

Dated: April 6, 2006.

**Brian D. Montgomery,**

*Assistant Secretary for Housing, Federal Housing Commissioner.*

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## DEPARTMENT OF THE INTERIOR

### Minerals Management Service

#### 30 CFR Part 250

#### RIN 1010-AC57

### Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Incident Reporting Requirements

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Final rule.

**SUMMARY:** This final rule revises the MMS requirements for reporting incidents associated with Outer Continental Shelf (OCS) oil and gas and sulphur operations. The revisions will clarify the requirements, and provide more precise definitions and reporting timeframes. This will result in a more consistent incident reporting program and the collection of more reliable incident information.

**DATES:** Effective Date: This rule becomes effective on July 17, 2006.

**FOR FURTHER INFORMATION CONTACT:** Richard Ensele, Rules and Standards Branch, (703) 787-1583.

**SUPPLEMENTARY INFORMATION:** On July 8, 2003, MMS published a Notice of Proposed Rulemaking (68 FR 40585), titled "Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Incident Reporting Requirements." The proposed rule had an initial 90-day comment period that was extended by 60 days (68 FR 44910, July 31, 2003) to December 5, 2003. The proposed rule addressed amendments to MMS' regulations related to reporting accidents and other incidents on platforms and other facilities on oil and gas and sulphur leases and related rights-of-way on the OCS.

#### Comments on the Proposed Rule

We received 19 sets of comments on the proposed rule. Three of the commenters were industry trade organizations (Offshore Operators Committee (OOC), International Association of Drilling Contractors (IADC), and National Ocean Industries Association (NOIA)). We also received comments from one individual, two drilling contractors, ten operators, and one consultant. All of the comments

received are available for review on the MMS Web site at: <http://www.mms.gov/federalregister/PublicComments/rulecomm.htm>.

Most of the commenters stated that the proposed rule was overly prescriptive and burdensome to the industry and MMS. In addition, most commenters expressed concern that MMS and the U.S. Coast Guard (USCG) were not making a sufficient effort to coordinate incident reporting. First, in this final rule we have scaled back most of the requirements contained in the proposed rule that the commenters asserted were overly burdensome. With regard to the second issue raised in these comments, this final rule addresses only MMS' incident reporting requirements regarding incidents that occur during OCS oil and gas operations. However, MMS allows the operator to submit USCG forms where they contain all the information required in these regulations. In addition, we will continue to work with the USCG to coordinate our incident reporting requirements.

In addition, the OOC commented that MMS does not say how the information collected by this rule will be used. Among other uses, the information required by the final rule will be used by MMS in:

- Considering regulatory changes,
- Determining research studies,
- Identifying unsafe procedures,
- Working with industry to develop standards,
- Compiling accident statistics and trend analyses,
- Deciding which incidents are serious enough to form an accident investigation panel,
- Preparing operator performance statistics, and
- Evaluating Safety Award for Excellence (SAFE) candidates.

One commenter stated that the proposed regulations did not go far enough in reporting information concerning occupational safety. This commenter recommended that MMS require all employers to report occupational injuries and illnesses in accordance with criteria identical to those of the Occupational Safety and Health Administration (OSHA). There are employers on the OCS other than lessees and operators. This regulation, however, applies only to lessees and operators on the OCS. The regulations require the lessees and operators to report all pertinent incidents, regardless of whose employees were involved. The OSHA reporting requirements contain information that MMS does not need to perform its mission. We are requiring

the reporting of only the information we need to oversee the OCS program.

Several commenters, including the OOC, objected to the multiple timeframes for verbal and written reporting of incidents as being too complicated and burdensome. We agree with these comments, and have revised the rule to require immediate reporting of certain incidents via oral communication, with a written follow-up within 15 calendar days. In addition, the rule requires written reporting of certain less severe incidents within 15 calendar days. We have also eliminated the reporting forms contained in the proposed rule. This final rule allows the reporting company to use its own format for the written report, or a form prepared for another agency, as long as the required information is included.

The proposed rule required that written reports be submitted electronically. We have dropped that requirement. The final rule does not specify or mention any method. You may submit written reports in whatever manner (mail, courier, personal delivery, fax, or e-mail) you choose. MMS may consider electronic submittal of information in future rulemaking.

