

For CG-82 use only	Requestor: House Labor & Education Hearing Prep	DHS review required?
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REQUIRE ALL EEZ ENTITIES TO BE U.S. FLAGGED

QUESTION: Would requiring all entities working on the EEZ to be U.S. flagged improve safety?

ANSWER: There are three categories of foreign entities operating on the U.S. Outer Continental Shelf (OCS): Floating Facilities, MODUs, and support vessels.

- **Floating OCS Facilities:** Foreign floating facilities are not considered vessels in a traditional sense. They are, however, inspected by the Coast Guard in accordance with the requirements of Title 33, Code of Federal Regulations (Subchapter N – Outer Continental Shelf Activities). The requirements and follow-on inspections of foreign floating facilities are aligned with the requirements the Coast Guard applies to U.S. floating facilities, therefore there would be no improvement in safety if these units are required to reflag to U.S. flag.
- **Foreign MODUs:** Foreign MODUs must meet the requirements of 33 CFR Subchapter N including 33 CFR 143.207. To comply with this regulation, the MODU must meet one of the following options:
 - Option A: Meet the requirements for U.S. MODUs;
 - Option B: Meet foreign national requirements previously deemed equivalent to U.S. MODU requirements (the foreign national requirements have been compared line by line with the U.S. requirements); or
 - Option C: Meet the International Maritime Organization's (IMO) MODU Code.

From a standards viewpoint, the three options are deemed equivalent. MODUs which meet Option A receive a full inspection equivalent to the inspection on a U.S. flag MODU. Foreign MODUs which meet Options B and C receive a full flag state inspection from their flag state and/or Recognized Organization plus a robust port state control examination from the Coast Guard to verify the flag state has done its proper job and that the MODU meets the requirements specified in regulation.¹ The flag state inspection, plus the port state control examination performed by the Coast Guard is equivalent to Coast Guard inspection conducted on U.S. flag MODUs. Therefore, there would be no improvement in safety if these MODUs are compelled to reflag to U.S. flag.

- **Support Vessels:** There are very limited U.S. regulatory requirements under 33 CFR Subchapter N for foreign support vessels that operate on the U.S. OCS (see 33 CFR Part 142 and § 143.301). Foreign vessels must comply with the international conventions due to their service and tonnage; must be inspected by their flag state, and hold documentation indicating compliance with the international conventions, as appropriate. Since most of the waters above the U.S. OCS would be considered "high seas," there is no authority to perform port state control examinations on these vessels. Such vessels are only subject to port state control examination in U.S. ports and territorial waters. Because the Coast Guard has minimal information about these vessels, it is undetermined what, if any, impact to safety would result.

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Congressional Staff, DHS, OMB & Other Misc Q&As

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NOTES/REFERENCE MATERIALS:

Place information below that you wish all levels of review to be aware of.
HOWEVER, Information from this point on will not be provided to the Witness.

Directorate/Program Notes:

CG-82 Notes (why changes were made to question):

CLEARANCE SHEET (click to annotate clearance)

Referenced materials

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INSPECTIONS FOR CHANGING FLAGS ON A VESSEL

QUESTION: If an offshore oil-drilling vessel were to have been at one point registered under the flag of a foreign nation and then had its nationality registered under the United States, would that vessel then have to meet the same safety and inspection requirements as if it had always been registered under the flag of the United States?

ANSWER: Yes. Policy contained in Coast Guard Navigation and Inspection circular (NVIC 10-81) requires existing vessels not originally constructed to meet the requirements of the U.S. Code of Federal Regulations (CFR) to demonstrate equivalence to those requirements if they are at least two years old and no more than 10 years old. These age parameters may and have been waived on a case by case basis if the vessel can comply with the standards required of a vessel not more than ten years of age. The two year minimum age from the date of construction provides proof of a demonstrated period of safe performance when a system or component meets a standard that is not formally recognized by the Coast Guard.

Vessels may also demonstrate equivalence to CFR requirements under the provisions of 46 CFR Part 8, the Alternative Compliance Program (ACP), which allows for compliance with the rules of a Coast Guard recognized classification society and international regulations as interpreted by the United States (U.S. Supplement).

Congressional Staff, DHS, OMB & Other Misc Q&As

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GOOD MARINE PRACTICE

QUESTION: How do you define "good marine practice?" How do you define "hazardous conditions?" Are these objective standards?

ANSWER: "Good marine practice" is a term which is difficult to define, yet generally well understood by maritime professionals. Good marine practice fills gaps that may exist because regulations do not cover all situations and circumstances relating to ship design, construction, operations, maintenance, and inspections/surveys, and guides designers; shipyards; ship owners, operators, and crews; classifications societies; and regulators in these endeavors. Good marine practice explains these regulatory requirements and, in many cases, provides specific examples on meeting regulatory requirements. Good marine practice is well-articulated by a wide range of industry standards, regulatory policy and guidance, company policies and safety management systems, and various work practices. The wide range of industry standards includes, among other things relating to the offshore industry: classification society rules, American Petroleum Institute Standards, American National Standard Institute standards, National Fire Protection Association Standards, International Cargo Bureau Standards, and Underwriter's Laboratory Standards. The Coast Guard articulates its good marine practice in its Marine Safety Manual, Navigation and Vessel Inspection Circulars, and various policy documents. These Coast Guard documents are available to the public.

The entire spectrum of written "good marine practice" standards and guidelines provides a substantially objective standard.

"Hazardous conditions" are not specifically defined in the Title 33 regulations that apply to Outer Continental Shelf (OCS) facilities; however, there is a definition for "recognized hazards" in the Coast Guard's workplace safety and health regulations for OCS activities. According to 33 CFR § 142.4(c), a "recognized hazard" is one generally known among persons in the affected industry "as causing or likely to cause death or serious physical harm to persons exposed to those conditions" and is "routinely controlled in the affected industry." The Coast Guard defines "hazardous conditions" in other regulations as "any condition that could adversely affect the safety of any vessel, bridge, structure, or shore area or the environmental quality of any port, harbor, or navigable water of the United States. This condition could include but is not limited to, fire, explosion, grounding, leaking, damage, illness of a person on board, or a manning shortage." See, e.g., 33 CFR § 160.204.

Congressional Staff, DHS, OMB & Other Misc Q&As

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