

USCG Eighth District
Outer Continental Shelf Officer in Charge, Marine Inspections
Frequently Asked Questions (FAQS) about a Letter of Determination (LOD)

- **What is an LOD?** In general, whenever an OCMI receives a request to determine whether a particular individual or position is part of the regular complement of a unit that OCMI will respond in the form of a LOD. Specifically, the OCMI will be responsible for determining whether the particular individual or position is necessary for the routine functioning of the unit. See 33 C.F.R. § 141.15(b) and (c). Where an OCMI has determined that the individual or position is **not** part of the regular complement, that individual or position will **not** be subject to the citizenship requirements of the Outer Continental Shelf Lands Act (OCSLA). Therefore, in such instances, a foreign national can be that individual or fill that position. However, where an OCMI determines that the OCSLA citizenship requirements are applicable, then the OCMI will direct the requestor to the Domestic Vessel Division (CG-CVC-1) at USCG Headquarters for processing in accordance with 33 C.F.R. § 141.20. It is important to note that when an OCMI has made a determination that the OCSLA citizenship requirements are applicable, that the LOD issued by that OCMI only demonstrates that an employer has complied with the citizenship requirements of OCSLA i.e., the LOD is **not** authorization for a foreign national to enter the U.S. for work on U.S. OCS.
- **Are LODs required?** An OCMI will make a regular complement determination when requested and then issue an LOD response, accordingly. An OCMI may also make the determination without a request. Because the LOD demonstrates that an employer has complied with the citizenship requirements of OCSLA, an LOD may be relied on by other Federal agencies as evidence of that fact. For example, the Department of State (DOS) currently requires that a foreign national “seeking to transit or travel to the U.S. to access the U.S. Outer Continental Shelf” will need to provide, as part of their visa application, evidence of the employer’s compliance with OCSLA. Though an LOD will satisfy this DOS requirement, note, too, that DOS can determine whether it would be appropriate to issue a visa absent a USCG letter. See DOS’ Foreign Affairs Manual, 9 FAM 402.2-5(C)(9) (U) B-1 Visa for Transit or Travel to the Outer Continental Shelf (OCS).
- **Is a regular complement determination necessary in every case?** No. A regular complement determination would not be necessary, for example, when a company or corporate executive simply visits a unit engaged in OCS activity on the U.S. OCS. Specifically, 33 C.F.R. Part 141 would not apply to a visitor because they will **not** be employed on board the unit in any capacity.
- **What must be included in an LOD request?** In order for the correct OCMI to respond to an LOD request in a timely manner a request should include the location where the work will be performed (e.g., provide a Block Number), the complete contact information for the requestor, a clear description of the operation(s) or job function(s) to be performed (by the individual or in the position to be filled), the type of unit or name of the unit or units the work will be performed on or from, the duration of that work, and a statement explaining that the individual(s) or individual(s) filling the position is not a U.S. citizen or resident alien.

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Because the LOD issued by an OCMI will typically identify only the position (to be filled) on board the unit(s), it will not be necessary to provide any personal information in the initial request about the individual(s) who will perform the work i.e., unless specifically requested by the OCMI please do not include documents containing information such as the individual's name, date of birth, passport information, or work history.

- **Can I get an LOD for any unit operating on the U.S. OCS?** No. The restrictions on employment found at 33 C.F.R. Part 141 will only apply to a "unit" engaged in "OCS activity" (these terms are defined at 33 C.F.R. § 140.10). Moreover, there are exceptions to the applicability of Part 141, which includes an exception for all vessels documented by the United States under 46 U.S.C. § 12102. See 33 C.F.R. § 141.5(b)(2). Similarly, where a Letter of Non-applicability (LOA) has already been issued by CG-CVC-1 to a unit (see 33 C.F.R. § 141.5(b)(3)), an LOD cannot be issued since every individual and position on that unit is excepted from the OCSLA citizenship requirements. Where, however, a unit has been issued a Letter of Exemption (LOE) by CG-CVC-1 (see 33 C.F.R. § 141.20), that unit may also be issued an LOD.
- **Can a single LOD be issued for one or more positions on one or more units?** Yes, and this is preferred (rather than to issue multiple LODs to a single unit or for each unit). A single LOD can be issued for a single individual to perform work on several vessels or for the same position on one or more units. Also, note that because an LOD will (typically) only identify the position, and not the individual, the LOD will be valid for any foreign national who performs the work in that position.
- **How do I submit an LOD?** A request for an LOD needs to be submitted to the OCMI in whose Zone the unit will be operating or directly to the OCMI responsible (by regulation) for a particular unit. Where the D8 OCS OCMI is concerned, any LOD for a fixed or floating unit or for a MODU should be submitted via email using the following address: ocslod@uscg.mil. For any other unit, the requestor will first need to determine the OCMI Zone in which the unit is operating and then submit the request directly to that OCMI. An example of such a unit would be an Offshore Supply Vessel (OSV).
- **How long does it take to process an LOD request?** The minimum expected time required for processing an LOD request is 10 business days, though an OCMI could accommodate a quicker turnaround if their workload permits. In every case, however, no work should be performed in the position or by an individual until the LOD has been issued.
- **Can an OCMI publish a list of positions that would always be considered to be not part of the regular complement of a unit in order to avoid having to make an LOD request?** Because the facts presented in support of each LOD request are considered to be specific to that request, it would not be feasible to publish such a list i.e., each request must be evaluated under its own set of facts/circumstances.

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- **Why did the format of LODs issued by the D8 OCS OCMI change in the summer of 2018?** Previously, an OCMI, including the D8 OCS OCMI, may have issued an LOD that included either a named individual or just a position, or both. Although the format of an LOD remains at the OCMI's discretion, it has been observed that only naming an individual or only issuing an LOD to one unit at a time can create an administrative backlog for an OCMI that processes numerous LOD requests.
- **How long is an LOD valid for?** An LOD is valid only as long as the supporting facts presented to the OCMI for consideration remain the same. Where a change(s) in the supporting facts specifically concern the operation(s) or job function(s) that described the work to be performed by the individual or in the position, the LOD will be automatically voided without any action on the part of the issuing OCMI because of those changes. This would even be true of an LOD that had been issued with an expiration date, when these particular facts change prior to that date. Any other change(s) must be reported immediately to the OCMI that issued the LOD in order for that OCMI to determine the continued validity of the LOD.
- **Will LODs be processed uniformly by all OCMI's?** Because each OCMI is responsible for a particular geographic Zone, any LOD request made to an OCMI will be necessarily processed on a case-by-case basis by that OCMI. Uniformity among OCMI's, therefore, will be limited to making the regular complement determination, rather than how an OCMI will format or word an LOD.
- **Is an LOD the same as a Letter of Exemption (LOE)?** No. An LOE is issued by CG-CVC-1 whenever a determination has been made that an individual or position **is** part of the regular complement of a unit **and** the employer has met the requirements of 33 C.F.R. § 141.20.
- **Who can I contact for more information?** The OCS OCMI Chief of Inspections who oversees the OCS OCMI's LOD program can be contacted at (504)671-2151 or via ocslod@uscg.mil.