

(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 Ocean Energy Management, Regulation and 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 Ocean Energy Management, Regulation and Enforcement (BOEMRE).

(c) Under the direction of the Officer in Charge, Marine Inspection, Coast Guard marine inspectors may inspect units engaged in OCS activities, and BOEMRE 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 Officer in Charge, Marine Inspection, or BOEMRE.

(d) As part of an inspection, a Coast Guard marine inspector or an BOEMRE 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 BOEMRE 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]

§ 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 Ocean Energy Management, Regulation and Enforcement (BOEMRE) 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 BOEMRE 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]

§ 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 Minerals Management Service (MMS) 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 an MMS 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 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 fa-

ilities 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.

(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 MMS (for deficiencies or hazards discovered by MMS 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]

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.

(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: