

# **NATIONAL OFFSHORE SAFETY ADVISORY COMMITTEE (NOSAC)**

## **Addendum and Amendments to the Production Sector Final Report Dated**

**March 28, 2018**

(September 11, 2018)

### **NOSAC Task Statement of July 17, 2017 – Input to Support Regulatory Reform of Coast Guard Regulations - Executive Orders 13771 and 13783**

#### **Addendum**

At the request of the Coast Guard, the Production Sector Subcommittee reviewed its report dated March 28, 2018 to clearly identify the significant regulatory changes recommended by the Subcommittee and to consider providing more specific guidance to the Coast Guard regarding those recommendations.

It is the consensus of the Production Subcommittee that it adequately addressed the Task Statement dated July 17, 2017 and that each concern, finding, and recommendation raised in its report dated March 28, 2018 is valid. The Production Subcommittee identified specific regulations and guidance documents, whether significant or non-significant, for modification, repeal, or revision by the Coast Guard. Although limited financial cost burden information for many recommendations are not readily available, the Subcommittee confirms that each concern and finding raised in its report represents a burden or potential burden for the purposes of Executive Order 13783 and believes the Coast Guard should review and suspend, revise, or rescind as appropriate. Furthermore, the Subcommittee confirms that each recommendation contains an explanation on how and to what extent repeal, replacement, or modification of specific regulations and guidance, whether significant or non-significant, will reduce costs or burdens to industry and believes the Coast Guard should consider these recommendations when conducting the review required by, and implementing the provisions of, Executive order 13783 and when implementing the provisions of Executive Order 13771.

As detailed in its original report, the Subcommittee believes the larger issue facing the Production Sector is the fact that the current regulatory framework provided by the Coast Guard is outdated, ineffective, and in several instances lacks clear regulatory basis. Furthermore, the Subcommittee believes the burdens associated with applying traditional vessel regulations and guidance to floating OCS facilities do not decrease, and in certain circumstances may increase, the risks to health or safety on those facilities.

#### **Amendments**

Amend the text under the heading “Specific Recommendations” as follows:

1. Revise Recommendation #1 by adding a period after the closing parenthesis and deleting the remainder of the paragraph.
  2. Revise Recommendation #2 by adding the text “especially since more modern MODU Codes exist from the IMO” at the end of the sentence.
  3. Revise Recommendation #4 by deleting the text after the first sentence.
  4. Revise Recommendation #5 by deleting the second and third sentences.
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5. Revise Recommendation #12 by deleting the existing text and replacing it with the following:

*“The Coast Guard should revoke 33 CFR 106 and revise the remainder of 33 CFR Subchapter H to exclude fixed and floating OCS facilities. The issue of MTSA compliance to fixed and floating facilities needs to be explored more thoroughly. As it stands, the current regulations base applicability on arbitrary thresholds established in the wake of the September 11, 2001 terrorist attacks. They do not consider the normal operating environment of OCS facilities and can be problematic to apply given the varied physical characteristics of these facilities and the dynamics of worker demographics employed upon them.”*

6. Revise Recommendation #13 by deleting the first sentence and replacing it with the following:

*“The Coast Guard should revoke any regulation which requires personnel working on the OCS to obtain/maintain a TWIC.”*

7. Add the following recommendation after the text of Recommendation #16:

*“17. The Coast Guard should repeal the current outdated and ineffective regulations at 33 CFR Subchapter N and replace them with modern regulations better suited for operations on the U.S. OCS today. In doing so, the Coast Guard should accept and adopt appropriate industry standards to the maximum extent possible.”*

8. Add the following recommendation after the text of new Recommendation #17:

*“18. As an alternative to repealing and replacing 33 CFR Subchapter N in accordance with Recommendation #17, if resources prevent the agency from implementing the actions necessary to address the recommendations contained in this report in a timely manner, then the Coast Guard should consider permanently repealing the regulations at 33 CFR Subchapter N and transferring its authority under the OCS Lands Act to regulate and inspect fixed and floating OCS facilities to the Bureau of Safety and Environmental Enforcement (BSEE).”*

The above addendum and amendments to the Production Sector Subcommittee’s Final Report dated March 28, 2018 reflect the consensus of the Subcommittee and are respectfully submitted.