Several commenters, including the OOC, stated that the personnel injury categories in the proposed rule were not realistic for reporting purposes, and that they were too subjective. We agree with these comments, and have simplified the categories. This rule requires the immediate reporting of all injuries that require the evacuation of the injured person(s) from the facility to shore or to another offshore facility. A written follow-up report within 15 calendar days is required for any injury that results in days away from work, restricted work, or job transfer.

In addition, the OOC and others expressed concern that the proposed rule may conflict with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) in that it may require employee health information to be disclosed. We agree with these concerns. This rule does not require that any employee identification information be reported to MMS. When a reportable injury occurs, this rule requires that the operator/lessee report the following:

- Date and time of occurrence,
- Operator and operator's representative name and telephone number,
- Contractor and contractor's representative name and telephone number,
- Lease number, OCS area, and block,
- Platform/facility name and number,
- Type of incident or injury/fatality,

- Operation or activity at time of incident, and
- Description of the incident, damage, or injury/fatality.

None of these items requires employee health information to be disclosed. MMS does not need any personal information, including the identification of any injured personnel.

The OOC submitted comments concerning the definitions in the proposed rule. The definitions in the proposed rule were part of the reason for the complexity of that rule. By simplifying the rule, we have eliminated most of those definitions. The definitions in this rule are contained in the sections where the terms appear. We defined the terms “loss of well control”, “structural damage”, “collision”, and “property damage.” The definition of “loss of well control” has been modified from the proposed rule to clarify that all flows through a diverter are to be reported. The definition of “structural damage” is new. The definition of “collision” was added so that only those collisions occurring at a facility be reported. We simplified the definition of “property damage” for those incidents requiring an estimate of the damage amount.

The OOC suggested that the phrase “issued by MMS” be added after the term “permit” in proposed § 250.187(a)(1) (§ 250.187(b) in the final rule) to clarify that the requirement applies only to operations conducted under MMS permitted activities. We agree with this suggestion and have inserted the phrase. In addition, the OOC suggested that MMS accept USCG reports when duplicative reports are required. MMS agrees that the operator may submit USCG forms to MMS if they contain all of the information required in these regulations. We have changed the rule accordingly.

The OOC commented on the definition of Loss of Well Control. OOC indicated that planned well fluid flows through the diverter systems are not unexpected or uncontrolled flows. OOC does not consider these events to be a loss of well control and recommended that planned flows through the diverter not be reported. Planned flows through the diverter system are not authorized by Federal regulations. The use of the diverter system is for responding to unexpected well conditions and minimizing the risk of fires or wellbore cratering so that personnel can evacuate safely. A well that is flowing to the atmosphere is not “controlled.” We have modified the definition to clarify that all incidents involving flow through a diverter are to be reported.

The proposed rule maintained the current MMS requirement to report H<sub>2</sub>S releases that result in a 15-minute-time-weighted average atmospheric concentration of H<sub>2</sub>S of 20 parts per million (ppm) or more. The OOC commented that “While we recognize that this is a current requirement in 30 CFR 250.490(l), it is unclear how the operator determines that a 15-minute time-weighted average atmospheric concentration of H<sub>2</sub>S of 20 ppm or more occurs.” We did not make any changes to the rule as a result of this comment. Time weighted average is a recognized standard method for defining and measuring permissible exposure limits to ensure the safety of personnel. Because of the extreme toxicity of H<sub>2</sub>S, detection and monitoring equipment on a facility must be capable of alerting personnel of sustained atmospheric concentrations of 20 ppm. Operators who have further questions about determining H<sub>2</sub>S concentrations to meet this requirement may contact the appropriate District office for guidance.

The requirement to report these H<sub>2</sub>S releases applies only to areas that have been classified “H<sub>2</sub>S present” or “H<sub>2</sub>S unknown” as defined by the approved area classification required by § 250.490(c). These areas are required to have H<sub>2</sub>S sensors for measuring atmospheric H<sub>2</sub>S concentrations.

