

**DEPARTMENT OF TRANSPORTATION****Coast Guard****33 CFR Part 140****[USCG-2001-9045]****RIN 2115-AG14****Inspection Under, and Enforcement of, Coast Guard Regulations for Fixed Facilities on the Outer Continental Shelf by the Minerals Management Service****AGENCY:** Coast Guard, DOT.**ACTION:** Final rule.

**SUMMARY:** We are authorizing the Minerals Management Service (MMS), on behalf of the Coast Guard, to perform inspections on fixed facilities engaged in Outer Continental Shelf activities and to enforce Coast Guard regulations applicable to those facilities. MMS already performs inspections on those facilities to determine whether they comply with MMS regulations. By authorizing MMS to also check for compliance with Coast Guard regulations, we avoid duplicating functions, reduce Federal costs, and increase oversight for Coast Guard compliance without increasing the frequency of inspections.

**DATES:** This final rule is effective June 7, 2002, except for § 140.103(c), which contains a collection-of-information requirement that has not been approved by the Office of Management and Budget. We will publish a document in the **Federal Register** announcing the effective date of that paragraph.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2001-9045 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, contact James M. Magill, Vessel and Facility Operating Standards Division (G-MSO-2), telephone 202-267-1082 or fax 202-267-4570. If you have questions on viewing the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202-366-5149.

**SUPPLEMENTARY INFORMATION:****Regulatory History**

On May 10, 2001, we published a notice of proposed rulemaking (NPRM) entitled "Inspection Under, and Enforcement of, Coast Guard Regulations for Fixed Facilities on the Outer Continental Shelf by the Minerals Management Service" in the **Federal Register** (66 FR 23871). We received five letters commenting on the proposed rule. Three letters contained requests for a public meeting and two contained requests for an extension to the comment period.

**Background and Purpose**

This rule authorizes the Minerals Management Service (MMS) to perform inspections on fixed Outer Continental Shelf (OCS) facilities engaged in OCS activities and to enforce Coast Guard regulations applicable to those facilities in 33 CFR chapter I, subchapter N. The Coast Guard and MMS regulate safety on fixed OCS facilities. MMS regulates the structural integrity of fixed OCS facilities, in addition to enforcing all regulations pertaining to production, exploration, drilling, well workover, and well servicing operations for hydrocarbons and other minerals on the OCS. The Coast Guard regulates marine systems, such as lifesaving and navigation equipment and workplace safety and health.

At least annually, MMS visits all of the fixed OCS facilities to inspect for violations in the area of its responsibility. The Coast Guard, with fewer inspectors at its disposal, visits less than 10 percent of these facilities annually. On December 18, 1998, MMS and the Coast Guard agreed to review the regulations of both agencies to ensure consistency and to eliminate duplication. As part of this review, MMS and the Coast Guard decided that, because MMS was already visiting all of the fixed OCS facilities at least once a year, it would be beneficial to both agencies if MMS was authorized, on behalf of the Coast Guard, to inspect and enforce the Coast Guard's regulations for fixed OCS facilities. Such an authorization is allowed under the Outer Continental Shelf Lands Act, which, in 43 U.S.C. 1348(a), allows the Coast Guard to use the services and personnel of other Federal agencies for the enforcement of its OCS regulations.

**Future Workshop**

The Coast Guard and MMS are aware that industry has concerns regarding how this agreement between the Coast Guard and MMS will be implemented. To alleviate these concerns, the agencies have decided to hold a workshop after

the publication of this final rule. The workshop will be held to inform industry and the public of the implementation of MMS inspection and answer any questions that industry or the public may have. Notice of the workshop will be published in the **Federal Register**.

**Discussion of Comments on and Changes to the Notice of Proposed Rulemaking (NPRM) of May 10, 2001**

We received a total of five letters containing 23 comments in response to our notice of proposed rulemaking (NPRM) (66 FR 23871, May 10, 2001). Comments received in the five letters are discussed below. Non-substantive or editorial comments and comments concerning issues not related to this rulemaking are not discussed in this preamble.

