

detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is not required.

#### List of Subjects in 30 CFR Part 220

Coal, Continental Shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Petroleum, Public lands-mineral resources, Reporting and recordkeeping requirements.

Dated: December 28, 1989.

James M. Hughes,  
Acting Assistant Secretary—Land and Minerals Management.

For the reasons set out in the preamble, 30 CFR part 220 is amended as set forth below:

#### PART 220—ACCOUNTING PROCEDURES FOR DETERMINING NET PROFIT SHARE PAYMENT FOR OUTER CONTINENTAL SHELF OIL AND GAS LEASES

1. The authority citation for part 220 continues to read as follows:

Authority: Section 205, Pub. L. 95-372, 92 Stat. 643 (43 U.S.C. 1337).

2. Paragraph (a)(2) of § 220.021 is revised to read as follows:

#### § 220.021 Determination of net profit share base.

(a) \* \* \*

(2) Credited with an amount reflecting the production revenues for the month, calculated in accordance with § 260.110(b) of this chapter.

[FR Doc. 90-686 Filed 1-11-90; 8:45 am]  
BILLING CODE 4310-MR-M

#### Bureau of Land Management

#### 43 CFR Public Land Order 6763

[CA-940-00-4214-10; CACA-24047]

#### Withdrawal of Public Land for a Security Zone for Sea Site I; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

**SUMMARY:** This order withdraws 7,760 acres of public land from surface entry and mining for a period of 5 years for the Department of the Navy to protect Sea Site I, a highly classified, sensitive, electronic warfare installation at the Naval Weapons Center, China Lake, pending the processing of an Engle Act withdrawal application. The land has been and will remain open to mineral leasing.

**EFFECTIVE DATE:** January 12, 1990.

#### FOR FURTHER INFORMATION CONTACT:

Viola Andrade, BLM California State Office, Room E-2845, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825, 916-978-4820.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described public land is hereby withdrawn from settlement, sale, location, and entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2), but not from leasing under the mineral leasing laws, to protect the land pending action on an Engle Act withdrawal application:

#### Mount Diablo Meridian

T. 27 S., R. 43 E.,

Secs. 31 to 34, inclusive.

T. 28 S., R. 43 E.,

Secs. 4 to 9, inclusive;

Secs. 17 and 18;

Sec. 19, N $\frac{1}{2}$ N $\frac{1}{2}$ N $\frac{1}{2}$

The area described contains 7,760 acres in San Bernardino County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 5 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

4. This withdrawal does not authorize any military use of the lands by the Department of the Navy until the Engle Act withdrawal is enacted by Congress.

Dated: January 5, 1990.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 90-650 Filed 1-11-90; 8:45 am]

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#### DEPARTMENT OF TRANSPORTATION

#### Coast Guard

#### 46 CFR Part 15

CGD-89-061

RIN 2115-AD38

#### Waiver of Crewmember Citizenship Requirements

AGENCY: Coast Guard, DOT.

ACTION: Interim final rule.

**SUMMARY:** The Coast Guard is amending the regulations concerning the use of non-U.S. citizens as licensed individuals and unlicensed seamen on U.S. documented vessels to provide a general waiver for offshore supply vessels (OSVs) operating out of foreign ports, and mobile offshore drilling units (MODUs) operating beyond the water above the U.S. Outer Continental Shelf. This action is necessary to allow these vessels to operate in areas subject to foreign jurisdiction where local citizenship laws may apply and where recruitment of U.S. citizens may be impractical. The intent of this action is to allow these operations to be conducted without obligating the operators to request individual waivers for each situation in which a non-U.S. citizen may be employed or engaged.

This waiver is only effective for those OSVs and MODUs which meet specific operational criteria. The requirement that any individual serving as master on these vessels must be a citizen of the United States is not waived by this action. With respect to an OSV operating from a foreign port and not operating on the water above the U.S. Outer Continental Shelf, and a MODU operating beyond the water above the U.S. Outer Continental Shelf, this waiver permits the licensed individuals (except for the Master), and more than 25 percent of the total number of unlicensed seamen, to be non-U.S. citizens.

**DATES:** This regulation is effective February 12, 1990. Comments must be received by June 30, 1990.

**ADDRESSES:** Comments should be submitted to the Executive Secretary, Marine Safety Council (G-LRA-2/3600) [CGD 89-081], U.S. Coast Guard, Washington, DC 20593-0001. Between 8:00 a.m. and 3:00 p.m., Monday through Friday, comments may be delivered and will be available for inspection or copying at the Marine Safety Council (G-LRA-2), Room 3600, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, telephone (202) 267-1477.