The proposed rule would have required the reporting of any unintentional release of gas at an OCS facility that could, without corrective action, raise hydrocarbon or other gas concentrations to the lower flammable (explosive) limit. Gas releases do not include events where gas is successfully released through the vent or flare system. The OOC commented that it would not be clear how the operator is to determine if an unintentional release could raise the concentration to the lower explosive limit. They went on to say that the gas detectors in certain areas of the platform would cause the system to shut-in if the lower explosive limit concentration was reached in those areas. They also said that those shut-in incidents could be reported to MMS, but that would be burdensome on both industry and MMS, and serve no purpose in improving safety on platforms. We have simplified the regulation to require the reporting of those gas releases resulting in equipment or process shut-in. We disagree that this information would serve no purpose in improving safety on platforms. OCS platforms have numerous sources of ignition, and there are many small fires reported on these facilities. Small fires have the potential to become major incidents that could

cause serious injuries or deaths. By collecting the information on gas releases that result in equipment or process shut-in, we can track the trends, and possibly decrease the number of gas releases.

The OOC commented on the proposed rule requirement to report incidents that involved personnel mustering for evacuation for reasons not related to weather. They indicated that in many cases, visitors or non essential personnel are required to report to the muster station whenever an alarm is sounded since they have no responsibilities in responding to the alarm. They recommended that a written report should only be required if personnel were actually evacuated. We agree that incidents where only visitors to the facility muster for evacuation should not be reported. We have reworded the requirement so that a written report is required when “operations” personnel muster for evacuation for reasons not related to weather and drills. This should eliminate the need to report incidents where visitors to the facility muster for evacuation or when personnel muster for non-emergency reasons.

#### **Comparison of this Final Rule to the Current Regulation**

The current regulation on accident reporting, § 250.191, requires operators, lessees, easement holders, pipeline right-of-way holders, and other permit holders to report all serious accidents, any death or serious injury, and all fires, explosions, and blowouts. This final rule broadens the scope of serious accidents and serious injuries to include those incidents that had the potential to be serious. MMS is requiring reporting down to this level to learn more about the causes of all incidents. MMS considers these less serious incidents to be the “near misses” that could have resulted in more serious consequences.

This final rule still requires the reporting of all deaths, fires, explosions, and blowouts. MMS considers the following incidents to be serious accidents or accidents that had the potential to be serious:

- Injuries that require the evacuation of the injured person(s) from the facility to shore or to another offshore facility (oral notification),
- Injuries that resulted in days away from work, restricted work, or job transfer (written report),
- Reportable releases of hydrogen sulfide (H<sub>2</sub>S) gas, as defined in § 250.490(l),
- Incidents in which a vessel or helicopter collides with an OCS facility or another vessel at an OCS facility that

result in property or equipment damage greater than \$25,000,

- Incidents involving structural damage to an OCS facility,
- Incidents involving cranes, personnel handling, or materials handling equipment,
- Incidents that damage or disable safety systems or safety equipment,
- Incidents that require operational personnel to muster for evacuation for reasons not related to weather or drills,
- Gas releases that initiate equipment or process shutdown, and
- Other incidents resulting in property or equipment damage greater than \$25,000.

Some of the incidents described above are already reported by the industry. These incidents usually occur with other reportable incidents such as fatalities, injuries, fires, explosions, or blowouts. Our intent in requiring the reporting of all of these incidents is to catch the "near misses" that do not result in fatalities, injuries, fires, explosions, or blowouts, but that could have resulted in serious outcomes. We estimate that there could be an increase of up to 351 reports per year due to the new requirement to report the incidents listed above. This is based on the results of the Safety and Environmental Management Program (SEMP) voluntary performance measures reporting during the years 1996 through 2003 for injuries, and internal estimates for the other incidents listed above. During that period, the industry reported an average of 337 lost workday injury incidents per year. Therefore, we estimate that the first two items listed above (injuries that required evacuation from the facility, and injuries that resulted in days away from work, restricted work, or job transfer) could require up to 291 additional injury reports. We estimate that the other eight items listed above could require an additional 60 incident reports, bringing the total increase to 351 reports per year.

This final rule requires that injuries that resulted in days away from work, restricted work, or job transfer be reported to MMS. The current rule requires that only serious injuries be reported. This accounts for most of the increase in reportable incidents. Under the current regulation, industry has reported an average of 56 injuries per year over the past nine years. In many of the reported injuries there was insufficient information to assess the seriousness of the injury. This final rule requires a description of the injury so that MMS can assess the seriousness. In addition to the ten items listed above, this rule requires a written report of all

injuries that resulted in time away from work, restricted work, or job transfer.

We estimate that there will be a very minor increase in the number of loss of well control incidents (blowouts) reported due to this rule. The term had never been defined in the regulations before. There are very few of these incidents each year.