*I. General comments to the NPRM.*

1. Three comments requested that a public meeting be held to answer questions related to the proposed rulemaking and to provide additional detailed information on the delegation of inspection responsibilities to MMS.

After consultation with MMS, the Coast Guard decided that a public meeting would not aid this rulemaking. There are no new standards proposed in this rulemaking, only an authorization for MMS to inspect fixed OCS facilities on behalf of the Coast Guard and to enforce the Coast Guard's regulations on those facilities. The process for handling civil penalties will not change, as the current process under 33 CFR 140.40 requires the Coast Guard to refer civil penalty proceedings to MMS for assessing and collecting penalties. There are no additional inspections required of the owner or operator by this rulemaking. The annual self-inspection by the owner or operator under 33 CFR 140.103 is still the main method for inspecting fixed facilities to ensure compliance with Coast Guard regulations. MMS will be acting on behalf of the Coast Guard to assist in performing spot inspections as required under 33 CFR 140.101. The only additional burden required by this rulemaking is for the owner or operator to retain copies of self-inspection form CG-5432 for each manned and unmanned fixed OCS facility for at least 2 years after the self-inspection.

2. Two commenters requested that the comment period be extended to allow for a public meeting.

Since we intend to hold a workshop shortly after the final rule is published, such an extension would not be needed.

3. One commenter was concerned that turning the enforcement of Coast Guard

lifesaving and firefighting regulations on fixed facilities over to another agency would remove the Coast Guard from any involvement over what occurs on the OCS and would endanger commercial mariners who work at, visit, tie to, use, or interact with fixed OCS facilities.

We disagree with the comment. The Coast Guard will still be conducting the initial inspection of all new fixed OCS facilities and, thereafter, will be conducting some spot inspections of these facilities as time and funds allow. By authorizing MMS to also check for compliance with Coast Guard regulations, the frequency of inspections will be increased to at least once a year. This should reduce the chance that lifesaving and firefighting equipment is not in compliance with the Coast Guard regulations and, thus, increase the safety of workers on fixed OCS facilities and associated vessels.

## *II. Comments to specific sections of the NPRM 33 CFR 140.101(f)*

1. One commenter requested that the "June 27, 1988" be eliminated from § 140.101(f) since that date has already passed.

We agree with this comment and have deleted the date.

### 33 CFR 140.103

1. One commenter requested that § 140.103 on annual self-inspections of fixed OCS facilities by owners or operators be eliminated. No reason was given.

We disagree with this comment. By eliminating that section, we would be eliminating the self-inspection program. Such a recommendation is outside of the scope of this rulemaking.

### 33 CFR 140.103(c)

1. One commenter asked if the completed copy of form CG-5432 required to be kept on the facility was in addition to the copy required by 33 CFR 140.103(c) to be submitted to the Officer in Charge, Marine Inspections, (OCMI) within 30 days after completion of the inspection.

We have eliminated the requirement to submit a copy of form CG-5432 to the Coast Guard. Instead, we require that the latest 2 years of completed forms CG-5432 be kept onboard manned fixed OCS facilities and, for unmanned fixed OCS facilities, to be kept on the nearest manned fixed OCS facility or the nearest field office of the owner or operator. We have changed § 140.103(c) accordingly.

2. One commenter was concerned that, since MMS would only be furnished with a copy of form CG-5432 when on the facility, it would possibly

not have full and complete access to all CG-5432 forms generated.

As indicated in our response to comment 1 on § 140.103(c), we have eliminated the requirement that a copy of form CG-5432 be submitted to the Coast Guard. Instead, we require that the latest two forms be kept onboard the facility or in a specified location near the facility. MMS inspectors will now have access to all completed CG-5432 forms during their inspection visits and be able to readily compare the MMS inspection with the last 2 years of self-inspections by the owner or operator.

3. One commenter said that some platforms do not have storage facilities to keep self-inspection records and suggested that they should be allowed to keep the records in a field office close to the fixed platform.

We partially agree with this comment. Manned facilities should have no problem in storing the self-inspection records onboard. However, some small, unmanned platforms may not have facilities to store the records. We have modified § 140.103(c) to allow the self-inspection reports for unmanned platforms to be kept in a location close to the platform.

### 33 CFR 140.103(d)

1. One commenter pointed out that the "June 27, 1988" date should be removed because all fixed facilities installed before this rulemaking should have already had an initial inspection.

We agree with this comment. The entire paragraph is no longer needed, so it has been removed.

### 33 CFR 140.105(a)

1. One commenter was concerned that, if both the Coast Guard and MMS inspect facilities, a clear reporting chain-of-command might be lacking, which could lead to no one checking on important lifesaving and firefighting equipment.

We disagree with the comment. The initial Coast Guard inspection under § 140.101(f), and the annual self-inspection of fixed facilities by the owner or operator required under § 140.103 is the primary method of inspection to ensure compliance with Coast Guard regulations. This will be augmented by the Coast Guard and, now, by MMS spot inspections. This should increase the number of inspections and reduce the risk of lifesaving and firefighting equipment not being in compliance with the Coast Guard regulations.

2. One commenter commended MMS and the Coast Guard for working together to reduce the duplication of efforts and costs of inspections but

believed the proposed rulemaking to be overly broad and vague. The commenter asked when inspections will be conducted, how inspections will be conducted, and for details on the enforcement and appeal processes.

The purpose of this rulemaking is to authorize MMS to inspect fixed OCS facilities on behalf of the Coast Guard and to enforce Coast Guard regulations. No inspections, other than the annual self-inspection under § 140.103, will be required of the owner or operator. MMS will be acting on behalf of the Coast Guard in performing spot inspections under § 140.101(b). The Coast Guard will work with MMS to train its inspectors in Coast Guard inspection procedures. The awarding and enforcement of civil penalties will not change, as the current process under § 140.40 requires MMS to administer civil penalty proceedings. The appeal process will not change. Appeals relating to deficiencies or hazards remaining uncorrected after the expiration of the time period specified under 33 CFR 140.105 by Coast Guard marine inspectors will be handled by the Coast Guard under 33 CFR 140.25 and 140.105(d). Appeals relating to deficiencies found by MMS inspectors will be processed by MMS under 30 CFR part 290, and 30 CFR part 250, subpart N.

3. One commenter was unclear on when MMS inspections would occur and if only Coast Guard inspectors would conduct the initial inspection. The commenter suggested that MMS should conduct the initial inspection along with the initial MMS inspection so that double inspections would not occur.

The MMS inspectors may inspect fixed OCS facilities on behalf of the Coast Guard anytime they are on board and have time to perform Coast Guard inspections. Coast Guard inspectors will perform initial inspections of all fixed OCS facilities as required in § 140.101(f) and MMS inspectors may or may not accompany the Coast Guard inspectors on the initial inspection.

4. One commenter asked if MMS would conduct full annual inspections on all fixed OCS facilities or conduct enough inspections to provide oversight of the self-inspection program.

MMS does not plan on performing full inspections on a scheduled annual basis, but plans to conduct a sufficient number of inspections to provide oversight of the self-inspection program.

5. One commenter asked if the MMS would conduct the inspection on behalf of the Coast Guard at the same time it conducts the annual MMS inspection, at

anytime its inspectors were on board, or on a separate schedule.

MMS may perform spot inspections for violations of Coast Guard regulations anytime its inspectors are on board and have time available and not on a separate schedule. Since MMS visits all OCS fixed facilities at least annually to inspect for violations in the area of its regulatory responsibilities, it is likely that most of the MMS inspections will be conducted at that time.

6. One commenter recommended that the Coast Guard remain in charge of the self-inspection program and review all requests for extension of time to correct a deficiency.

The Coast Guard is not relinquishing its oversight authority. Since MMS conducts the majority of the inspections on fixed OCS facilities, MMS and the Coast Guard decided that it would enhance safety for MMS to receive and be responsible for self-inspection extension requests associated with deficiencies in lifesaving and firefighting equipment.

7. One commenter thought the rulemaking was not clear on what MMS was going to inspect and that this should be specified in the regulations.

