



INTERNATIONAL ASSOCIATION OF DRILLING CONTRACTORS

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Interior Desk Officer 1010-AD15
Office of Management and Budget
[Docket MMS-2008-OMM-0003]

Via e-mail to: oira_docket@omb.eop.gov

Department of the Interior
Minerals Management Service
ATTN: Regulations and Standards Branch (RSB)
381 Elden Street, MS-4024
Herndon, Virginia 20170-4817 USA

Re: Safety and Environmental Management Systems for Outer Continental Shelf Oil and Gas Operations [30 CFR 250, Subpart S]

To whom it may concern:

The International Association of Drilling Contractors is a trade association representing the interests of drilling contractors, onshore and offshore, operating worldwide. Our membership includes all drilling contractors currently operating mobile offshore drilling units (MODUs) in the areas subject to the jurisdiction of the United States, as well as all MODUs registered in the United States.

The purpose of this letter is to provide comments to the Office of Management and Budget regarding the information collection burden, as solicited in the 17 June 2009 MMS proposed rule (74 FR 28639), which proposes the development and implementation of a Safety and Environmental Management System to address the oil and gas operations in the Outer Continental Shelf (OCS). IADC contends that MMS has underestimated the information collection burden of the proposed action by limiting its evaluation to the burden borne by the operator and failing to assess and include those burdens which will be borne by contractors and sub-contractors. In this regard, IADC believes that the following should be considered:

- The operator can only supply the information on the proposed Form MMS-131 by collecting and consolidating information from their contractors and, in turn, any sub-contractors or other workers involved in OCS operations.
- While most companies operating as contractors on the OCS probably collect information regarding employee work hours and injuries/illnesses for their own use, they typically do so either on a quarterly or annualized basis – not the per-contract basis which would be necessitated by this proposed action.

- Collection and reporting of information, which only becomes available post-contract, is problematic. For example: Will the operator be expected to report days of continuing restricted work activity for a contractor's employee injured while working for the operator after the termination of the contract?
- There is not a consistent industry practice of collecting information regarding work hours and injuries/illnesses from sub-contractors and other (possibly occasional) workers. The proposed action would require the establishment of such an information collection and reporting system. The collection of such information regarding occasional workers (*e.g.*, equipment repair specialists), particularly those providing services on a per-job (rather than hourly) basis, will be particularly challenging.
- MMS has not, with this proposed version of Form MMS-131, provided the necessary instructions and definitions for the user to understand the information collection and comply with the reporting requirement. The instructions and definitions should be made available, with the proposed form, for public comment. The information collection should not be authorized until clear and unambiguous instructions are provided for the user.

We ask that MMS appropriately acknowledge the entire burden which would be imposed by this rulemaking and account for it within its information collection budget.

It appears that, based on the Memorandum of Understanding between the Coast Guard and OSHA, the authority to require employers to collect and report work-hour and injury/incident data of the type required by MMS, rests with the U.S. Coast Guard (See Enclosure 1). We have further noted that the collection and reporting of injuries and illnesses falls within the scope of a pending USCG rulemaking (RIN 1625-AA18; issued 27 June 1995) entitled *Outer Continental Shelf Activities*. While we understand that MMS desires to obtain this data, we also believe that its efforts should be coordinated with that of the USCG in order to avoid any duplication of requirements and creation of unnecessary burdens.

Please contact me if we can provide any additional information to further clarify our comments. I can be contacted at (713) 292-1945, ext. 203.

Sincerely



John Pertgen
Assistant Director, Offshore Technical
and Regulatory Affairs

Enclosure: (1) Memorandum of Understanding between the United States Coast Guard and the Occupational Safety and Health Administration dated 19 December 1979

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
UNITED STATES COAST GUARD,
THE DEPARTMENT OF TRANSPORTATION
AND THE
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION,
THE DEPARTMENT OF LABOR
CONCERNING OCCUPATIONAL SAFETY AND HEALTH ON ARTIFICIAL ISLANDS,
INSTALLATIONS AND OTHER DEVICES ON
THE OUTER CONTINENTAL SHELF ON THE UNITED STATES

I. PURPOSE - The purpose of this Memorandum of Understanding is to establish procedures to increase consultation and coordination between the United States Coast Guard (USCG) and Occupational Safety and Health Administration (OSHA) with respect to matters affecting the occupational safety and health of personnel working on the Outer Continental Shelf of the United States.

