432 may be obtained from the Officer in Charge, Marine Inspection. A copy of the completed form must be kept for 2 years after the inspection under paragraph (a) of this section is conducted and the form made available to the Coast Guard and BOEMRE on request. For manned fixed OCS facilities, the copy of the completed form must be kept on the facility. For unmanned fixed OCS facilities, the copy of the completed form must be kept either at the nearest manned fixed OCS facility or, if there is no manned fixed OCS facility in the area, at the nearest field office of the owner or operator. In addition, the owner or operator must submit, to the appropriate BSEE District office, a copy of each completed form CG-5432 that indicates outstanding deficiencies or hazards, within 30 days after completion of the inspection.

[CGD 84-098a, 53 FR 18980, May 26, 1988, as amended by USCG-2001-9045, 67 FR 5916, Feb. 7, 2002; USCG-2011-0257, 76 FR 31837, June 2, 2011; USCG-2013-0797, 79 FR 36405, June 27, 2014]

§ 140.105 Correction of deficiencies and hazards.

(a) Lifesaving and fire fighting equipment which is found defective during an inspection by a Coast Guard marine inspector or a Bureau of Safety and Environmental Enforcement (BSEE) inspector and which, in the opinion of the inspector, cannot be satisfactorily repaired must be so mutilated in the presence of the inspector that it cannot be used for the purpose for which it was originally intended. Lifesaving and fire fighting equipment subsequently determined to be unrepairable must be similarly mutilated in the presence of the person making that determination.

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

(c) Deficiencies and hazards discovered during an inspection of a fixed OCS facility under § 140.103(a) must be

corrected or eliminated, if practicable, before the form CG-5432 is completed. Deficiencies and hazards that are not corrected or eliminated by the time the form is completed must be indicated on the form as "outstanding" and the form submitted to the appropriate BSEE District office. Upon receipt of a form CG-5432 indicating outstanding deficiencies or hazards, BSEE informs, by letter, the owner or operator of the fixed OCS facility of the deficiencies or hazards and the time period specified to correct or eliminate the deficiencies or hazards.

(d) For lifesaving and fire fighting equipment deficiencies on fixed OCS facilities that cannot be corrected before the submission of form CG-5432, the owner or operator must contact the appropriate BSEE District Supervisor to request a time period for repair of the item. The owner or operator must include a description of the deficiency and the time period approved by BSEE for correction of the deficiency in the comment section of form CG-5432.

(e) Where a deficiency or hazard remains uncorrected or uneliminated after the expiration of the time specified for correction or elimination, the Officer in Charge, Marine Inspection or BSEE (for deficiencies or hazards discovered by BSEE during an inspection of a fixed OCS facility), initiates appropriate enforcement measures.

[CGD84-098a, 53 FR 18981, May 26, 1988, as amended by USCG-2001-9045, 67 FR 5916, Feb. 7, 2002; USCG-2013-0797, 79 FR 36405, June 27, 2014]

Subpart C—Investigations

§ 140.201 General.

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

(a) Death.

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

(c) Fire which causes death, serious injury or property damage exceeding \$25,000.

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

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

§ 140.203 Investigation procedures.

(a) Insofar as practicable, investigations conducted pursuant to this subchapter shall follow the procedures of 46 CFR part 4.

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

- (1) Participating in a joint on-scene investigation;
- (2) Making recommendations concerning the scope of the investigation;
- (3) Calling and examining witnesses; and
- (4) Submitting or requesting additional evidence.

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

§ 140.205 Subpoenas.

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

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

PART 141—PERSONNEL

Subpart A—Restrictions on Employment

Sec.

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141.15 Restrictions on employment.

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141.35 Records to be kept by the employer.

AUTHORITY: 43 U.S.C. 1356; 46 U.S.C. 70105; 49 CFR 1.46(z).

SOURCE: CGD 78-160, 47 FR 9379, Mar. 4, 1982, unless otherwise noted.

Subpart A—Restrictions on Employment

§ 141.1 Purpose.

This subpart prescribes rules governing restrictions on the employment of personnel on units engaged in OCS activities.

§ 141.5 Applicability.

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

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

(1) Vessel subject to the citizenship requirements of 46 U.S.C. 8103 for pilots, crew, and officers holding a valid license or MMC with officer endorsement when the vessel is transiting to or from an OCS facility or a United States port;

(2) Vessel subject to the citizenship requirements of 46 U.S.C. 7102 and 8103 for officers and crew on federally subsidized or documented vessels; or

(3) Unit over 50 percent of which is owned by one or more citizens of a foreign nation or with respect to which one or more citizens of a foreign nation have the right effectively to control, except to the extent and to the degree that the President determines that the government of such foreign nation or any of its political subdivisions has implemented, by statute, regulation, policy, or practice, a national manning requirement for equipment engaged in the exploration, development, or production of oil or gas in its offshore areas.

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

(d) In determining whether ownership or a right effectively to control exists,