#### Procedural Matters

##### *Regulatory Planning and Review (Executive Order 12866)*

This document is not a significant rule, and is not subject to review by the Office of Management and Budget under Executive Order 12866.

a. This rule will not have an effect of \$100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The rule will require additional reporting of incidents by operators and pipeline right-of-way holders, but the financial effect will be well under the threshold listed above. In the proposed rule, we estimated that start up costs for electronic reporting of incidents would be approximately \$491,000. We dropped that proposed provision, so that estimated cost no longer applies. See the analysis below under Regulatory Flexibility Act for specific information on estimated costs of compliance.

b. This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. This rule addresses MMS' incident reporting requirements only. It will have no effect on any other agency. The MMS and the USCG attempted to coordinate overlapping incident reporting requirements, but were unsuccessful. We will continue efforts to coordinate with the USCG, and if successful, will propose new requirements at that time.

c. This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. The rule only addresses incident reporting for oil and gas and sulphur operations on the OCS.

d. This rule does not raise novel legal or policy issues. Current regulations require the reporting of accidents that occur during oil and gas and sulphur operations on the OCS. This rule provides definition to and clarifies the current requirements. The current requirements overlap somewhat with USCG requirements for incident reporting. This rule will continue that overlap. The MMS will continue to

work with the USCG to eliminate the duplicative reporting. This rule may be revised if the two agencies agree on a joint rulemaking to eliminate the overlap.

##### *Regulatory Flexibility Act (RFA)*

The Department of the Interior certifies that this rule will not have a significant economic effect on a substantial number of small entities as defined under the RFA (5 U.S.C. 601 *et seq.*). A regulatory flexibility analysis is not required. Accordingly, a Small Entity Compliance Guide is not required.

This rule applies to all lessees/operators and pipeline right-of-way holders operating on the OCS. Lessees/operators fall under the Small Business Administration's North American Industry Classification System (NAICS) code 211111, Crude Petroleum and Natural Gas Extraction. Under this NAICS code, companies with less than 500 employees are considered small businesses. MMS estimates that 130 lessees/operators explore for and produce oil and gas on the OCS; approximately 70 percent of them (91 companies) fall into the small business category.

A pipeline company (non-producer) is a small entity if it is a liquid pipeline company with fewer than 1,500 employees, or a natural gas pipeline company with gross annual receipts of \$25 million or less. MMS's database indicates that there are 88 pipeline right-of-way holders who do not own an interest in any oil and gas leases on the OCS. Fifty-seven of these companies are either major energy companies (large oil and gas or pipeline transmission companies), or wholly owned subsidiaries of these companies. Another 13 entities were either formed by partnerships among major producers and transporters or have "arms-length" contractual relationships with several major producers on the OCS for which they provide transportation services. It is our understanding that in such relationships one of the major partners usually serves as the "managing partner" of the entity so that the entity (whether a partnership or a corporation) is not actually independent in the usual sense. The remaining 18 entities could be categorized as small independent pipeline companies in the sense that they provide transportation services for several non-major oil or gas producers with which they have an "arms-length" but symbiotic business relationship. These companies are represented by NAICS code 213112, "Support Activities for Oil and Gas Operations." Thus, there are 218 companies affected

by this final rule, of which 109 would be considered small businesses. This final rule does not include any recordkeeping requirements.

Under current incident reporting rules, the industry reported 411 incidents during the two-year period 2003 through 2004. That works out to fewer than 18 incidents reported each month by the entire industry. During that two-year period, the highest number of incidents reported by one company was 47, or approximately 2 per month. That company is a major oil and gas producer, not a small business.

As a result of requiring the reporting of less serious incidents in this final rule we estimate that an additional 351 incidents could be reported each year. This would result in an additional 30 incidents reported each month by the entire industry. Spread over the entire industry, the increase is not significant. Based on these numbers, incident reporting requirements do not impose much of a burden on the industry. Therefore, this rule will not have a significant economic impact.

Comments from the public are important to us. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small business about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the actions of MMS, call 1-888-REG-FAIR (1-888-734-3247). You may comment to the Small Business Administration without fear of retaliation. Disciplinary action for retaliation by an MMS employee may include suspension or termination from employment with the Department of the Interior.

