

*Paragraph 6002 Class E Airspace  
Designated as Surface Areas*

\* \* \* \* \*

**ACE NE E2 Valentine, NE**

Valentine, Miller Field, NE

(Lat. 42°51'28" N., long. 100°32'51" W.)

Valentine NDB

(Lat. 42°51'42" N., long. 100°32'59" W.)

Within a 4-mile radius of Miller Field and within 2.5 miles each side of the 149° bearing from the Valentine NDB extending from the 4-mile radius of the airport to 7 miles southeast of the NDB.

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*Paragraph 6005 Class E Airspace Areas  
Extending Upward From 700 Feet or More  
Above the Surface of the Earth*

\* \* \* \* \*

**ACE NE E5 Valentine, NE**

Valentine, Miller Field, NE

(Lat. 42°51'42" N., long. 100°32'59" W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Miller Field and within 2.5 miles each side of the 149° bearing from the Valentine NDB extending from the 6.5-mile radius of the airport to 7 miles southeast of the NDB.

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Issued in Kansas City, MO, on March 10, 2005.

**Anthony D. Roetzel,**

*Acting Area Director, Western Flight Services  
Operations.*

[FR Doc. 05-5763 Filed 3-22-05; 8:45 am]

**BILLING CODE 4910-13-M**

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**SOCIAL SECURITY ADMINISTRATION**

**20 CFR Part 498**

**RIN 0960-AG08**

**Civil Monetary Penalties, Assessments  
and Recommended Exclusions**

**AGENCY:** Office of the Inspector General (OIG), Social Security Administration.

**ACTION:** Proposed rules.

**SUMMARY:** In accordance with legislative changes, we propose to add new rules that would amend current procedures for the Social Security Administration's civil monetary penalty cases. These proposed rules would amend the current rules by holding representative payees liable for the wrongful conversion of Social Security benefits and by adding a provision for withholding disclosure of material statements to the Social Security Administration. These proposed rules would also amend the current rules by prohibiting offers that charge fees for products or services otherwise provided free of charge by the Social Security

Administration, unless sufficient notice is provided, and by adding to the list of enumerated terms that could be used as part of misleading advertisements.

These revisions reflect provisions of the Social Security Protection Act of 2004.

These proposed rules would also reflect the addition of title VIII, Special Benefits for Certain World War II Veterans, to the Social Security Act, to subject individuals to the possible imposition of a civil monetary penalty and assessment for a violation of this title. These revisions reflect provisions of the Foster Care Independence Act of 1999.

**DATES:** To be sure that your comments are considered, we must receive them no later than May 23, 2005.

**ADDRESSES:** You may give us your comments by: Using our Internet site facility, (*i.e.*, Social Security Online) at <http://policy.ssa.gov/pnpublic.nsf/LawsRegs> or the Federal eRulemaking portal at <http://www.regulations.gov>; telefax to (410) 966-2830; or letter to the Inspector General of the Social Security Administration c/o Commissioner of Social Security, P.O. Box 17703, Baltimore, Maryland 21235-7703. You may also deliver them to the Office of Regulations, Social Security Administration, 107 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235-6401 between 8 a.m. and 4:30 p.m. on regular business days. Comments are posted on our Internet site at <http://policy.ssa.gov/pnpublic.nsf/LawsRegs> or you may inspect them on regular business days by making arrangements with the contact person shown in this preamble.

**Electronic Version**

The electronic version of this document is available on the date of publication in the **Federal Register** at <http://www.gpoaccess.gov/fr/index.html>. It is also available on the internet site for SSA, (*i.e.* Social Security Online) at <http://policy.ssa.gov/pnpublic.nsf/LawsRegs>.

