



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 3 and 141

[Docket No. USCG-2013-0491]

RIN 1625-AB88

Consolidation of Officer in Charge, Marine Inspection For Outer Continental Shelf Activities; Eighth Coast Guard District; Technical, Organizational, and Conforming Amendments

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is issuing a final rule establishing a consolidated Officer in Charge, Marine Inspection (OCMI) for the purposes of inspecting mobile offshore drilling units, and fixed and floating facilities, engaged in OCS activities in the Eighth Coast Guard District. This final rule also addresses comments submitted in response to our notice and request for comments related to the consolidation of the OCMI, for OCS activities, and makes other non-substantive changes. This rule will have no substantive effect on the regulated public.

DATES: This rule is effective May 1, 2015.

ADDRESSES: Documents mentioned in this preamble as being available in the docket, are part of docket USCG-2013-0491 and are available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also view the docket on the Internet by going to <http://www.regulations.gov>, inserting USCG-2013-0491 in the "Search" box, and then clicking "Search."

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Commander Steven Keel, U.S. Coast Guard Headquarters, Office of Commercial Vessel Compliance; telephone (202) 372-1230, email steven.r.keel@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202-366-9826.

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I. Abbreviations:

| | |
|------|--------------------------------------|
| CFR | Code of Federal Regulations |
| DHS | Department of Homeland Security |
| E.O. | Executive Order |
| FR | Federal Register |
| NCOE | National Center of Expertise |
| OCMI | Officer in Charge, Marine Inspection |
| OMB | Office of Management and Budget |
| OCS | Outer Continental Shelf |

Pub. L. Public Law

§ Section Symbol

U.S.C. United States Code

II. Regulatory History and Information

This rule reflects the internal organization of the Coast Guard's Eighth District, and affects administrative procedures such as contact information. It is a rule of agency organization, procedure, and practice within the meaning of 5 U.S.C. 553(b) (A) and under that section no prior notice or opportunity to comment is required. Also, the Coast Guard finds for good cause that notice and comment procedures are unnecessary under 5 U.S.C. 553(b) (B) because this final rule consists only of administrative, organizational, and conforming amendments that will have no substantive effect on the public. Therefore, we did not publish a notice of proposed rulemaking for this final rule, although we did provide for public comment as described below.

Because this is a rule of internal agency organization with no substantive impact on the public, we find that good cause exists under 5 U.S.C.(d) (3) for making this final rule effective immediately upon the date specified in the DATES section above.

On August 7, 2013 we published a notice and request

for comments (78 FR 48180) informing the public that the Eighth Coast Guard District in New Orleans was considering consolidating its OCS marine inspection function from six offices to one and invited public comment on making such a change. The duties of an OCMI are found in 33 CFR 1.01-20 and include inspection of vessels in order to determine that they comply with the applicable laws, rules, and regulations relating to safe construction, equipment, manning, and operation and that they are in a seaworthy condition for the services in which they are operated. Currently, the six OCMI field offices in the Eighth District that handle OCS matters are located in the following cities: Mobile, Alabama; New Orleans, Louisiana; Morgan City, Louisiana; Port Arthur, Texas; Houston, Texas, and Corpus Christi, Texas.

In addition to requesting comments on the efficacy of combining the OCS OCMI function, the request offered four different ways in which the consolidated Eighth District OCS OCMI could be established using the existing organizational structure of the Eighth District. We also asked for comments on which city a consolidated Eighth District OCS OCMI should be physically located.

With input received in response to our request, we have decided to consolidate OCMI functions for the purposes

of inspecting fixed and floating facilities, and mobile offshore drilling units (MODUs), in the Eighth Coast Guard District, into a single OCMI that will serve as the Chief, Outer Continental Shelf Division, on the Eighth District staff (hereafter referred to as "Eighth District OCS OCMI"). For simplicity, we have included every Eighth District Marine Inspection Zone defined in Title 33, Code of Federal Regulations, Part 3, Subpart 3.40 in the consolidation even though offshore inspections are not usually carried out in the inland rivers.

III. Basis and Purpose:

The legal basis for this rule is provided by 14 U.S. Code (U.S.C.) 92 and DHS Delegation No. 0170.1(II)(23). Section 92 authorizes the Secretary of DHS to "establish, change the limits of, consolidate, discontinue, and re-establish Coast Guard districts" and "do any and all things necessary to carry out the purposes of" title 14, pertaining to the Coast Guard. The DHS Delegation delegates the Secretary's functions to the Commandant of the Coast Guard.

