

**§ 140.15**

*Rebuilt* means having had substantial alteration or reconstruction of the hull or principal structural component.

*Standby vessel* means a vessel meeting the requirements of Part 143, Subpart E, of this chapter and specifically designated in an Emergency Evacuation Plan under §§146.140 or 146.210 of this chapter to provide rapid evacuation assistance in the event of an emergency.

*Unit* means any OCS facility, vessel, rig, platform, or other vehicle or structure, domestic or foreign.

*Unmanned facility* means an OCS facility, other than a floating facility or mobile offshore drilling unit, which is not a manned facility even though it may be continuously serviced by an attending vessel.

*Unmanned platform* means a fixed, bottom-founded OCS facility which is not a manned facility even though it may be continuously serviced by an attending vessel.

*Vessel* means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

[CGD 78-160, 47 FR 9376, Mar. 4, 1982, as amended by CGD 79-077, 51 FR 25059, July 10, 1986; CGD 84-098b, 54 FR 21571, May 18, 1989; USCG-2001-9045, 67 FR 5916, Feb. 7, 2002]

**§ 140.15 Equivalentents and approved equipment.**

(a) The use of alternate equipment or procedures for those specified in this subchapter may be permitted by an Officer in Charge, Marine Inspection, to the extent and upon conditions as will insure a degree of safety comparable to or greater than that provided by the minimum standards in this subchapter.

(b) Where equipment in this subchapter is required to be of an approved type, the equipment requires the specific approval of the Commandant. Approvals are published in the FEDERAL REGISTER and COMDTINST M16714.3 (Series) Equipment List, available from Commandant (G-MSE), U.S. Coast Guard, Washington, DC 20593-0001.

(c) Specifications for certain items required to be of an approved type are contained in 46 CFR Parts 160 through 164.

[CGD 78-160, 47 FR 9376, Mar. 4, 1982, as amended at CGD 88-052, 53 FR 25121, July 1, 1988; CGD 96-026, 61 FR 33665, June 28, 1996]

**§ 140.20 Delegations.**

(a) Each District Commander is responsible for the administration and enforcement of the regulations in this subchapter within that person's assigned district.

(b) Under the general superintendence of the District Commander, the Officer in Charge, Marine Inspection, is delegated authority to administer and enforce the regulations in this subchapter.

(c) Authority delegated under this section may be redelegated as necessary by the delegate.

**§ 140.25 Appeals.**

(a) Any person directly affected by an action or decision of an Officer in Charge, Marine Inspection, under the Act or the regulations in this subchapter may request reconsideration of that action or decision. If still dissatisfied, that person may appeal the action or decision of the Officer in Charge, Marine Inspection, within 30 days to the District Commander of the District in which the action was taken or the decision made. The District Commander issues a decision after reviewing the appeal submitted under this paragraph.

(b) Any person not satisfied with the decision of a District Commander may appeal that decision within 30 days to the Commandant, who issues a ruling after reviewing the appeal submitted under this paragraph. Rulings of the Commandant constitute final agency action.

(c) An appeal to the District Commander or Commandant:

(1) Must be made in writing, except in an emergency when an oral appeal may be accepted;

(2) Must be submitted to the District Commander of the District in which the action was taken or the decision made;

(3) Must describe the decision or action being appealed;

(4) Must state the reasons why the action or decision should be set aside or modified; and

(5) May contain any supporting documents and evidence that the appellant wishes to have considered.

(d) Pending determination of any appeal, the action or decision appealed

remains in effect, unless suspended by the District Commander to whom the appeal was made or by the Commandant.

**§ 140.30 Judicial review.**

(a) Nothing in this subchapter shall be construed to prevent any interested party from seeking judicial review as authorized by law.

(b) Judicial review of the regulations in this subchapter, or any final ruling or order of the Commandant or that person's delegate pursuant to the Act or the regulations in this subchapter, is governed by the judicial review provisions of section 23 of the Act (43 U.S.C. 1349).

**§ 140.35 Sanctions.**

(a) Any person who fails to comply with:

- (1) Any provision of the Act;
- (2) Any regulation in this subchapter;

or

(3) Any order issued under the Act or the regulations in this subchapter by the Commandant, a District Commander, or an Officer in Charge, Marine Inspection, after notice of the failure and after expiration of any reasonable period allowed for corrective action, shall be liable for a civil penalty for each day of the continuance of the failure.

(b) Any person who knowingly and willfully:

- (1) Violates any provision of the Act;
- (2) Violates any regulation in this subchapter designed to protect health, safety, or the environment;

(3) Violates any order of the Commandant, District Commander, or Officer in Charge, Marine Inspection, issued under the Act or the regulations in this subchapter that is designed to protect health, safety, or the environment;

(4) Makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under the Act or the regulations in this subchapter;

(5) Falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act or the regulations in this subchapter; or

(6) Reveals any data or information required to be kept confidential by the Act shall, upon conviction, be punished by a fine of not more than \$100,000, or by imprisonment for not more than ten years, or both. Each day that a violation under paragraph (b)(1), (b)(2), or (b)(3) of this section continues, or each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity described in paragraph (b)(5) of this section, constitutes a separate violation.

(c) Whenever a corporation or other entity is subject to prosecution under paragraph (b) of this section, any officer or agent of the corporation or entity who knowingly and willfully authorized, ordered, or carried out the prescribed activity shall be subject to the same fines or imprisonment, or both, as provided for under paragraph (b) of this section.

(d) The penalties prescribed in this section are concurrent and cumulative and the exercise of one does not preclude the exercise of the others. Further, the penalties prescribed in this section are in addition to any other penalties afforded by any other law or regulation.

[CGD 78-160, 47 FR 9376, Mar. 4, 1982, as amended by CGD 96-052, 62 FR 16703, Apr. 8, 1997]

**§ 140.40 Processing penalty cases.**

Apparent violations of the regulations in this subchapter are processed in accordance with subpart 1.07 of 33 CFR part 1 on civil and criminal penalty proceedings, except as follows:

(a) The District Commander refers civil penalty cases to the Secretary of the Interior, or that person's delegate, who, under the Act, assesses, collects, and compromises civil penalties.

(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