II. DEFINITION - For purposes of the Memorandum, the following definition applies:

Working Conditions on the Outer Continental Shelf of the United States

Working conditions related to activities, including diving, taking place on or from, on the waters adjacent to, or otherwise associated with artificial islands, installations, or other devices permanently or temporarily attached to the seabed and exploring for, developing or producing resources from the Outer Continental Shelf of the United States, or any device (other than ship or vessel) used for the purpose of transporting such resources (43 U.S.C. 1333(a)(1)).

III. AGENCY RESPONSIBILITIES

A. United States Coast Guard

The USCG has authority to promulgate and enforce Safety and Health Regulations for working conditions on the OCS of the United States. In carrying out this responsibility on the OCS the Coast Guard will cooperate with the Occupational Safety and Health Administration to maximize the safety and health protection of employees, avoid duplication of effort, and avoid undue burdens on the maritime industry. The USCG, consistent with its statutory authority:

1. Promulgates regulations and may modify any regulation, interim or final, applying to hazardous working conditions related to activities on the Outer Continental Shelf, and promulgates such other regulations as may be necessary to promote the safety of life and property on the OCS;
2. Promulgates regulations to provide for scheduled onsite inspection, at least once a year, of each facility on the Outer Continental Shelf which is subject to any environmental, safety or health regulation promulgated by the Coast Guard pursuant to the OCS Act*, and also provides

Enclosure (1)

for periodic onsite inspection without advance notice to the operator of such facility to assure compliance with such environmental, health or safety regulations;

3. Reviews any allegation from any person of the existence of a violation of a safety or health regulation or other unsafe working condition.
4. Investigates and makes a public report on any death or serious injury occurring as a result of operations conducted pursuant to the OCS Act, and may investigate and report on other injuries, casualties or accidents.
5. Initiates appropriate civil and criminal procedures and other action to enforce any provision of the OCS Act or any regulation issued under the Act.

B. Occupational Safety and Health Administration

The Occupational Safety and Health Act (OSH Act)** applies with respect to working conditions on Outer Continental Shelf Lands (29 USC 653(a)), but does not apply to working conditions with respect to which the Coast Guard or other Federal agencies exercise statutory authority to prescribe or enforce standards affecting occupational safety and health (29 USC 653(b)(1), Sec. 21(d) of the OCS Act). The Occupational Safety and Health Administration will cooperate with the Coast Guard to maximize the safety and health protection of employees, avoid duplication of effort, and avoid undue burdens on the maritime industry.

**"OCS Act" refers to the Outer Continental Shelf Lands Act, as Amended (43 USC 1331 et seq).

**"OSHAct" refers to Public Law 91-596, the Occupational Safety and Health Act of 1970.

Consistent with its statutory authority under the Occupational Safety and Health Act, OSHA:

1. Prescribes occupational safety and health rules and regulations as necessary to carry out its responsibility under the OSHAct;
2. Inspects and investigates places of employment to insure compliance with any applicable OSHA requirements;
3. Responds to allegations of violations of applicable OSHA requirements and makes investigations where there are reasonable grounds to believe that a violation exists.
4. Issues citations and initiates appropriate civil and criminal procedures against employers for violations of applicable OSHA requirements.

IV. PROCEDURES

The two agencies agree, consistent with their statutory obligations, to observe the following procedures in carrying out their responsibilities to promote safe working conditions on the OCS:

A. Development and promulgation of standards

The Coast Guard will develop and promulgate necessary regulations to assure safe and healthful working conditions on the OCS. OSHA will continue to promulgate general standards, which may apply to working conditions on the OCS not being regulated by the Coast Guard. In developing regulations and standards, the two agencies will cooperate to the maximum extent possible. Such cooperation will include, but will not be limited to the following:

1. Information and data availability. For the purposes of identifying work hazards, determining accident or illness cause, developing corrective measures, and assessing the impacts of new or revised regulations or standards, the two agencies will exchange data and study results to the extent permitted by law.
2. Standards research and development projects. The two agencies will jointly participate in standards research and development projects of mutual interest and benefit.
3. Review of existing regulations and standards. The two agencies will jointly review existing USCG and OSHA regulations and standards to help identify hazards that require priority attention in Coast Guard regulations development projects;
4. Exchange of technical expertise. Each agency will provide the other with technical support, where feasible, to assist in the review of particular hazards or the development of regulations.
5. Early notice of rulemaking activities. The Coast Guard will provide for OSHA's review and consultation copies of drafts of advance notices of proposed rulemaking, notices of proposed rulemaking, and final rules, which relate to working conditions on the OCS. Likewise, OSHA will provide for the Coast Guard's review and consultation copies of drafts of advance notices of proposed rulemaking, notices of proposed rulemaking, and final rules, which have application to any working condition on the OCS. Publication of any rule, however, is not contingent upon receipt of comments.

B. Enforcement of regulations and standards

While OSHA has statutory responsibilities with respect to workplaces on the OCS, the following provisions have been drafted to emphasize the Coast Guard's increasing role for safety and health on the OCS, as provided under the OCS Lands Act Amendments of 1978 (Pub. L 95-372). Through this Act, Congress expressed the expectation that the Coast Guard would be the principal Federal agency in matters of occupational safety and health on the OCS.

1. Routine enforcement activities:

a. The Coast Guard will continue to enforce existing regulations issued under its authority which affect working conditions on the OCS.

b. The Coast Guard will also enforce any new occupational safety and health regulations promulgated under its authority affecting working conditions on the OCS.

c. OSHA remains responsible for enforcing requirements adopted under the OSHA Act which apply to working conditions on the OCS for which the Coast Guard or other Federal agencies have not exercised their statutory authority to prescribe or enforce standards affecting occupational safety and health. To minimize any duplication which may result from exercising this responsibility, OSHA will consult with the Coast Guard and seek to minimize the need for OSHA's routine inspection activity.

2. Investigation of accidents:

In accordance with regulations issued under its authority, the Coast Guard will investigate deaths, injuries and other casualties or accidents occurring as a result of operations conducted pursuant to the OCS Act. In the course of all such investigations, formal and informal, the Coast Guard will cooperate with OSHA with respect to identifying violations of applicable OSHA regulations related to the casualty or accident. Such cooperation will include: promptly making investigation information available to OSHA, inviting OSHA attendance at Coast Guard formal hearings; and developing lines of inquiry suggested by OSHA. Where a Coast Guard investigation identifies an apparent violation of an applicable OSHA regulation the Coast Guard will promptly notify OSHA and subsequently will cooperate with OSHA with respect to any enforcement action OSHA may undertake. This cooperation may include, but is not limited to, providing transportation, as available; provided, however, OSHA remains responsible for obtaining its own legal right of access to any facility.

3. Investigation of allegations:

The Coast Guard will review any allegation from any person of the existence of a violation of an occupational safety or health regulation or other unsafe working condition on the OCS and take appropriate action under the circumstances. Copies of complaints of occupational safety or health violations on the OCS received by OSHA will be referred to the appropriate Coast Guard district commander for action. The Coast Guard will notify OSHA as promptly as possible of the disposition of allegations forwarded by OSHA.

V. JOINT TRAINING PROGRAM

The two agencies will review the training needs of agency personnel with responsibilities for matters pertaining to safety and health on the OCS, and will develop programs responsive to these needs.

VI. IMPLEMENTATION

The Coast Guard and OSHA shall each designate a representative who shall be responsible for coordinating implementation of the provisions of this Memorandum.

VII. EFFECTIVE DATE

This Memorandum is effective upon signature by the parties. It may be amended at any time by mutual written agreement of the agencies and may be terminated by either agency upon thirty days written notice.

VIII. SAVINGS PROVISION

Nothing in this Memorandum shall be deemed to alter, amend, or affect in any way the statutory authority of the Coast Guard or OSHA.

Signed at Washington, D.C. this 19th day of December, 1979.

Commandant
United States Coast Guard
Department of Transportation

Assistant Secretary
Occupational Safety and Health
Department of Labor