Under §§ 140.101(b), (c), and (d), MMS will be inspecting fixed facilities to determine whether the requirements in 33 CFR chapter I, subchapter N, are met, just as if the inspection was conducted by the Coast Guard.

8. One commenter asked what inspection standards would be used for equipment, such as lifeboats or survival capsules, that is on board and in addition to the number required by regulations.

Section 144.01-1 of 33 CFR requires approved life floats and, under § 144.01-15(a), approved lifeboats, approved life rafts, or approved inflatable life rafts may be used instead of approved life floats. Extra lifeboats or other extra equipment would also have to meet the Coast Guard's regulations for that piece of equipment.

33 CFR 140.105(c)

1. One commenter thought the regulations on the correction of deficiencies and hazards was vague and asked whether MMS or Coast Guard would establish timeframes for correction of the deficiencies or hazards.

We agree that § 140.105(c), as proposed, may be confusing in that it does not plainly distinguish between the requirements for deficiencies for lifesaving and firefighting equipment and those for all other equipment. We have modified § 140.105 by moving the requirements for deficiencies in lifesaving and firefighting equipment

from paragraph (c) to new paragraph (d). Proposed paragraph (d) has been redesignated as new paragraph (e). Under § 140.105(c), MMS informs, by letter, the owner or operator of the fixed OCS facility of the deficiencies or hazards and the time period specified to correct or eliminate the deficiencies or hazards. Therefore, MMS would establish timeframes for correction of deficiencies or hazards.

2. One commenter recommended that the timeframes for correction of deficiencies or hazards continue to be established by the Coast Guard, since only the Coast Guard is set up to receive the form CG-5432 self-inspection report.

We disagree with the comment. Since MMS will be conducting the majority of the inspections on fixed OCS facilities, both agencies agree that MMS should be responsible for establishing self-inspection timeframes for the correction of deficiencies or hazards. The Coast Guard has decided to stop requiring that all CG-5432 forms be sent to the Coast Guard. After the effective date of this final rule, only those forms that contain outstanding deficiencies or hazards will be required to be sent to MMS. Sections 140.103(c) and 140.105(c) have been revised to reflect this change. Now that a copy of each form must be kept on the manned facility or in a convenient place ashore, there is no added value in having them sent to the Coast Guard. This should be more efficient than the previous process.

3. One commenter asked that, if MMS discovers a deficiency or hazard, will it issue its own Incident of Non Compliance (INC) or will it notify the Coast Guard to issue a Coast Guard form CG-835, Notice of Merchant Marine Inspection Requirements.

Deficiencies found by MMS during its inspections will be processed according to MMS regulations and INC's will be issued. Deficiencies found by the Coast Guard during its inspections will be processed according to Coast Guard regulations in 33 CFR 140.105, which involves the issuance of a CG-835 notice for correction.

4. One commenter recommended that MMS report all deficiencies it discovers to the Coast Guard for handling.

We disagree with this comment. The Coast Guard and MMS feel that deficiencies and hazards found during inspection by each agency should be processed by the agency conducting the inspection.

5. One commenter stated that the regulations do not provide for appeals of determinations of deficiencies or hazards.

Decisions by the Coast Guard are appealed under 33 CFR 140.25. Decisions by MMS are appealed under 30 CFR parts 250 and 290.

6. One commenter recommended that all appeals be directed to the Coast Guard for action.

We disagree with this comment. Appeals are processed by the agency performing the inspection. MMS and Coast Guard decided it would be best for the agency performing the inspection to handle any deficiency violations, timeframes, and appeals stemming from a particular inspection.

### Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

The net effect of this rule is not expected to result in additional costs to the owners of facilities being inspected. Owners or operators of each facility will be required to keep the self-inspection form CG-5432 on the facility or at another specified location for review by MMS inspectors, furthermore, the requirement that the self-inspection form be sent to the Coast Guard has been eliminated.

We expect the combined effect of both actions not to result in an increase of the collection of information burden placed on the affected entities. The impact of this rule is therefore different from the one described in the NPRM. The burden created by having to submit form CG-5432 to the Coast Guard has been eliminated.