The purpose of this rule is to make conforming amendments and technical corrections specific to agency organization, procedure, and practice. These conforming amendments and technical corrections consolidate the

existing individual OCMI authorities currently within the Eighth Coast Guard District into a single OCMI authority.

IV. Discussion of Comments Received

We received 12 comments on the docket addressing the specific questions raised in the request for comments and we also received additional comments beyond the scope of those questions. No adverse or opposing comments were made and 11 comments expressed support for consolidation. An analysis of those comments is as follows:

a. Should the OCMI function be consolidated? Of the 12 comments received, 11 supported the consolidation and one did not comment on this question. The reasons cited for supporting the consolidation included the belief that doing so would make more efficient use of inspection personnel and provide more consistency since decisions affecting the regulated industry would be made by one OCMI instead of six. Additionally, several commenters suggested that consolidation be carried out as promptly as possible, and three responses suggested that proper staffing would be critical to the success of the consolidated Eighth District OCMI.

b. Where should the consolidated Eighth District OCMI be placed in the organization? Seven commenters made recommendations related to location and the remainder had

none. The majority recommended that the consolidated Eighth District OCS OCMI be located in Houston, Texas or New Orleans, Louisiana and one commenter recommended Morgan City or Houma, Louisiana. One commenter suggested that desirability of the location should be taken into consideration to encourage recruitment and retention. The Coast Guard is opting to establish the Eighth District OCS OCMI as a staff element of the Eighth District, in New Orleans, Louisiana. We believe this provides the most efficient means of consolidation and places the Eighth District OCS OCMI in close proximity with the Eighth District Commander, increasing the visibility of the OCS inspection mission.

c. Other comments: In addition to providing responses to the questions we asked in the notice, several commenters provided concerns and recommendations should the OCMI function be consolidated. Several commenters expressed concern that the success of an Eighth District OCS OCMI would depend on proper staffing levels. We agree. Workforce capacity was taken into consideration when determining whether to consolidate the OCS function or not. Our workload analysis of the Eighth District OCS OCMI model identified a gain in labor efficiency equivalent to hiring 1.5 new full time employees creating more workload capacity

with existing inspectors. Through consolidation, qualified marine inspectors from each of the six current OCMI staffs have been designated as dedicated OCS inspectors under the new Eighth District OCS OCMI with OCS inspection as their primary duty. We believe that focusing a core capacity of OCS inspectors will improve service delivery to the regulated industry. Additionally, we will continue to analyze workload levels for OCS inspection activities and make workforce adjustments as necessary.

Some comments also expressed concern for OCS marine inspector proficiency. We believe that overall proficiency under the Eighth District OCS OCMI will improve for two reasons. First, the consolidation will facilitate movement of OCS inspectors within the Eighth District between the MI zones that existed before the consolidation to either meet spot workloads or gain experience more quickly than they otherwise would have. Second, the Eighth District OCS OCMI can serve as a single champion for all OCS inspectors in the District and will be better placed to track and improve their proficiency development. One commenter also recommended longer tour lengths for active duty OCS inspectors and perhaps the addition of more long term civilian OCS inspectors to improve proficiency. We agree with this comment and are considering its potential future

adoption. One commenter suggested that OCS marine inspector proficiency could be improved by using only Coast Guard civilian personnel who do not serve tours like military personnel who regularly rotate out once their tour is up. We believe using active duty military personnel provides long term benefits to the Coast Guard by forming future leaders who will serve in Headquarters where important program decisions impacting the offshore energy sector are made.

One commenter suggested that the OCS National Center of Expertise (NCOE) be consolidated into the Eighth District OCS OCMI. We do not intend to do so at this time. The NCOE is a Coast Guard Headquarters unit that focuses on programmatic issues such as policy and standardized training development. We believe that their current position in the organization is better aligned with achieving those goals than it would be if moved into the OCS OCMI organization within the Eighth District.

One commenter was uncertain as to which office would be responsible for conducting marine casualty investigations for reportable incidents occurring offshore. The Eighth District OCS OCMI will be responsible for investigating marine casualties on fixed and floating OCS facilities, and MODUs in the Eighth Coast Guard District.