#### *Small Business Regulatory Enforcement Fairness Act (SBREFA)*

This rule is not a major rule under (5 U.S.C. 804(2)) the SBREFA. This rule:

a. Does not have an annual effect on the economy of \$100 million or more. Costs to comply with this rule involve oral notifications of incidents with follow-up written reports. These costs are minor in comparison with the costs to conduct operations on the OCS. This rule will result in an increase in the number of notifications and reports. See the discussions above under "Regulatory Planning and Review" and "Regulatory Flexibility Act."

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The minor costs

involved in complying with these revised reporting requirements will not change the way the oil and gas industry conducts business, nor will it affect regional oil and gas prices.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. All lessees, operators, and pipeline right-of-way holders, regardless of nationality, will have to comply with the reporting requirements of this rule.

#### *Unfunded Mandates Reform Act (UMRA) of 1995*

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. This rule revises incident reporting regulations for oil and gas and sulphur operations on the OCS. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

#### *Takings Implications Assessment (Executive Order 12630)*

According to Executive Order 12630, the rule does not have significant Takings Implications. A Takings Implication Assessment is not required. This rule revises existing incident reporting regulations. It does not prevent any lessee, operator, or pipeline right-of-way holder from performing operations on the OCS.

#### *Federalism (Executive Order 13132)*

According to Executive Order 13132, this rule does not have Federalism implications. This rule does not substantially and directly affect the relationship between the Federal and state governments. It applies to lessees, operators, and pipeline right-of-way holders on the OCS. This rule does not impose costs on states or localities. Any costs will be the responsibility of the lessees, operators, or pipeline right-of-way holders.

#### *Civil Justice Reform (Executive Order 12988)*

According to Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

#### *Paperwork Reduction Act (PRA) of 1995*

This rulemaking contains information collection (IC) requirements that were

submitted to OMB during the proposed rulemaking according to section 3507(d) of the PRA. OMB did not assign a control number to the requirements at that time. The final regulations do contain minor changes in the collection of information from what was proposed. The proposed rulemaking had two (2) new forms associated with it. Due to comments received, which strongly opposed these two forms and their complicated requirements, this final rule completely restructures the requirements that were proposed and eliminates the forms. We now ask that respondents submit oral or written reports, depending on the requirement. The rule allows respondents to choose the format for transmission of the information. We also discussed in the notice of proposed rulemaking one-time costs to modify respondents' incident reporting systems to incorporate the new requirements. Since those requirements have been dropped, the non-hour cost burdens no longer apply. We received no comments on the burden hours. Therefore, we resubmitted the information collection to OMB and received approval under OMB Control Number 1010-0165, expiration March 31, 2009.

As part of our continuing effort to reduce paperwork and respondent burdens, MMS invites the public and other Federal agencies to comment on any aspect of the reporting and recordkeeping burden. You may submit your comments on the information collection aspects of this rule directly to the Rules Processing Team (RPT), Attn: Comments; 381 Elden Street, MS-4024; Herndon, Virginia 20170-4817. Please reference "Incident Reporting Requirements—AC57" in your comments. You may obtain a copy of the supporting statement for the new collection of information by contacting the Bureau's Information Collection Clearance Officer at (202) 208-7744.

The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The title of the collection of information for this final rule is "30 CFR part 250, Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Incident Reporting Requirements." Respondents include approximately 218 Federal OCS oil and gas or sulphur lessees and pipeline rights-of-way holders. The frequency of response depends upon the requirement. The information collection (IC) does not include questions of a sensitive nature. Responses to this

collection of information are mandatory. MMS will protect proprietary information according to the Freedom of Information Act (5 U.S.C. 552) and requirements under 30 CFR 250.196, "Data and information to be made available to the public."

The final regulations convert into plain language and restructure the requirements for Incident Reporting in the OCS. The approved information collection for this final rule will

incorporate two new information collection burdens pertaining to notification requirements into the primary collection of 30 part CFR part 250 subpart A (OMB Control Number 1010-0114), and one new information collection burden pertaining to H<sub>2</sub>S release that will be merged into the primary collection for 30 CFR part 250 subpart D (OMB Control Number 1010-0141), when the final regulations take effect. MMS will collect the information

to obtain knowledge of equipment, procedures, and circumstances involved in OCS incidents. MMS will use the information to identify OCS incident causes and trends in order to improve safety on the OCS through regulation, performance standards, research, and cooperative initiatives with industry.

We estimate the total annual paperwork "hour" burden for the final rule to be 2,443 hours. Following is a breakdown of the hour burden estimate.