Furthermore, authorizing MMS to check for compliance with Coast Guard regulations will avoid duplicating functions and enhance the enforcement of regulations.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit

organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The net effect of this rule is not expected to result in additional costs to the inspected facilities. This rule will authorize MMS to inspect the facilities for compliance with Coast Guard regulations. Coast Guard personnel currently perform these inspections, and authorizing MMS to do so does not reduce the number of inspections, nor increase the burden placed on the affected entities. Though this rule affects all small entities involved, we expect that the elimination of the requirement to submit form CG-5432 to the OCMI will result in a decrease of burden to each small entity.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

#### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

#### **Collection of Information**

This rule calls for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). This rule requires that copies of form CG-5432, the annual self-inspection report, be kept on each manned fixed OCS facility, or, for unmanned facilities, either at the nearest manned fixed OCS facility or, if there is no manned fixed OCS facility in the area, at the nearest field office of the owner or operator. This form is already required to be completed annually and be submitted to the Coast Guard. This rule also eliminates the currently approved requirement of submitting form CG-5432 to the Coast Guard.

We presented, for public comment, an estimate of the burden this rulemaking would have caused as proposed in the NPRM. We proposed that a copy of form CG-5432 be kept on the facility in addition to submitting the form to the Coast Guard.

In the NPRM, we estimated that the total annual burden of requiring that the forms be kept for two years would be 15 minutes per facility or 872 hours for all of the 3,489 fixed OCS facilities.

However, the final rule will reduce the previous burden by eliminating the submission to the Coast Guard. The net effect of these actions do not result in an increase of the collection of information burden.

Three comments were received on the proposed collection of information. The comments are summarized in this preamble in the "Discussion of Comments on and Changes to the Notice of Proposed Rulemaking (NPRM) of May 10, 2001" section. We reconsidered the proposed collection and decided to eliminate the submission of form CG-5432 to the OCMI. Instead, facilities will only keep the form on board to be presented to MMS inspectors.

The information-collection requirements of the rule are addressed in the previously approved OMB collection titled "Self-Inspection of Fixed OCS Facilities" (OMB 2115-0569).

As required by 44 U.S.C. 3507(d), we submitted a copy of this rule to the Office of Management and Budget (OMB) for its review of the collection of information. OMB has not yet completed its review of, or approved, the collection. Therefore, § 140.103(c) in this final rule, will not become effective until approved by OMB. We will publish a document in the **Federal Register** announcing OMB's approval and the effective date of that section. In the meantime, § 140.103(c) as it appears in the current edition of title 33, Code of Federal Regulations, continues to apply and requires submission of forms CG-5432 to the Officer in Charge, Marine Inspection.

You are not required to respond to a collection of information unless it displays a currently valid OMB control number.

#### **Federalism**

We have analyzed this rule under Executive Order 13132, Federalism, and have determined that it does not have implications for federalism under that Order.

#### **Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires

Federal agencies to assess the effects of their regulatory actions not specifically required by law. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### **Taking of Private Property**

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### **Civil Justice Reform**

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

#### **Protection of Children**

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### **Indian Tribal Governments**

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

#### **Energy Effects**

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

**Environment**

We have considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (34)(b), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. The rule is excluded under paragraph (34)(b) because it is administrative in nature and has no environmental effect. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

**List of Subjects in 33 CFR Part 140**

Continental shelf, Investigations, Marine safety, Occupational safety and health, Penalties, Reporting and record keeping requirements.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 140 as follows:

**PART 140—GENERAL**

1. The authority citation for part 140 continues to read as follows:

**Authority:** 43 U.S.C. 1333, 1348, 1350, 1356; 49 CFR 1.46.

2. In § 140.10, add, in alphabetical order, the definition of "Minerals Management Service inspector" to read as follows:

**§ 140.10 Definitions.**

\* \* \* \* \*

*Minerals Management Service inspector* or *MMS inspector* means an individual employed by the Minerals Management Service who inspects fixed OCS facilities on behalf of the Coast Guard to determine whether the requirements of this subchapter are met.