**FOR FURTHER INFORMATION CONTACT:**

Kathy A. Buller, Chief Counsel to the Inspector General, Social Security Administration, Office of the Inspector General, Room 4-M-1 Operations, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 965-2827 or TTY (410) 966-5609.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Social Security Administration (SSA) was established as an independent agency effective March 31, 1995, under Public Law 103-296, the Social Security Independence and

Program Improvements Act of 1994 (SSIIPIA). The SSIIPIA also created an independent Office of the Inspector General (OIG), to which the Commissioner of Social Security (Commissioner) delegated certain authority under the civil monetary penalty (CMP) provisions on June 28, 1995.

On November 27, 1995, the OIG published a final rule at 60 FR 58225 establishing a new part 498 in title 20 of the Code of Federal Regulations. This part serves as a repository for SSA's existing CMP regulations which implemented section 1140 of the Social Security Act (the Act). These regulations were previously located at 42 CFR part 1003.

In addition, the OIG published a final rule on April 24, 1996 at 61 FR 18078 to implement SSA's new CMP authority provided under section 206(b) of the SSIIPIA, which added section 1129 to the Act, effective October 1, 1994. This authority allows for the imposition of penalties and assessments against any individual, organization, agency or other entity that makes or causes to be made a false or misleading statement or representation of a material fact for use in determining initial or continuing rights to Old-Age, Survivors, and Disability Insurance or supplemental security income benefit payments if the person knew or should have known that such statement or representation was false, misleading or omitted a material fact.

**Changes Required by Public Law 106-169**

Section 251(a) of Public Law 106-169, the Foster Care Independence Act of 1999, enacted December 14, 1999, added title VIII, Special Benefits for Certain World War II veterans, to the Social Security Act. Section 251(b)(6) of Public Law 106-169 amended section 1129 to include reference to title VIII.

**Changes Required by Public Law 108-203**

Sections 111, 201, 204, and 207 of Public Law 108-203, the Social Security Protection Act of 2004, enacted March 2, 2004, amended sections 1129 and 1140 of the Social Security Act (42 U.S.C. 1320a-8 and 1320b-10).

**Section 1129 Amendments**

The two amendments to section 1129 broaden the scope of the civil monetary penalty program by adding new categories for penalties (1) against representative payees with respect to wrongful conversions, and (2) against individuals who withhold the

disclosure of material facts to the Social Security Administration.

The first amendment to section 1129 extends the civil monetary penalty provisions to representative payees of individuals entitled to benefits. The proposed rule would implement this amendment by subjecting representative payees who wrongfully convert a payment of benefits intended for another Social Security beneficiary to a penalty of up to \$5,000 for each such wrongful conversion. Our proposed rule would apply to individuals, organizations, agencies, or other entities who receive benefits on behalf of another individual, for the purpose of distributing the benefits with the beneficiary's best interests in mind. Previously, representative payees could elude civil monetary penalties under section 1129 for such wrongful actions, as section 1129 did not extend to representative payees who improperly converted lawfully issued payments intended for another beneficiary.

The second amendment under section 1129 extends the civil monetary penalty provisions to individuals who withhold disclosure of material facts used in the determination of eligibility of benefit amounts under title II, title VIII or title XVI of the Social Security Act from SSA.

Our proposed rule would implement this amendment by providing for civil monetary penalties and assessments to be imposed for the failure to come forward and notify SSA of changed circumstances that affect eligibility or benefit amounts when the individual knew or should have known that the withheld fact was material and that the failure to come forward was misleading.

This amendment extends the coverage of section 1129. Previously, under section 1129, the OIG was only able to impose a civil monetary penalty and assessment against individuals who made false statements or representations or omitted a material fact on a SSA form or to a SSA employee. Therefore, a civil monetary penalty and assessment could not be imposed against an individual who should have known to, but did not, come forward to notify the SSA of changed circumstances that affected that individual's or another individual's eligibility or benefit amount. This amendment is intended to cover situations that include (but are not limited to) the following: (1) When an individual, who has a joint bank account with a beneficiary, knows or should have known that SSA directly deposits the beneficiary's Social Security checks in the joint account; upon death of the beneficiary, the individual fails to disclose the death of

the beneficiary to SSA in order to continue to receive and use the deceased beneficiary's Social Security checks; and (2) when an individual receives benefits under one Social Security number, but is working under a second Social Security number.

This proposed rule would allow the OIG to impose a penalty of up to \$5,000, and an assessment in lieu of damages, for each individual payment of Social Security benefits received while withholding disclosure of such material fact.

The Senate Committee Report, 108–176, accompanying Public Law 108–203, states in its analysis of section 201, under the subheading *Reason for Change*, at page 13–14, that this amendment is not intended to apply against individuals whose failure to come forward was not for the purpose of improperly obtaining or continuing to receive benefits.

This amendment is effective for violations occurring after the date on which the Commissioner of Social Security implements the centralized computer file described in section 202 of Public Law 108–203.

This amendment strengthens the deterrence factor of section 1129 by enabling the OIG to pursue civil monetary penalties and assessments against individuals who withhold disclosure of material facts in order to receive benefits to which they may not be entitled. The OIG will continue to use its discretion to impose reasonable penalties on a case-by-case basis by applying the five enumerated factors employed in other section 1129 cases, as set out at 20 CFR 498.106(a).

#### Section 1140 Amendments

Section 1140 prohibits individuals and groups from using specific terms related to Social Security in an advertisement or other format that could be interpreted or construed as conveying the impression that the advertisement is approved, endorsed, or authorized by the Social Security Administration. Section 1140 is aimed at protecting consumers, especially senior citizens who rely on SSA and are some of our most vulnerable stakeholders, from being victimized by misleading advertisers or direct marketers who improperly use Social Security symbols or emblems in order to suggest they have some connection with or authorization from SSA.

The first amendment to section 1140 authorizes the Commissioner to impose a penalty against certain individuals or groups who offer to assist an individual in obtaining products or services for a fee that the Social Security

Administration provides free of charge. If the individual or group charges a fee for such product or service, the solicitation/ mailing for services must include a written notice stating the product or service is available from the Social Security Administration free of charge. Section 204 of Public Law 108–203 authorizes the Commissioner to set the standards for the notice with respect to content, placement and legibility. Pursuant to this authority, our proposed rule would require clear and prominent display of the notice. By drawing the attention of the reader, the notice would help protect consumers. The goal of this regulation would be to prevent solicitations/ mailings that embed such notices among other text, or place the notice in small type face in an attempt to hide the fact that the products or services are provided free of charge by SSA.

In addition, the amendment provides exceptions for persons serving as a claimant representative in connection with a claim arising under title II, title VIII or title XVI and for persons assisting individuals in a plan with the goal of supporting themselves without Social Security disability benefits.

The second amendment to section 1140 adds certain words and phrases to the statute and prohibits the use of these words and phrases in a misleading manner. Specifically, the amendment expands section 1140 to include words associated with "Death Benefits Update," "Federal Benefit Information," "Funeral Expenses," or "Final Supplemental Program." These words and phrases have been used by solicitors/marketers to give the false impression that their solicitations/ mailings are connected to or authorized by the SSA.

#### Explanation of Proposed Regulations

We are proposing the following changes in our regulations to reflect the amendments to the Act made by section 251 of Public Law 106–169 and sections 111, 201, 204, and 207 of Public Law 108–203.

##### A. Basis and Purpose

We propose to amend §§ 498.100 and 498.102 to include:

(1) Individuals who fail to come forward to disclose to SSA a material fact, which they knew or should have known was material and who knew or should have known that such withholding disclosure of a material fact was misleading, for purposes of determining eligibility for, or the amount of, Social Security benefits under titles II, VIII, or XVI of the Act; and

(2) Representative payees who convert payments received under titles II, VIII, or XVI of the Act, to a use that the representative payee knew or should have known was other than for the use and benefit of the beneficiary, as new bases for imposing a civil monetary penalty and assessment under section 1129.

We also propose to amend § 498.102 to include:

(1) In the list of words prohibited to be used in a manner that such person knew or should have known would convey the false impression that the solicitation/ mailing was approved, endorsed, or authorized by the SSA or that the sender had some connection with or authorization from the SSA, the following: (a) Death Benefits Update; (b) Federal Benefit Information; (c) Funeral Expenses; or (d) Final Supplemental Program to the previously existing list of "Social Security," "Social Security Administration," "Social Security Account," "Social Security System," "Supplemental Security Income Program," "SSA," "SSI" or any combination of those words; and

(2) The failure to provide written notice in a solicitation/ mailing offering to assist an individual in obtaining products or services that the mailer knew or should have known were provided free of charge by the SSA pursuant to the standards set out in § 498.102(d), as new bases for imposing a civil monetary penalty and assessment under section 1140.

#### B. Definitions

We propose to amend the definition of "material fact" in § 498.101 to include title VIII of the Social Security Act, to reflect the inclusion of this title in section 1129 by Public Law 106-169.

We also propose to insert a definition for "Otherwise withhold disclosure" to mean the failure to come forward to notify the SSA of a material fact, when such person knew or should have known that the withheld fact was material and that such withholding was misleading for purposes of determining eligibility or Social Security benefit amount for that person or another person.

#### C. Amount of Penalty and Assessment

We propose to amend §§ 498.103 and 498.104 to authorize the imposition of a civil monetary penalty and assessment against: (1) Individuals who fail to come forward to disclose to SSA a material fact, which they knew or should have known was material and who knew or should have known that such withholding disclosure of a material fact was misleading, for purposes of

determining eligibility for, or the amount of, Social Security benefits under titles II, VIII, or XVI of the Act; (2) representative payees who convert payments received under titles II, VIII, or XVI of the Act to a use that the representative payee knew or should have known was other than for the use and benefit of the beneficiary; (3) individuals who use in a solicitation/ mailing the phrases "Death Benefits Update," "Federal Benefit Information," "Funeral Expenses," or "Final Supplemental Program" in a manner that such person knew or should have known would convey the false impression that the solicitation/ mailing was approved, endorsed, or authorized by the SSA or that the sender had some connection with or authorization from the SSA; and, (4) entities that fail to provide written notice in a solicitation/ mailing offering to assist an individual in obtaining products or services that the mailer knew or should have known were provided free of charge by the SSA, pursuant to the standards set out in § 498.102(d).

#### D. Determination and Notice of Proposed Determination

We are proposing to amend §§ 498.106 and 498.109 to reflect the amendments to §§ 498.102, 498.103, and 498.104.

#### E. Collateral Estoppel and Collection of Penalty and Assessment

We are proposing to amend §§ 498.114 and 498.128 to reflect the expansion of the scope of section 1129 by Public Law 108-203, to include more than false statements or omissions from false statements in connection with an individual's eligibility for, or amount of, Social Security benefits and the addition of title VIII by Public Law 106-169.

#### Clarity of These Regulations

Executive Order 12866, as amended by Executive Order 13258, requires each agency to write all rules in plain language. In addition to your substantive comments on these rules, we invite your comments in how to make these rules easier to understand. For example:

- Have we organized the material to suit your needs?
- Are the requirements in the rules clearly stated?
- Do the rules contain technical language or jargon that is unclear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rules easier to understand?

- Would more (but shorter) sections be better?

- Could we improve clarity by adding tables, lists or diagrams?

- What else could we do to make the rules easier to understand?

#### Regulatory Procedures

##### *Executive Order 12866*

We have consulted with the Office of Management and Budget (OMB) and determined that these proposed rules meet the requirements for a significant regulatory action under Executive Order 12866, as amended by Executive Order 13258. Thus, they are subject to OMB review.

##### *Regulatory Flexibility Act*

We have determined that no regulatory impact analysis is required for these proposed regulations. While the penalties and assessments which the OIG could impose as a result of sections 1129 and 1140 of the Act might have a slight impact on small entities, we do not anticipate that a substantial number of small entities will be significantly affected by these proposed rules. Based on our determination, the Inspector General certifies that these proposed regulations would not have a significant impact on a substantial number of small entities. These proposed rules are modifications to the existing sections 1129 and 1140 of the Act and do not substantially alter the effect on small entities. Therefore we have not prepared a regulatory flexibility analysis.