Citation 30 CFR part 250	Reporting requirement	Hour burden	Average number of annual responses	Annual burden hours
Subpart A 250.187 .....	Report all spills of oil or other liquid pollutants .....	Burden covered under 1010-0091.		0 \
187; 188(a); 189; 190(c) ..	Report to the District Manager immediately via oral communication and written follow-up within 15 calendar days, incidents pertaining to: fatalities; injuries; loss of well control; fires; explosions; all collisions resulting in property or equipment damage >\$25K; structural damage to an OCS facility; cranes; incidents that damage or disable safety systems or equipment (including fire-fighting systems).	Oral 0.2 .....	491 .....	99 (rounded)
		Written 4 .....	491 .....	1,964
250.188(a)(5) .....	Report to District Manager hydrogen sulfide (H <sub>2</sub> S) gas releases immediately by oral communication.	Oral burden covered under 1010-0141.		0
188(b); 190(a), (b); .....	Provide written report to the District Manager within 15 calendar days after incidents relating to: injuries that result in 1 or more days away from work, on restricted work, or job transfer; gas releases that initiate equipment or process shutdown; property or equipment damage >\$25K; operations personnel to muster for evacuation not related to weather or drills; any additional information required.	4 .....	35 .....	140
Subpart D 250.490(l) .....	Report to the District Manager hydrogen sulfide (H <sub>2</sub> S) gas releases immediately by oral communication and follow-up within 15 days with a written report.	Oral burden covered under 1010-0141.		0
		Written 4 .....	60 .....	240
Total Reporting .....			1,077 .....	2,443

**National Environmental Policy Act (NEPA) of 1969**

MMS analyzed this rule using the criteria of the NEPA and 516 Department Manual, Chapter 2, and concluded that the preparation of an environmental analysis which would result in the issuance of a Finding of No Significant Impact or the preparation of an environmental impact statement is not required.

**List of Subjects in 30 CFR Part 250**

Continental shelf; Environmental impact statements; Government contracts; Investigations; Oil and gas exploration; Penalties; Pipelines; Public lands—mineral resources; Public lands—rights-of-way; Reporting and recordkeeping requirements; Sulphur.

Dated: October 28, 2005.

**Chad Calvert,**

*Acting Assistant Secretary—Land and Minerals Management.*

■ For the reasons stated in the preamble, the Minerals Management Service (MMS) amends 30 CFR part 250 as follows:

**PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF**

■ 1. The authority citation for part 250 continues to read as follows:

**Authority:** 43 U.S.C. 1331 *et seq.*; 31 U.S.C. 9701.

**§ 250.190 [Redesignated]**

■ 2. Section 250.190 is redesignated as § 250.186.

■ 3. New §§ 250.187 through 250.190 are added to read as set forth below:

**§ 250.187 What are MMS' incident reporting requirements?**

(a) You must report all incidents listed in § 250.188(a) and (b) to the District Manager. The specific reporting requirements for these incidents are contained in §§ 250.189 and 250.190.

(b) These reporting requirements apply to incidents that occur on the area covered by your lease, right-of-use and easement, pipeline right-of-way, or other permit issued by MMS, and that are related to operations resulting from the exercise of your rights under your lease, right-of-use and easement, pipeline right-of-way, or permit.

(c) Nothing in this subpart relieves you from making notifications and reports of incidents that may be required by other regulatory agencies.

(d) You must report all spills of oil or other liquid pollutants in accordance with 30 CFR 254.46.

**§ 250.188 What incidents must I report to MMS and when must I report them?**

(a) You must report the following incidents to the District Manager immediately via oral communication, and provide a written follow-up report (hard copy or electronically transmitted) within 15 calendar days after the incident:

(1) All fatalities.

(2) All injuries that require the evacuation of the injured person(s) from the facility to shore or to another offshore facility.

(3) All losses of well control. "Loss of well control" means:

(i) Uncontrolled flow of formation or other fluids. The flow may be to an exposed formation (an underground blowout) or at the surface (a surface blowout);

(ii) Flow through a diverter; or

(iii) Uncontrolled flow resulting from a failure of surface equipment or procedures.

(4) All fires and explosions.

(5) All reportable releases of hydrogen sulfide (H<sub>2</sub>S) gas, as defined in § 250.490(l).

