



To learn more about how Blank Rome can help your business, please visit www.BlankRomeMaritime.com

www.BlankRome.com

January 2011 No. 1

New Notice of Arrival Requirements for Outer Continental Shelf Units

New Development

On January 13, 2011 the U.S. Coast Guard issued a final rule (the "Final Rule") to establish Notice of Arrival ("NOA") requirements for "units" (i.e. U.S. and foreign flag vessels, floating facilities, and mobile offshore drilling units ("MODUs")) engaging in Outer Continental Shelf ("OCS") activities in order to enhance U.S. maritime domain safety and security awareness on the OCS. Previously, only MODUs were required to make NOA reports offshore. The Final Rule is effective on February 14, 2011. All NOA reports are to be made electronically to the National Vessel Movement Center ("NVMC") Submissions at www.nvmc.uscg.gov. The Final Rule can be reviewed at <http://origin.www.gpo.gov/fdsys/pkg/FR-2011-01-13/pdf/2011-569.pdf>.

Background

The Final Rule implements section 109 of the Security and Accountability for Every Port Act of 2006 (the "SAFE Port Act") and extends and enhances the existing NOA regime to units engaged in OCS activities (i.e. any offshore activity associated with exploration for, or development or production of the minerals of the OCS). Prior to the Final Rule, there were NOA requirements for U.S. and foreign flag MODUs, but not for other units operating on the OCS. Similar to actions taken by the Coast Guard after the September 11, 2001 terrorist

attacks, to enhance the NOA requirements for U.S. and foreign flag vessels bound for, or departing from, U.S. ports in order to ensure public safety, security and the uninterrupted flow of commerce, the goal of the Final Rule is to enable the Coast Guard to more effectively prevent or respond to safety and security concerns on the OCS. Additional information with regard to background and the proposed rule on this matter may be found in our advisory on the proposed rule at: <http://www.blankrome.com/index.cfm?contentID=37&itemID=2006>.

Applicability to U.S. and Foreign Flag Units

There are separate requirements for: (1) U.S. flag floating facilities, (2) foreign flag floating facilities, (3) U.S. and foreign flag MODUs, and (4) U.S. and foreign flag vessels. For the purposes of this advisory, we will focus on the Final Rule vessel requirements. The NOA requirements for MODUs and floating facilities are similar but not exactly the same. Vessels subject to the NOA reporting requirements include standby vessels, attending vessels, offshore supply vessels, pipelay vessels, derrick ships, dive support vessels, oceanographic research vessels, towing vessels, and accommodation vessels.

With regard to U.S. flag vessels, NOA reports do not have to be made when traveling directly from a U.S. port to the OCS to engage in OCS activities, but must be made when traveling

from a foreign port to the OCS to engage in OCS activities or when repositioning between OCS block areas (e.g., between named OCS areas such as the Green Canyon area and Walker Ridge area but not when moving from an OCS block to another OCS block within a single OCS area) for the purpose of engaging in OCS activities. With regard to foreign flag vessels, NOA reports are to be made in the same manner as U.S. flag vessels and must also be made when traveling directly from a U.S. port to the OCS to engage in OCS activities. Vessels merely transiting across the OCS are exempt from the NOA reporting requirements.

In the case of a towing vessel/tow combination, the towing vessel, or lead towing vessel if there is more than one towing vessel, needs to only submit one NOA and include all of the relevant information for each of the towing vessel(s) and tow.

Content of Reports

The Final Rule requires vessel owners or operators to report vessel, voyage, cargo, and crew information (including certain passport information), project details, and the time and location the vessel will enter or move between any OCS block areas for the purpose of engaging in OCS activities. Specifically, NOAs submitted by vessel owners or operators must contain all of the information specified in the current NOA requirements contained in 33 C.F.R. Table 160.206 except for the information related to ports to be visited in the U.S. in items (2)(iii) through (2)(vi) and the operational condition of equipment in item (6). The cargo declaration information in item (8) is only required pursuant to vessel entry and clearance requirements.

Timing of Initial NOA Reports

Owners and operators of U.S. and foreign flag vessels engaging in OCS activities, which are not exempt from the NOA requirements, should submit NOA reports to the NVMC within the following timeframes:

- If a vessel's voyage time is more than 96 hours, the NOA should be submitted at least 96 hours before the vessel's intended arrival on the OCS or from a different OCS block area.
- If a vessel's voyage time is less than 96 hours and more than 24 hours, the NOA must be submitted before departure.
- If a vessel's voyage time is less than 24 hours, the NOA must be submitted at least 24 hours in advance of the vessel's arrival on the OCS or from a different OCS block area.

NOA Report Updates

Owners and operators of vessels engaged in OCS activities are required to revise and re-submit the NOA whenever the information in the most recently submitted NOA becomes inaccurate as follows:

- If the vessel will not arrive in 24 hours or more of the time indicated in an NOA, an updated NOA must be submitted as soon as practicable, but at least 24 hours before the vessel arrives at the OCS location.
- If the new arrival time is less than 24 hours from the initially reported arrival time, or the remaining voyage time is less than 24 hours, then an updated NOA must be submitted as soon as practicable, but at least 12 hours before the vessel arrives at the OCS location.
- Updated NOA submissions are not required for arrival time changes of less than 6 hours, changes in the location of the vessel at the time of reporting or changes in personnel positions.

Conclusion and Recommendations

U.S. and foreign flag unit owners and operators should review the requirements of the Final Rule and train applicable personnel to ensure compliance with these new requirements effective February 14, 2011.

For Additional Information

If you have questions or desire assistance, please contact:

Jonathan K. Waldron
202.772.5964
Waldron@BlankRome.com

Tara Leiter
202.772.5849
Leiter@BlankRome.com