One commenter expressed confusion over which vessels and facilities the Eighth District OCS OCMI would be responsible for inspecting. The Eighth District OCS OCMI will be responsible for inspecting a specific fleet of fixed or floating OCS facilities or mobile offshore drilling units defined in 33 CFR 140.10. Any other vessel or OCS unit type will continue to be inspected by the OCMI described in 33 CFR Part 3.40 as stated prior to the consolidation. For example, a well intervention vessel that is not certificated as a mobile offshore drilling unit will continue to be inspected by the cognizant Sector or Marine Safety Unit OCMI.

Vessels and facilities overseen by the Eighth District OCS OCMI are fleet specific; any vessel meeting the description above will fall under the purview of the Eighth District OCS OCMI regardless of where in the Eighth Coast Guard District it may be located.

One commenter observed that the consolidation of the OCMI function fulfills a recommendation of the Coast Guard's Report of Investigation in the Circumstances Surrounding the Explosion, Fire, Sinking, and Loss of Eleven Crew Members Aboard the Mobile Offshore Drilling Unit DEEPWATER HORIZON in the Gulf of Mexico April 20-22, 2010 (Volume I pages 110-111).

One commenter positively noted that the plan to consolidate the Eighth District OCS OCMI function could be accomplished in a resource neutral way thus gaining efficiency with no additional government expense.

V. Discussion of the Rule

As discussed in Section II above, this rule constitutes a non-substantive organization change. Beginning May 1, 2015, vessels meeting the description set out by this rulemaking will apply to the Eighth District OCS OCMI for required inspections instead of the Sector OCMI as was previously the case. The Eighth District OCS OCMI will also carry out other traditional OCMI activities such as inspection of damage and repairs, as well as unannounced inspections. This rule also amends 33 CFR 141.15 to clarify when determinations that affect restrictions on employment of persons other than United States citizens may be made by the Eighth District OCS OCMI. To apply for an inspection after April 30, 2015, or to learn more about the business rules of the Eighth District OCS OCMI, please visit their website at www.uscg.mil/d8/ocsocmi.asp, available beginning on April 27, 2015.

VI. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders (E.O.s) related to rulemaking. Below we summarize our analyses based on these statutes or E.O.s.

1. Regulatory Planning and Review

E.O.s 12866 ("Regulatory Planning and Review") and 13563 ("Improving Regulation and Regulatory Review") direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Two additional E.O.s were recently published to promote the goals of E.O. 13563: E.O. 13609 ("Promoting International Regulatory Cooperation") and E.O. 13610 ("Identifying and Reducing Regulatory Burdens"). E.O. 13609 targets international regulatory cooperation to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. E.O. 13610 aims to modernize the regulatory systems and to reduce unjustified regulatory burdens and costs on the public.

The provisions of this final rule are administrative, technical, and non-substantive; they will have no substantive effect on the public and will impose no additional costs. This final rule consolidates the functions and requirements for six existing individual OCMI authorities into a single OCMI authority within the Eighth Coast Guard District known as the Eighth District OCS OCMI. OCS units meeting the description set out by this rulemaking are already required to contact an OCMI for mandatory inspections and LODs related to citizenship. Under this final rule, such vessels will now contact the Eighth District OCS OCMI for these same requirements rather than applying to one of six different OCMI's within the Eighth District. Information on applying for inspections or receiving an LOD from the Eighth District OCS OCMI after April 30, 2015, and more about the business rules of the Eighth District OCS OCMI, may be accessed at www.uscg.mil/d8/ocsocmi.asp, which will be available beginning on April 27, 2015. This rule does not establish any new regulatory requirements impacting the public. Therefore, this final rule is not a significant regulatory action under section 3(f) of E.O. 12866 as supplemented by E.O. 13563, and does not require an assessment of potential costs and benefits under section 6(a)(3) of E.O. 12866.

The Office of Management and Budget (OMB) has not reviewed it under E.O. 12866.

2. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), rules exempt from the notice and comment requirements of the Administrative Procedure Act are not required to examine the impact of the rule on small entities.

Nevertheless, we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

There is no cost to this final rule, and we do not expect it to have an impact on small entities because the provisions of this rule will have no substantive effect on the public and will impose no additional costs. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want

to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Mr. Mugo Macharia by phone at 202-372-1472 or via email at *Mugo.Macharia@uscg.mil*.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under E.O. 13132 ("Federalism") if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132.

6. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any 1 year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

7. Taking of Private Property

This final rule will not cause a taking of private property or otherwise have taking implications under E.O. 12630 ("Governmental Actions and Interference with

Constitutionally Protected Property Rights").

8. Civil Justice Reform

This final rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988 ("Civil Justice Reform"), to minimize litigation, eliminate ambiguity, and reduce burden.

9. Protection of Children

We have analyzed this final rule under E.O. 13045 ("Protection of Children from Environmental Health Risks and Safety Risks"). This final rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

10. Indian Tribal Governments

This final rule does not have tribal implications under E.O. 13175 ("Consultation and Coordination with Indian Tribal Governments"), because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

11. Energy Effects

We have analyzed this final rule under E.O. 13211

("Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use"). We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under E.O. 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of OMB's Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under E.O. 13211.

12. Technical Standards

This final rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

13. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded under section 2.B.2, figure 2-1, paragraphs (34) (a), (b),

and (d) of the Instruction. This final rule involves regulations that are editorial or procedural, or that concern internal agency functions or organizations. An environmental analysis checklist and a categorical exclusion determination are available in the docket for this final rule where indicated under ADDRESSES.

List of Subjects

33 CFR Part 3

Organization and functions (Government agencies)

33 CFR Part 141

Citizenship and naturalization, Continental shelf, Employment, Reporting and recordkeeping requirements

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Chapter I as follows:

1. The authority for part 3 continues to read as follows:

AUTHORITY: 14 U.S.C. 92 and 93; Pub. L. 107-296, 116 Stat. 2135; Department of Homeland Security Delegation No. 0170.1, para. 2(23).

PART 3 - COAST GUARD AREAS, DISTRICTS, SECTORS, MARINE INSPECTION ZONES, AND CAPTAIN OF THE PORT ZONES

2. Add § 3.40-5 to read as follows:

§ 3.40-5. Eighth District Outer Continental Shelf Marine Inspection Zone.

(a) A separate marine inspection zone, with an office located in New Orleans, Louisiana, performs the OCMI functions defined in 33 CFR 1.01-20 for all MODUs and fixed and floating OCS facilities, as those terms are defined in 33 CFR 140.10, engaged in OCS activities wherever located in the Eighth Coast Guard District.

(b) Notwithstanding the OCMI inspection authority held by Eighth Coast Guard District Sector Commanders and Marine Safety Unit Commanders in § 3.01-1(d), the Chief, Outer Continental Shelf Division at the Eighth Coast Guard District, shall serve as the Officer in Charge, Marine Inspection, for this Marine Inspection Zone and shall be known as the Eighth District Outer Continental Shelf Officer in Charge, Marine Inspection. The District Commander resolves any conflict between the functions of this marine inspection zone and any geographically based marine inspection zones described in 33 CFR 3.40-10, 3.40-15, 3.40-28, 3.40-35, 3.40-40, 3.40-60, or 3.40.65. §§ 3.40-10, 3.40-15, 3.40-28, 3.40-35, 3.40-40, 3.40-60, 3.40-65 [Amended]

3. Add the words the words "Subject to the overriding provisions of § 3.40-5," in the following places:

a. In § 3.40-10, at the beginning of the second sentence;

b. In §§ 3.40-15 and 3.40-28, at the beginning of the first sentence in paragraph (a);

c. In §§ 3.40-35, 3.40-40, and 3.40-60 at the beginning of the second sentence; and

d. In § 3.40-65, at the beginning of the first sentence in paragraph (a).

PART 141 - PERSONNEL

4. The authority for part 141 continues to read as follows:

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

5. In § 141.15, redesignate paragraph (c) as paragraph (c)(1) and add paragraph (c)(2) to read as follows:

§ 141.15 Restrictions on employment.

* * * * *

(c) * * *

(2) Determinations in paragraph (c)(1) of this section for all MODUs and fixed and floating OCS facilities, as those terms are defined in 33 CFR 140.10, operating within the Eighth District Outer Continental Shelf Marine Inspection Zone will be made by the Eighth District Outer Continental Shelf Officer in Charge, Marine Inspection, as defined and described in § 3.40-5 of this chapter.

Dated: April 9, 2015

J. C. Burton,
Captain, U.S. Coast Guard,
Director of Inspections and Compliance.
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Date: 4/15/2015]