##### *Paperwork Reduction Act*

These proposed regulations impose no new reporting or recordkeeping requirements requiring OMB clearance.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.003, Social Security—Survivors Insurance; 96.006, Supplemental Security Income; 96.020, Special Benefits for Certain World War II Veterans)

#### List of Subjects in 20 CFR Part 498

Civil monetary penalties for material false statements, withholding disclosures, misuse of symbols and misleading advertising.

Dated: December 9, 2004.

**Patrick P. O'Carroll,**

*Inspector General, Social Security Administration.*

For the reasons set out in the preamble, we propose to amend part 498 of chapter III of title 20 of the Code of Federal Regulations as follows:

**PART 498—CIVIL MONETARY PENALTIES, ASSESSMENTS AND RECOMMENDED EXCLUSIONS**

1. The authority citation for part 498 continues to read as follows:

**Authority:** Secs. 702(a)(5), 1129 and 1140 of the Social Security Act (42 U.S.C. 902(a)(5), 1320a-8 and 1320b-10).

2. Amend § 498.100 by redesignating paragraph (b)(2) as paragraph (b)(3) and adding a new paragraph (b)(2) to read as follows:

**§ 498.100 Basis and purpose.**

\* \* \* \* \*

(b) \* \* \*

(2) Convert payments received under title II, VIII, or XVI, while acting in the capacity of a representative payee, to a use that such person knew or should have known was other than for the use and benefit of the beneficiary; or

\* \* \* \* \*

3. Amend § 498.101 by adding to the definition for “Material fact,” the words “title VIII or” before the words “title XVI” and by adding the new definition for “Otherwise withhold disclosure” in alphabetical order to read as follows:

**§ 498.101 Definitions.**

\* \* \* \* \*

*Otherwise withhold disclosure* means the failure to come forward to notify the SSA of a material fact, when such person knew or should have known that the withheld fact was material and that such withholding was misleading for purposes of determining eligibility or Social Security benefit amount for that person or another person.

\* \* \* \* \*

4. Revise § 498.102 to read as follows:

**§ 498.102 Basis for civil monetary penalties and assessments.**

(a) The Office of the Inspector General may impose a penalty and assessment, as applicable, against any person who it determines in accordance with this part—

(1) Has made, or caused to be made, a statement or representation of a material fact for use in determining any initial or continuing right to or amount of:

- (i) Monthly insurance benefits under title II of the Social Security Act; or
- (ii) Benefits or payments under title VIII or XVI of the Social Security Act; and

(2)(i) Knew, or should have known, that the statement or representation was false or misleading, or

(ii) Made such statement with knowing disregard for the truth; or

(3) Omitted from a statement or representation, or otherwise withheld

disclosure of a material fact for use in determining any initial or continuing right to or amount of benefits or payments, which the person knew or should have known was material for such use and that such omission or withholding was false or misleading.

(b) The Office of the Inspector General may impose a penalty and assessment, as applicable, against any representative payee who receives a payment under title II, VIII, or XVI for the use and benefit of another individual, and who converts such payment, or any part thereof, to a use that such representative payee knew or should have known was other than for the use and benefit of such other individual.

(c) The Office of the Inspector General may impose a penalty against any person whom it determines in accordance with this part has made use of certain Social Security program words, letters, symbols, or emblems in such a manner that the person knew or should have known would convey, or in a manner which reasonably could be interpreted or construed as conveying, the false impression that an advertisement or other item was authorized, approved, or endorsed by the Social Security Administration, or that such person had some connection with, or authorization from, the Social Security Administration.