*Chris Woodle*

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Chris Woodle  
Production Sector Co-chair

*Eric Roan*

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Eric Roan  
Production Sector Co-chair (Public)

## **Production Subcommittee Revised Recommendations:**

1. The Coast Guard should withdraw the current 33 CFR Subchapter N rulemaking published as an NPRM, *Outer Continental Shelf Activities*, in the Federal Register on December 7, 1999 (64 FR 68418).
  2. The Coast Guard should revoke 46 CFR Subchapter I-A. These regulations are not suitable for floating OCS facilities and, given the dearth of U.S.-flagged MODUs, it hardly seems necessary for the Coast Guard to maintain a specific inspection Subchapter for this class of vessel, especially since more modern MODU Codes exist from the IMO.
  3. The Coast Guard should adopt a process to review and update its Navigation and Vessel Inspection Circulars (NVICs) and HQ policy letters on a periodic basis, but at least once every 5 years.
  4. The Coast Guard should revoke CG-ENG Policy Letter 01-16, *Portable Accommodation Module (PAM) Guidance* immediately.
  5. The Coast Guard should review and revoke, as necessary to comport with its authority under OCSLA and the regulations applicable to floating OCS facilities located at 33 CFR Subchapter N, certain policy letters issued by the Coast Guard Eighth District. The pertinent policy letters include, but are not limited to:
    - a. D8 Policy Letter 03-2000 (CH-1), *Policy on Manning of Non-Self Propelled Floating Outer Continental Shelf (OCS) Facilities*.
    - b. D8 Policy Letter 08-2001, *Licensing Requirements for Personnel on Non-Self Propelled Floating Outer Continental Shelf (OCS) Facilities*.
    - c. D8 Policy Letter 03-2004, *In-Service Inspection Program (ISIP) for Floating Facilities in the Outer Continental Shelf (OC)*.
    - d. D8 Policy Letter 01-2014, *Guidance on Post-Hurricane Inspection Requirements for Floating Offshore Production Facilities*.
    - e. D8 Policy Letter 01-2016, *Interim Guidance on Life Extension (Continued Service) Requirements for Floating OCS Facilities*.
    - f. D8 Policy Letter 02-2016, *Structural Integrity Management (SIM) Program as an Alternative Hull Inspection for Floating Outer Continental Shelf (OCS) Facilities*.
  6. The Coast Guard should review and modify or delete, as necessary to comport with its authority under OCSLA and the regulations applicable to floating OCS facilities located in 33 CFR Subchapter N, portions of the Marine Safety Manual (MSM), Volume II, Section G including, but not limited to:
    - a. Chapter 1, Subsection I – *Post Hurricane and Natural Disaster Inspection Requirements*
    - b. Chapter 1, Subsection K – *Portable Accommodation Modules*
    - c. Chapter 4, Subsection B – *Plans*
    - d. Chapter 4, Subsection C – *Standards*
    - e. Chapter 4, Subsection D – *Drydock Exam Requirements*
    - f. Chapter 4, Subsection F – *Additional Requirements for Stowage of Oil in Bulk*
    - g. Chapter 4, Subsection K – *In-Service Inspection Plans (ISIP)*
    - h. Chapter 4, Subsection L – *Manning of Non-Self Propelled Floating Outer Continental Shelf (OCS) Facilities*
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7. The Coast Guard should publish an inspection guide for floating OCS facilities (e.g. CG-840 book) to eliminate the regulatory ambiguity inherent in the incomplete regulatory construct. An official inspection guide has never been published, although one has been in development for several years. There are unofficial guides and checklists in use; however, they incorrectly cite parts of 46 CFR Subchapter I-A which either do not apply or are not appropriate for application to a floating OCS facility.
  8. The Coast Guard should discontinue its arrangement with BSEE which permits BSEE inspectors to conduct safety inspections of manned platforms on behalf of the Coast Guard. Instead, the Coast Guard should implement a process in which approved Third Party Organizations (TPO) conduct inspections and audits on behalf of the Coast Guard. Note that the Coast Guard has implemented a similar process for the inspection and certification of towing vessels (46 CFR Subchapter M) and has proposed a similar process for commercial diving operators (46 CFR 197). The Coast Guard should continue to permit BSEE to inspect unmanned platforms on its behalf.