\* \* \* \* \*

3. In § 140.101—

a. Revise the section heading to read as set forth below;

b. Redesignate paragraphs (b) through (e) as paragraphs (c) through (f);

c. Add a new paragraph (b) to read as set forth below;

d. In newly redesignated paragraph (c), before the words "marine inspectors", add the words "Coast Guard"; following the words "OCS activities", add the words ", and MMS inspectors may inspect fixed OCS facilities,"; and, at the end of the second sentence, add the words ", or MMS";

e. In newly redesignated paragraph (d), remove the words "a marine inspector" and add, in their place, the

words "a Coast Guard marine inspector or an MMS inspector"; and remove the words "The marine inspector" and add, in their place, the words "The Coast Guard marine inspector or the MMS inspector"; and

f. In newly redesignated paragraph (f), remove the words "installed after June 27, 1988,";

**§ 140.101 Inspection by Coast Guard marine inspectors or Minerals Management Service inspectors.**

\* \* \* \* \*

(b) On behalf of the Coast Guard, each fixed OCS facility engaged in OCS activities is subject to inspection by the Minerals Management Service (MMS).

\* \* \* \* \*

4. In § 140.103—

a. In paragraph (b), remove "140.101(e)" and add, in its place, "140.101(f)"; and remove the words "Marine inspectors" and add, in their place, the words "marine inspectors and Minerals Management Service (MMS) inspectors";

b. Revise paragraph (c) as set forth below; and

c. Remove paragraph (d):

**§ 140.103 Annual inspection of fixed OCS facilities.**

\* \* \* \* \*

(c) Except for initial inspections under § 140.101(f), the results of the inspection under paragraph (a) of this section must be recorded on form CG-5432. Forms CG-5432 may be obtained from the Officer in Charge, Marine Inspection. A copy of the completed form must be kept for 2 years after the inspection under paragraph (a) of this section is conducted and the form made available to the Coast Guard and MMS on request. For manned fixed OCS facilities, the copy of the completed form must be kept on the facility. For unmanned fixed OCS facilities, the copy of the completed form must be kept either at the nearest manned fixed OCS facility or, if there is no manned fixed OCS facility in the area, at the nearest field office of the owner or operator. In addition, the owner or operator must submit, to the appropriate MMS District office, a copy of each completed form CG-5432 that indicates outstanding deficiencies or hazards, within 30 days after completion of the inspection.

5. In § 140.105—

a. In paragraph (a), after the words "during an inspection", add the words "by a Coast Guard marine inspector or

a Minerals Management Service (MMS) inspector";

b. In paragraph (b), before the words "is reported to", add the words "or an MMS inspector"; and, after the words "time specified by the", remove the words "Coast Guard marine";

c. Revise paragraph (c) to read as set forth below;

d. Redesignate paragraph (d) as paragraph (e);

e. Add a new paragraph (d) to read as set forth below; and

f. In newly redesignated paragraph (e), after the words "Marine Inspection," add the words "or MMS (for deficiencies or hazards discovered by MMS during an inspection of a fixed OCS facility)";

**§ 140.105 Correction of deficiencies and hazards.**

\* \* \* \* \*

(c) Deficiencies and hazards discovered during an inspection of a fixed OCS facility under § 140.103(a) must be corrected or eliminated, if practicable, before the form CG-5432 is completed. Deficiencies and hazards that are not corrected or eliminated by the time the form is completed must be indicated on the form as "outstanding" and the form submitted to the appropriate MMS District office. Upon receipt of a form CG-5432 indicating outstanding deficiencies or hazards, MMS informs, by letter, the owner or operator of the fixed OCS facility of the deficiencies or hazards and the time period specified to correct or eliminate the deficiencies or hazards.

(d) For lifesaving and fire fighting equipment deficiencies on fixed OCS facilities that cannot be corrected before the submission of form CG-5432, the owner or operator must contact the appropriate MMS District Supervisor to request a time period for repair of the item.

The owner or operator must include a description of the deficiency and the time period approved by MMS for correction of the deficiency in the comment section of form CG-5432.

\* \* \* \* \*

Dated: January 4, 2002.

**Paul J. Pluta,**

*Assistant Commandant for Marine Safety and Environmental Protection.*

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