(1) Civil monetary penalties may be imposed for misuse, as set forth in paragraph (c) of this section, of—

(i) The words “Social Security,” “Social Security Account,” “Social Security Administration,” “Social Security System,” “Supplemental Security Income Program,” “Death Benefits Update,” “Federal Benefit Information,” “Funeral Expenses,” “Final Supplemental Program,” or any combination or variation of such words; or

(ii) The letters “SSA,” or “SSL,” or any other combination or variation of such letters; or

(iii) A symbol or emblem of the Social Security Administration (including the design of, or a reasonable facsimile of the design of, the Social Security card, the check used for payment of benefits under title II, or envelopes or other stationery used by the Social Security Administration), or any other combination or variation of such symbols or emblems.

(2) Civil monetary penalties will not be imposed against any agency or instrumentality of a State, or political subdivision of a State, that makes use of any words, letters, symbols or emblems, of the Social Security Administration or instrumentality of the State or political subdivision.

(d) The Office of the Inspector General may impose a penalty against any person who offers, for a fee, to assist an individual in obtaining products or services that the person knew or should have known that the Social Security Administration provided free of charge, unless:

(1) The person provides sufficient notice that the product or service is available free of charge, before the service is provided to the individual, and:

(i) In printed solicitations or advertisements, such notice is clearly and prominently placed and written in a font that is distinguishable from the rest of the text;

(ii) In a broadcast or telecast such notice must be clearly communicated so as not to be construed as misleading or deceptive.

(2) Paragraph (d) of this section shall not apply to offers—

(i) To serve as a claimant representative in connection with a claim arising under title II, title VIII, or title XVI; or

(ii) To prepare, or assist in the preparation of, an individual’s plan for achieving self-support under title XVI.

(e) The use of a disclaimer of affiliation with the United States Government, the Social Security Administration or its programs, or any other agency or instrumentality of the United States Government, will not be considered as a defense in determining a violation of section 1140 of the Social Security Act.

5. Revise § 498.103 to read as follows:

**§ 498.103 Amount of penalty.**

(a) Under § 498.102(a), the Office of the Inspector General may impose a penalty of not more than \$5,000 for each false statement or representation, omission, or receipt of payment or benefit while withholding disclosure of a material fact.

(b) Under § 498.102(b), the Office of the Inspector General may impose a penalty of not more than \$5,000 against a representative payee for each time the representative payee wrongfully converts a payment or benefit intended for the use and benefit of another individual under title II, title VIII, or title XVI.

(c) Under §§ 498.102(c) and (d), the Office of the Inspector General may impose a penalty of not more than \$5,000 for each violation resulting from the misuse of Social Security Administration program words, letters, symbols, or emblems, or resulting from insufficient notice in printed media regarding products or services provided free of charge by the Social Security

Administration. If such misuse or insufficient notice relates to a broadcast or telecast, the Office of the Inspector General may impose a penalty of not more than \$25,000 for each violation.

(d) For purposes of paragraph (c) of this section, a violation is defined as—

(1) In the case of a mailed solicitation or advertisement, each separate piece of mail which contains one or more program words, letters, symbols, or emblems or insufficient notice related to a determination under § 498.102(c); and

(2) In the case of a broadcast or telecast, each airing of a single commercial or solicitation related to a determination under § 498.102(c).

6. Revise § 498.104 to read as follows:

**§ 498.104 Amount of assessment.**

A person subject to a penalty determined under § 498.102(a) and (b) may be subject, in addition, to an assessment of not more than twice the amount of benefits or payments paid as a result of the statement, representation, omission, withheld disclosure of a material fact, or conversion which was the basis for the penalty. An assessment is in lieu of damages sustained by the United States because of such statement, representation, omission, withheld disclosure, or conversion, as referred to in § 498.102(a) and (b).