  9. The Coast Guard should discontinue issuing Certificates of Inspections (COIs) to floating OCS facilities and instead adopt an approach in which, upon completion of a Coast Guard inspection, the OCMI provides the Person in Charge (PIC) of the facility with a written report of the results of the inspection which are to be kept on board the facility for at least 5 years. The Coast Guard should consider an identical process for significant fixed OCS facilities (e.g. manned platforms).
  10. All legacy Coast Guard Eighth District policy letters and promulgated guidelines should be properly indexed in one document, reviewed annually, and their applicability reaffirmed as either remaining in force or rescinded (either vacated or superseded and citation made for same) so that industry can transparently view under one cover all policies in effect in a searchable PDF (non-scanned) document. Also, the Coast Guard should stop hand signing and then scanning hard copies of policy letters. Rather, they should be digitally signed. All policy letters should be in searchable PDF format so that they can be researched more easily by industry and Coast Guard personnel.
  11. All regulatory projects currently classified by the Coast Guard as being in *ex parte* status and associated with an NPRM or ANPRM issued in the Federal Register before September 28, 2016 should be purged immediately from the Coast Guard rule making process.
  12. The Coast Guard should revoke 33 CFR 106 and revise the remainder of 33 CFR Subchapter H to exclude fixed and floating OCS facilities. The issue of MTSA compliance to fixed and floating facilities needs to be explored more thoroughly. As it stands, the current regulations base applicability on arbitrary thresholds established in the wake of the September 11, 2001 terrorist attacks. They do not consider the normal operating environment of OCS facilities and can be problematic to apply given the varied physical characteristics of these facilities and the dynamics of worker demographics employed upon them.
  13. The Coast Guard should revoke any regulation which requires personnel working on the OCS to obtain/maintain a TWIC. This program is not providing any additional security on the OCS beyond that afforded in the "pre-TWIC" period. It has been poorly administered and is burdensome in cost and operational/personnel logistics to the offshore industry. It is recommended a new Task Statement be developed on this issue.
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14. The Coast Guard should issue a new Task Statement to NOSAC requesting its input regarding the employment of foreign citizens on the OCS as the agency took no discernable action on the NOSAC report issued as a result of a similar Task Statement issued in 2009.
  15. The Coast Guard should issue NOSAC a new Task Statement to evaluate the suitability of the regulations in 46 CFR Subchapter F (Marine Engineering) and 46 CFR Subchapter J (Electrical Engineering) to floating OCS facilities.
  16. The Coast Guard should act on the specific recommendations provided in this section and each recommendation, as appropriate, contained in **Annex I** for the regulations and policy guidance evaluated as part of this report.
  17. The Coast Guard should repeal the current outdated and ineffective regulations at 33 CFR Subchapter N and replace them with modern regulations better suited for operations on the U.S. OCS today. In doing so, the Coast Guard should accept and adopt appropriate industry standards to the maximum extent possible.
  18. As an alternative to repealing and replacing 33 CFR Subchapter N in accordance with Recommendation #17, if resources prevent the agency from implementing the actions necessary to address the recommendations contained in this report in a timely manner, then the Coast Guard should consider permanently repealing the regulations at 33 CFR Subchapter N and transferring its authority under the OCS Lands Act to regulate and inspect fixed and floating OCS facilities to the Bureau of Safety and Environmental Enforcement (BSEE).
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