**FOR FURTHER INFORMATION CONTACT:** Mr. C. M. Young, Office of Marine Safety, Security and Environmental Protection (G-MVP), U.S. Coast Guard Headquarters, telephone (202) 267-0229.

**SUPPLEMENTARY INFORMATION:** The Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 (Public Law 100-239) provided authority for the Secretary of Transportation to waive, except with respect to the master, the



requirement that the licensed individuals and 75 percent of the total number of unlicensed seamen on board a U.S. documented vessel must be citizens of the United States [46 U.S.C. 8103(b)(3)].

A technical error in Public Law 100-239 was later corrected by Public Law 100-255 which replaced the word "subsection" in paragraph (b)(3) of section 8103 of title 46, U.S. Code, with the word "section", thereby clarifying that the waiver authority extended to the citizenship requirement applicable to licensed individuals referred to in subsection 8103(a), except masters.

Neither Public Law 100-239 nor 100-255 authorizes the Secretary to waive the requirement of 46 U.S.C. 12110 that "a documented vessel may be placed under the command only of a citizen of the United States."

In accordance with 46 U.S.C. 8103(b)(3), a waiver may be granted with respect to the following:

(a) An offshore supply vessel or other similarly engaged vessel of less than 1600 gross tons that operates from a foreign port;

(b) A mobile offshore drilling unit or other vessel engaged in support of exploration, exploitation, or production of offshore mineral energy resources operating beyond the water above the Outer Continental Shelf; and

(c) Any other vessel if the Secretary of Transportation determines, after an investigation, that qualified seamen who are citizens of the United States are not available.

The authority provided to the Secretary of Transportation to issue waivers under 46 U.S.C. 8103(b)(3) has been delegated to the Coast Guard under a general delegation of marine safety functions in 49 CFR 1.46(b).

The present regulatory action establishes a waiver only with respect to offshore supply vessels (OSVs) that operate from a foreign port, and mobile offshore drilling units (MODUs) operating beyond the water above the U.S. Outer Continental Shelf [as defined in 43 U.S.C. 1331(a)].

An OSV is defined in 46 U.S.C. 2101(19) as "a motor vessel of more than 15 gross tons but less than 500 gross tons that regularly carries goods, supplies, or equipment in support of exploration, exploitation, or production of offshore mineral or energy resources and is not a small passenger vessel."

A MODU is defined in 46 U.S.C. 2101(15a) as "a vessel capable of engaging in drilling operations for the exploration or exploitation of subsea resources."

Waivers from citizenship requirements with respect to other

vessels, including vessels engaged in operations similar to those of OSVs or MODUs, are considered by the Coast Guard on an individual basis.

**Drafting Information:** The drafters of this notice are Mr. C. M. Young, Office of Marine Safety, Security and Environmental Protection, and CDR G.A. Gallion, Project Counsel, Office of Chief Counsel.

**Discussion:** The Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 (Public Law 100-239, as amended; hereinafter referred to as "the Act"), establishes certain requirements for the employment of U.S. citizens on U.S. documented vessels. The Act revises previous provisions on crewmember citizenship by adding the following restrictions: (a) Under 46 U.S.C. 8103(a), radio officer is included as one of the licensed positions which must be occupied by a U.S. citizen; (b) under section 8103(b), unlicensed seamen must be U.S. citizens or aliens lawfully admitted to the United States for permanent residence, and only up to 25% of the unlicensed seamen can be permanent resident aliens.

The Act also tightened the requirements applying to U.S. vessels operating out of foreign ports. Under revised section 8103(e), vessels on foreign voyages which are deprived of a crewmember are allowed to employ a non-U.S. citizen only until "the vessel's return to a port at which in the most expeditious manner a replacement who is a citizen of the United States can be obtained" (as opposed to "the vessel's first return to a United States port" as stated in the previous version of the law).

In tightening the citizenship requirements for crewmembers on U.S.-documented vessels, the Congress "recognized that the practice of employing a limited number of American citizens on offshore supply vessels and mobile offshore drilling units when operating in foreign territorial waters or on the high seas or beyond the waters above our Outer Continental Shelf would have to be continued" (House Report No. 100-423). Congress therefore granted authority to the Secretary of Transportation to waive the citizenship requirements in certain cases. This authority has been delegated to the Coast Guard.