7. Amend § 498.106 by revising paragraphs (a) introductory text, (a)(1), and (b) introductory text to read as follows:

**§ 498.106 Determinations regarding the amount or scope of penalties and assessments.**

(a) In determining the amount or scope of any penalty and assessment, as applicable, in accordance with §§ 498.103(a) and (b) and 498.104, the Office of the Inspector General will take into account:

(1) The nature of the statements, representations, or actions referred to in § 498.102(a) and (b) and the circumstances under which they occurred;

(b) In determining the amount of any penalty in accordance with § 498.103(c), the Office of the Inspector General will take into account—

8. Amend § 498.109 by revising paragraph (a)(2) to read as follows:

**§ 498.109 Notice of proposed determination.**

(2) A description of the false statements, representations, or other actions (as described in § 498.102(a) and (b)), and incidents, as applicable, with

respect to which the penalty and assessment, as applicable, are proposed;

9. Amend § 498.114 by revising paragraph (a) to read as follows:

**§ 498.114 Collateral estoppel.**

(a) Is against a person who has been convicted (whether upon a verdict after trial or upon a plea of guilty or *nolo contendere*) of a Federal or State crime; and

10. Amend § 498.128 by revising paragraphs (b), (c)(1), and (d)(1) to read as follows:

**§ 498.128 Collection of penalty and assessment.**

(b) In cases brought under section 1129 of the Social Security Act, a penalty and assessment, as applicable, imposed under this part may be compromised by the Commissioner or his or her designee and may be recovered in a civil action brought in the United States District Court for the district where the violation occurred, or where the respondent resides.

(1) Violation referred to in § 498.102(c) and (d) occurred; or

(1) Monthly title II, title VIII, or title XVI payments, notwithstanding section 207 of the Social Security Act as made applicable to title XVI by section 1631(d)(1) of the Social Security Act;

[FR Doc. 05-5717 Filed 3-22-05; 8:45 am]

BILLING CODE 4191-02-P

**DEPARTMENT OF THE INTERIOR**

**Minerals Management Service**

**30 CFR Part 250**

**RIN 1010-AC99**

**Oil and Gas and Sulphur Operations in the Outer Continental Shelf (OCS); Data Release and Definitions**

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

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rulemaking would revise certain existing definitions, add a first production notice requirement, and make some administrative changes. MMS recently redesigned and renamed some of its forms to aid submission and streamline

data. MMS also discovered inconsistent practices in first production reporting, which is a prime parameter in determining inspection and testing schedules for safety system devices. This proposed rulemaking would correspond to recently revised forms, provide clarity and explanation of definitions and forms, and correct form submittal with first production notices. It would also clarify the basis upon which the Regional Director invokes the requirement for an archaeological survey on a lease area.

**DATES:** We will consider all comments received by June 21, 2005. We will begin reviewing comments then and may not fully consider comments we receive after June 21, 2005.

**ADDRESSES:** You may submit comments on the rulemaking by any of the following methods listed below. Please use 1010-AC99 as an identifier in your message. See also Public Comment Procedures under Procedural Matters.

MMS's Public Connect on-line commenting system, <https://occonnect.mms.gov>. Follow the instructions on the Web site for submitting comments.

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions on the Web site for submitting comments.

E-mail MMS at [rules.comments@mms.gov](mailto:rules.comments@mms.gov). Identify the Regulation Identifier Number (RIN) in the subject line.

Fax: 703-787-1093. Identify the RIN.

Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170-4817; Attention: Rules Processing Team (RPT). Please reference "Oil and Gas and Sulphur Operations in the Outer Continental Shelf (OCS), 30 CFR 250 Subpart A, General-Data Release and Definitions." in your comments.

You may also send comments on the information collection aspects of this rule directly to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs, OMB Attention: Desk Officer for the Department of the Interior via OMB e-mail ([OIRA\\_DOCKET@omb.eop.gov](mailto:OIRA_DOCKET@omb.eop.gov)) or by fax (202) 395-6566; identify with 1010-AC99. Please also send a copy to MMS.

**FOR FURTHER INFORMATION CONTACT:** Kumkum Ray, Rules Processing Team, Regulations and Standards Branch, (703) 787-1600.

**SUPPLEMENTARY INFORMATION:** MMS proposes to make the following