(6) All collisions that result in property or equipment damage greater than \$25,000. "Collision" means the act of a moving vessel (including an aircraft) striking another vessel, or striking a stationary vessel or object (e.g., a boat striking a drilling rig or platform). "Property or equipment damage" means the cost of labor and material to restore all affected items to their condition before the damage, including, but not limited to, the OCS facility, a vessel, helicopter, or equipment. It does not include the cost of salvage, cleaning, gas-freeing, dry docking, or demurrage.

(7) All incidents involving structural damage to an OCS facility. "Structural damage" means damage severe enough so that operations on the facility cannot continue until repairs are made.

(8) All incidents involving crane or personnel/material handling operations.

(9) All incidents that damage or disable safety systems or equipment (including firefighting systems).

(b) You must provide a written report of the following incidents to the District Manager within 15 calendar days after the incident:

(1) Any injuries that result in one or more days away from work or one or more days on restricted work or job transfer. One or more days means the injured person was not able to return to work or to all of their normal duties the day after the injury occurred;

(2) All gas releases that initiate equipment or process shutdown;

(3) All incidents that require operations personnel on the facility to

muster for evacuation for reasons not related to weather or drills;

(4) All other incidents, not listed in paragraph (a) of this section, resulting in property or equipment damage greater than \$25,000.

**§ 250.189 Reporting requirements for incidents requiring immediate notification.**

For an incident requiring immediate notification under § 250.188(a), you must notify the District Manager via oral communication immediately after aiding the injured and stabilizing the situation. Your oral communication must provide the following information:

(a) Date and time of occurrence;

(b) Operator, and operator representative's, name and telephone number;

(c) Contractor, and contractor representative's name and telephone number (if a contractor is involved in the incident or injury/fatality);

(d) Lease number, OCS area, and block;

(e) Platform/facility name and number, or pipeline segment number;

(f) Type of incident or injury/fatality;

(g) Operation or activity at time of incident (i.e., drilling, production, workover, completion, pipeline, crane, etc.); and

(h) Description of the incident, damage, or injury/fatality.

**§ 250.190 Reporting requirements for incidents requiring written notification.**

(a) For any incident covered under § 250.188, you must submit a written report within 15 calendar days after the incident to the District Manager. The report must contain the following information:

(1) Date and time of occurrence;

(2) Operator, and operator representative's name and telephone number;

(3) Contractor, and contractor representative's name and telephone number (if a contractor is involved in the incident or injury);

(4) Lease number, OCS area, and block;

(5) Platform/facility name and number, or pipeline segment number;

(6) Type of incident or injury;

(7) Operation or activity at time of incident (i.e., drilling, production, workover, completion, pipeline, crane etc.);

(8) Description of incident, damage, or injury (including days away from work, restricted work or job transfer), and any corrective action taken; and

(9) Property or equipment damage estimate (in U.S. dollars).

(b) You may submit a report or form prepared for another agency in lieu of

the written report required by paragraph (a) of this section, provided the report or form contains all required information.

(c) The District Manager may require you to submit additional information about an incident on a case-by-case basis.

■ 4. Section 250.191 is revised to read as set forth below.

**§ 250.191 How does MMS conduct incident investigations?**

Any investigation that MMS conducts under the authority of sections 22(d)(1) and (2) of the Act (43 U.S.C. 1348(d)(1) and (2)) is a fact-finding proceeding with no adverse parties. The purpose of the investigation is to prepare a public report that determines the cause or causes of the incident. The investigation may involve panel meetings conducted by a chairperson appointed by MMS. The following requirements apply to any panel meetings involving persons giving testimony:

(a) A person giving testimony may have legal or other representative(s) present to provide advice or counsel while the person is giving testimony. The chairperson may require a verbatim transcript to be made of all oral testimony. The chairperson also may accept a sworn written statement in lieu of oral testimony.

(b) Only panel members, and any experts the panel deems necessary, may address questions to any person giving testimony.

(c) The chairperson may issue subpoenas to persons to appear and provide testimony or documents at a panel meeting. A subpoena may not require a person to attend a panel meeting held at a location more than 100 miles from where a subpoena is served.

(d) Any person giving testimony may request compensation for mileage, and fees for services, within 90 days after the panel meeting. The compensated expenses must be similar to mileage and fees the U.S. District Courts allow.

■ 5. Section 250.490(l) is revised to read as set forth below.