The Act does not provide any authority to waive the requirement that only a citizen of the United States may serve as master (under 46 U.S.C. 8103(a) and 8103(b)(3)) or as the individual in command of a U.S.-documented vessel (under 46 U.S.C. 12110(d)).

The Coast Guard is of the view that the operational conditions established in

the Act for OSVs and MODUs are sufficiently clear that there is no need for a case-by-case evaluation of applications for waivers for vessels which meet these conditions. In accordance with 46 U.S.C. 8103(b)(3)(A), the following conditions must exist before an OSV is entitled to a waiver of the citizenship requirements of 46 U.S.C. 8103 (except the requirement that applies to the master):

a. The U.S.-documented vessel must be an offshore supply vessel, as defined in 46 U.S.C. 2101(19). Normally, this status will be indicated on the vessel's Certificate of Inspection.

b. The vessel must also be operating from a foreign (non-U.S.) port; and

c. The vessel must be operating beyond the water above the U.S. Outer Continental Shelf, as defined in 43 U.S.C. 1331(a). (Vessels operating in water above the U.S. Outer Continental Shelf must comply with the citizenship requirements under 43 U.S.C. 1356.)

By the terms of this regulation, the operator of a vessel which meets the above conditions may employ or engage non-U.S. citizens as crewmembers, except for the position of master, for the period during which these conditions continue to exist with respect to that particular vessel. The Coast Guard estimates that approximately 120 OSVs are currently operating under these conditions.

In accordance with 46 U.S.C. 8103(b)(3)(B), the following conditions must exist before a MODU will be entitled to a waiver of the citizenship requirements of 46 U.S.C. 8103 (except the requirement that applies to the master):

a. The U.S.-documented vessel must be a mobile offshore drilling unit (MODU), as defined in 46 U.S.C. 2101(15a). Normally, this status will be indicated on the vessel's Certificate of Inspection.

b. The vessel must also be operating beyond the water above the U.S. Outer Continental Shelf, as defined in 43 U.S.C. 1331(a). (Vessels operating in water above the U.S. Outer Continental Shelf must comply with the citizenship requirements under 43 U.S.C. 1356.)

By the terms of this regulation, the operator of a vessel which meets the above conditions may employ or engage non-U.S. citizens as crewmembers, except for master, for the period during which these conditions continue to exist with respect to that particular vessel. The Coast Guard estimates that approximately 105 MODUs are currently operating under these conditions.

Owners and operators of vessels which engage non-U.S. citizens by the



authority of this waiver should particularly note the responsibility assigned to the master in 46 CFR 15.720(b). This section requires the master to assure that individuals used as replacements hold a license or document which is equivalent in experience, training, and other qualifications to the U.S. license or document required for the position and that the person possesses or will possess the training required of the position, including the ability to communicate to the extent required by regulations (46 CFR 15.730).

The Coast Guard is also revising 46 CFR 15.720(a) to correctly reflect the Act's amendment of 46 U.S.C. 8103(e). The regulation will now authorize the use of non-U.S. citizens when a vessel is deprived of a crewmember on a foreign voyage, only until the vessel's return to "a port where in the most expeditious manner a replacement who is a citizen of the United States can be obtained."

During the comment period for this interim Final Rule, the Coast Guard encourages interested persons to provide comments and opinions on the advantages or disadvantages of the application of a general waiver process to crewmember citizenship requirements. Comments relating to specific foreign legal requirements which make it impractical or impossible to employ U.S. citizens as crewmembers on U.S. OSVs and MODUs operating in waters subject to foreign jurisdiction would be of particular assistance to the Coast Guard in evaluating this general waiver procedure. Comments concerning the application of the waiver to specific crewmember positions or to specific operational circumstances would also be useful. The Coast Guard will consider all comments in deciding whether this interim Final Rule should be adopted as a Final Rule.

#### Paperwork Reduction Act

No information collection is required by this regulation.

#### Federalism Implications

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the action does not have sufficient federalism implications to warrant the preparation of a Federalism assessment.

#### Economic Assessment and Certification

This regulatory action is considered to be non-major under Executive Order 12291 on Federal Regulation, and nonsignificant under the Department of Transportation regulatory policies and

procedures (44 FR 11034; February 26, 1979).

As noted in House Report No. 100-423, the practice of "employing a limited number of American citizens on offshore supply vessels and mobile offshore drilling units when operating in foreign territorial waters or on the high seas or beyond the waters above our Outer Continental Shelf would have to be continued." In effect, this rule is permitting vessels to continue to operate according to current industry practice. This rule is not expected to result in any new economic impacts. Therefore, the economic impact of this rule is expected to be so minimal that a regulatory evaluation is unnecessary. Any economic impacts which are brought to the Coast Guard's attention during the comment period will be taken into account in preparation of the final rule.

Since the economic impact of this action is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

In view of the intent of Congress to continue the practice of employing a limited number of American citizens on OSVs operating from foreign ports and on MODUs operating beyond the U.S. Outer Continental Shelf, and in order to minimize the potential for technical manning violations involving such vessels, the Coast Guard finds good cause for publication of this rule without notice and opportunity for public comment. Considering that Congressional intent, such public procedure is unnecessary.

#### List of Subjects

Marine Safety, Navigation (water), Vessels, Offshore supply vessels, Mobile offshore drilling units, Citizenship, Seamen, Crewmembers.

#### Interim Final Rule

In consideration of the foregoing, the Coast Guard is amending part 15 of title 46, Code of Federal Regulations as set forth below:

#### PART 15—MANNING REQUIREMENTS

1. The authority citation for Part 15 continues to read as follows:

**Authority:** 46 U.S.C. 2103, 3703, 8105; 49 CFR 1.45, 1.46.

2. Section 15.720 is amended by revising paragraph (a), redesignating paragraph (b) as paragraph (d), revising newly redesignated paragraph (d), and adding new paragraphs (b), and (c) to read as follows:

#### § 15.720 Use of non-U.S. licensed and/or documented personnel.

(a) United States vessels which need to replace one or more persons while on a foreign voyage and outside the jurisdiction of the United States, in order to meet manning requirements, may utilize non-U.S. licensed and documented personnel, except for the positions of master and radio officer, until the vessel returns to a port at which in the most expeditious manner replacements who are citizens of the United States can be obtained.

(b) The citizenship requirements of 46 U.S.C. 8103 (a) and (b) are waived, except for the requirement that the master must be a U.S. citizen, with respect to the following vessels:

(1) A U.S.-documented offshore supply vessel (OSV) (as that term is defined in 46 U.S.C. 2101(19)) that is operating from a foreign port; and

(2) A U.S.-documented mobile offshore drilling unit (MODU) (as that term is defined in 46 U.S.C. 2101(15a)) that is operating beyond the water above the U.S. Outer Continental Shelf.

(c) The waiver provided in paragraph (b) of this section does not apply to any vessel operating in water above the U.S. Outer Continental Shelf (as that term is defined in 43 U.S.C. 1331(a)).

(d) The master shall assure that any replacements of crewmembers by non-U.S. citizens made in accordance with this section will be with an individual who holds a license or document which is equivalent in experience, training, and other qualifications to the U.S. license or document required for the position and that the person possesses or will possess the training required to communicate to the extent required by § 15.730.

Dated: January 8, 1990.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 90-791 Filed 1-11-90; 8:45 am]

BILLING CODE 4910-14-M

#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 642

[Docket No. 90637-9166]

#### Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.



**ACTION:** Notice of closure.

**SUMMARY:** The Secretary of Commerce (Secretary) closes the commercial fishery for king mackerel from the eastern zone of the Gulf migratory group in the exclusive economic zone (EEZ). The Secretary has determined that the commercial quota for Gulf group king mackerel from the eastern zone was reached on January 8, 1990. This closure is necessary to protect the overfished Gulf king mackerel resource.

**EFFECTIVE DATES:** Closure is effective at 12:01 a.m., local time, January 9, 1990 until 12 p.m. (midnight), local time, June 30, 1990.

**FOR FURTHER INFORMATION CONTACT:** Mark F. Godcharles, 813-893-3722.

**SUPPLEMENTARY INFORMATION:** The Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic, as amended, was developed by the South Atlantic and Gulf of Mexico Fishery Management Councils (Councils) under authority of the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*, and is implemented by regulations at 50 CFR part 642. Regulations effective July 1, 1989, implemented catch limits recommended by the Councils for the Gulf of Mexico migratory group of king mackerel for the current fishing year (July 1, 1989 through June 30, 1990). Those regulations set the commercial allocation at 1.38 million pounds divided into quotas of 0.94 million pounds for the eastern zone and 0.42 million pounds for the western zone (54 FR 30554, July 21, 1989). From November 1 through March 31, the management area for the Gulf migratory group of king mackerel extends in the EEZ from the Mexico/United States border to a line extending directly east from the Volusia/Flagler County, FL boundary (29°25' N. latitude). From April 1 through October 31, the management area extends in the EEZ from the Mexico/United States border to a line extending directly west from the Monroe/Collier County, FL boundary (25°48' N. latitude). The boundary between the eastern and western zones is a line directly south from the Florida/Alabama boundary (87°31'06" W. longitude) to the outer limit of the EEZ.