**§ 250.490 Hydrogen Sulfide**

\* \* \* \* \*

(l) *Do I need to notify MMS in the event of an H<sub>2</sub>S release?* You must notify MMS without delay in the event of a gas release which results in a 15-minute time-weighted average atmospheric concentration of H<sub>2</sub>S of 20 ppm or more anywhere on the OCS facility. You must report these gas releases to the District Manager immediately by oral communication, with a written follow-up report within

15 days, pursuant to §§ 250.188 through 250.190.

\* \* \* \* \*

#### § 250.513 [Amended]

■ 6. In § 250.513(d) remove the reference to “§ 250.190” and add in its place “§ 250.186.”

#### § 250.1102 [Amended]

■ 7. In § 250.1102(a)(9), (b)(8), and (b)(9), remove the reference to “§ 250.190” each time it appears and add in its place “§ 250.186.”

#### § 250.1617 [Amended]

■ 8. In § 250.1617(d) remove the reference to “§ 250.190” and add in its place “§ 250.186.”

[FR Doc. 06-3611 Filed 4-14-06; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[CGD05-06-031]

RIN 1625-AA08

#### Special Local Regulations for Marine Events; Martin Lagoon, Middle River, MD

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing temporary special local regulations during the “Baltimore County Community Waterfront Festival”, an event to be held May 13, 2006 at Martin Lagoon, Middle River, Maryland. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to temporarily restrict vessel traffic in a portion of the Middle River waterfront to accommodate watercraft static displays, fire-rescue demonstrations and a fireworks display.

**DATES:** This rule is effective from 9 a.m. on May 13, 2006 until 10 p.m. on May 14, 2006.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD05-06-031 and are available for inspection or copying at Commander (dpi), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** D. M. Sens, Project Manager, Vessel Compliance and Inspection Branch, at (757) 398-6204.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b), the Coast Guard finds that good cause exists for not publishing an NPRM. Publishing an NPRM would be impracticable and contrary to public interest since immediate action is needed to minimize potential danger to the public during the event. The necessary information to determine whether the marine event poses a threat to persons and vessels was not provided with sufficient time to publish an NPRM. The danger posed by the pyrotechnic display, and on the water fire-rescue demonstrations make special local regulations necessary to provide for the safety of spectator craft and other vessels transiting the event area. The Coast Guard will issue a broadcast notice to mariners to advise mariners of the restriction and on scene Coast Guard and local law enforcement assets will also provide notice to mariners.

Under 5 U.S.C. 553(d)(3) and for the same reasons, the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be contrary to the public interest, since immediate action is needed to ensure the safety of the event participants, spectator craft and other vessels transiting the event area. However advance notifications will be made to users of Martin Lagoon via marine information broadcasts, local notice to mariners, commercial radio stations and area newspapers.

##### Background and Purpose

On May 13, 2006, Baltimore County will sponsor the “Baltimore County Community Waterfront Festival”. Various watercraft static displays and fire-rescue demonstrations will be staged within Martin Lagoon. The fireworks display will be launched from Wilson Point Park but the hazardous fallout area will extend over Martin Lagoon. A fleet of spectator vessels is expected to gather near the event site to view the fireworks display. Due to the need for vessel control during the event, vessel traffic will be temporarily restricted to provide for the safety of participants, spectators and transiting vessels.

##### Discussion of Rule

The Coast Guard is establishing temporary special local regulations on specified waters of Martin Lagoon at Middle River, Maryland. The regulated area includes all waters of Martin Lagoon that are north of a line drawn from latitude 39°19'34" N, 076°25'41" W, thence to a position located at 39°19'33" N, 076°25'33" W. The temporary special local regulations will be in effect from 9 a.m. to 10 p.m. on May 13, 2006. If the marine event is postponed due to weather, then the temporary special local regulations will be enforced during the same time period on May 14, 2006. The effect will be to restrict general navigation in the regulated area during the marine event and fireworks display. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area during the enforcement period. The Patrol Commander will notify the public of specific enforcement times by Marine Radio Safety Broadcast. These regulations are needed to control vessel traffic during the event to enhance the safety of spectators and transiting vessels.

##### Regulatory Evaluation

This rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not “significant” under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Although this regulation restricts vessel traffic from transiting Martin Lagoon during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via marine information broadcasts and area newspapers so mariners can adjust their plans accordingly.

##### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a