Under § 642.22(a), the Secretary is required to close any segment of the king mackerel commercial fishery when its allocation or quota has been reached, or is projected to be reached, by publishing a notice in the *Federal Register*. The Secretary has determined

that the commercial quota of 0.94 million pounds for the eastern zone of the Gulf migratory group of king mackerel was reached on January 8, 1990. Hence, the commercial fishery for Gulf group king mackerel from the eastern zone is closed effective 12:01 a.m., January 9, 1990 through June 30, 1990, the end of the fishing year.

The Secretary previously determined that the commercial quota of 0.42 million pounds of king mackerel for the western zone was reached on October 24, 1989, and closed this segment of the fishery on October 25, 1989 (54 FR 43970, October 30, 1989). With closure of the commercial fishery in the eastern zone, all commercial fisheries in the EEZ for Gulf migratory group king mackerel are closed through June 30, 1990.

Except for a person on a charter vessel, during the closure, no person aboard a vessel permitted to fish under a commercial allocation may fish for, retain, or have in possession in the EEZ king mackerel from the Gulf migratory group. A person aboard a charter vessel may continue to fish for king mackerel from the Gulf migratory group under the bag limit set forth in § 642.28(a)(1), provided the vessel is under charter (i.e., there are more than three persons aboard, including captain and crew) and the vessel has an annual charter vessel permit issued under § 642.4(a)(3).

During the closure, king mackerel from the Gulf migratory group taken in the EEZ, including those harvested under the bag limit, may not be purchased, bartered, traded, or sold. This prohibition does not apply to trade in king mackerel from the Gulf migratory group that were harvested, landed, and bartered, traded, or sold prior to the closure and held in cold storage by a dealer or processor.

**Other Matters**

This action is required by 50 CFR 642.22(a) and complies with E.O. 12291.

Authority: 16 U.S.C. 1801 *et seq.*

**List of Subjects in 50 CFR Part 642**

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: January 8, 1990.

Richard H. Schaefer,

Director of Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90-801 Filed 1-9-90; 8:45 am]

BILLING CODE 3510-22-M

**50 CFR Part 652**

[Docket No. 70617-7148]

**Atlantic Surf Clam and Ocean Quahog Fisheries**

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Notice of allowable surf clam fishing time.

**SUMMARY:** NOAA issues this notice to establish allowable fishing time at 36 hours for each quarter of 1990 for vessels harvesting surf clams in the Mid-Atlantic Area of the exclusive economic zone. This action will provide flexibility and predictability to operators in the use of fishing time during the period. The intended effect is to match fishing effort to the available quota for the area.

**EFFECTIVE DATE:** December 31, 1989, through December 29, 1990.

**FOR FURTHER INFORMATION CONTACT:** Jack Terrill (Resource Policy Analyst), 508-281-9252.

**SUPPLEMENTARY INFORMATION:** Regulations implementing the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries contain at 50 CFR 652.22(a)(3) a provision allowing the Regional Director to revise allowable fishing times to promote fishing for surf clams throughout the year with a minimum of changes.

The 1989 fishery operated under a schedule of six trips of six hours duration (36 hours total) in each of the quarters. Harvest under this schedule has maintained a pace such that the 1989 annual quota was attained with little overage expected. The flexible nature of this type of scheduling has allowed vessel operators to utilize a greater number of their allotted trips at the times most beneficial to them and with greater safety.

Given the success of the past year, the Regional Director has decided to maintain the quarterly allotment of 36 hours in the 1990 fishery. Again the allotment will take the form of six trips of six hours duration between 0800 and 1400 hours. In making this decision, the Regional Director has taken into account catch rates for the past year, available quota, the actual number of trips taken and possible upcoming changes in the management of the surf clam resource. Adjustments to the number of trips to insure the attainment of the quarterly quota will be made to the quarter