

**List of Subjects****30 CFR Part 71**

Coal mines, Mine safety and health, Surface mining.

**30 CFR Part 75**

Coal mines, Mine safety and health, Underground mining.

Dated: April 15, 2003.

**John R. Correll,**

*Deputy Assistant Secretary for Mine Safety and Health.*

■ For the reasons set out in the preamble, and under the authority of the Federal Mine Safety and Health Act of 1977, MSHA is amending chapter I, parts 71 and 75, of title 30 of the Code of Federal Regulations as follows:

**PART 71—[AMENDED]**

■ 1. The authority citation for part 71 continues to read as follows:

**Authority:** 30 U.S.C. 811, 951, 957.

■ 2. Section 71.500 is revised to read as follows:

**§ 71.500 Sanitary toilet facilities at surface work sites; installation requirements.**

(a) Each operator of a surface coal mine shall provide and install at least one sanitary toilet in a location convenient to each surface work site. A single sanitary toilet may serve two or more surface work sites in the same surface mine where the sanitary toilet is convenient to each such work site.

(b) Where 10 or more miners use such toilet facilities, sufficient toilets shall be furnished to provide approximately one sanitary toilet for each 10 miners.

(c) Sanitary toilets shall have an attached toilet seat with a hinged lid and a toilet paper holder together with an adequate supply of toilet tissue.

(d) Only flush or nonflush chemical or biological toilets, combustion or incinerating toilets, sealed bag toilets, and vault toilets meet the requirements of this section. Privies are prohibited.

(Note to § 71.500: Sanitary toilet facilities for surface work areas of underground mines are subject to the provisions of § 75.1712-3 of this chapter.)

**PART 75—[AMENDED]**

■ 3. The authority citation for part 75 continues to read as follows:

**Authority:** 30 U.S.C. 811.

■ 4. Section 75.1712-6 is revised to read as follows:

**§ 75.1712-6 Underground sanitary facilities; installation and maintenance.**

(a) Except as provided in § 75.1712-7, each operator of an underground coal

mine shall provide and maintain one sanitary toilet in a dry location under protected roof, within 500 feet of each working place in the mine where miners are regularly employed during the mining cycle. A single sanitary toilet may serve two or more working places in the same mine, if it is located within 500 feet of each such working place.

(b) Sanitary toilets shall have an attached toilet seat with a hinged lid and a toilet paper holder together with an adequate supply of toilet tissue, except that a toilet paper holder is not required for an unenclosed toilet facility.

(c) Only flush or nonflush chemical or biological toilets, sealed bag toilets, and vault toilets meet the requirements of this section. Privies and combustion or incinerating toilets are prohibited underground.

[FR Doc. 03-9655 Filed 4-18-03; 8:45 am]

**BILLING CODE 4510-43-P**

**DEPARTMENT OF THE INTERIOR****Minerals Management Service****30 CFR Part 250****RIN 1010-AD03****Oil and Gas and Sulphur Operations in the Outer Continental Shelf (OCS), Document Incorporated by Reference for Fixed Platforms**

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

**ACTION:** Final rule.

**SUMMARY:** MMS is publishing this final rule to incorporate by reference into our regulations the 21st edition of American Petroleum Institute Recommended Practice 2A (API RP 2A), "Recommended Practice for Planning, Designing and Constructing Fixed Offshore Platforms—Working Stress Design." The updated document, 21st edition, will replace the 19th and 20th editions of API RP 2A, which are already incorporated by reference into MMS regulations.

**EFFECTIVE DATE:** This rule becomes effective on May 21, 2003. The incorporation by reference of the publication listed in the regulation is approved by the Director of the Federal Register as of May 21, 2003.

**FOR FURTHER INFORMATION CONTACT:** Carl Anderson, Physical Scientist, at (703) 787-1608; or Joseph Levine, Chief, Operations Analysis Branch, at (703) 787-1033 or FAX (703) 787-1555.

**SUPPLEMENTARY INFORMATION:** The updated document, 21st edition, was

published as part of a proposed rule. In that rule, MMS proposed to amend Subpart I of 30 CFR Part 250 and to incorporate into our regulations nine industry standards pertaining primarily to floating production platforms. MMS believes it is important to expedite incorporating by reference the 21st edition of API RP 2A ahead before the other standards since the overwhelming majority of platforms on the OCS are fixed platforms. Thus, we are preparing a separate final rule to update the document incorporated by reference relating to fixed platforms under the RIN 1010-AD03, and will publish a final rule incorporating the other eight standards on floating production platforms under the RIN 1010-AC85. Incorporating the 21st edition will immediately correct the deficiencies that the API workgroup identified in the 19th and 20th editions of API RP 2A. This will streamline the permitting of all fixed platforms so that OCS lessees and operators and MMS engineers will not have to continue to perform the corrective calculations and procedures called for in NTL No. 98-1N and NTL No. 98-4N.

Additional immediate benefits of adopting the 21st edition of API RP 2A are that it (1) greatly strengthens the Section 2 design criteria analysis methods and Section 3 structural steel analysis requirements; (2) strengthens procedures for analyzing minimum and special structures in Section 16 with respect to the Section 2 design criteria analysis methods; (3) reinforces the connection between Section 16 design loads and analyses for minimum and special structures with respect to Section 5 fatigue analysis methods; and (4) contains assessment procedures in Section 17 for existing platforms. Neither the 19th edition nor the 20th edition of API RP 2A included assessment procedures for existing platforms. The December 1996 Supplement 1 to the 20th edition of API RP 2A included Section 17, Assessment of Existing Platforms, and has been used by industry since that time.

The 21st edition provided the rationale for revising much of Subpart I—Platforms and Structures—that was described in the proposed rulemaking of December 27, 2001 (66 FR 66851-66865). The API RP 2A deals with bottom-founded structures which, until the proposed rulemaking, have been the primary focus of Subpart I. After publishing this rule, MMS will cancel two National Notices to Lessees and Operators (NTLs) related to the 19th and 20th editions of API RP 2A, NTL No. 98-1N, "Interim Guidance for Applying Platform Design Criteria"; and NTL No.

98-4N "Interim Guidance 'Simplified Fatigue Analysis' Procedure."

The two NTLs to be cancelled were published in cooperation with the API RP 2A industry workgroup to provide guidance on either applying or recalculating certain design criteria specified in the 19th and 20th editions of API RP 2A. There were certain insufficient or erroneous design criteria in both the 19th and 20th editions of API RP 2A related to various structures and the water depths and wind conditions in which they were to operate. Once the 21st edition of API RP 2A is incorporated into the regulations, the NTLs will not be necessary.

#### Discussion and Analysis of Comments

Eight organizations submitted nine comments on the proposed rulemaking. Commenters included the American Bureau of Shipping (ABS); the Offshore Operator's Committee (OOC); Shell Exploration & Production Company (Shell), which commented twice; the Independent Petroleum Association of America (IPAA); the National Ocean Industries Association (NOIA); ChevronTexaco; Newfield Exploration Company (Newfield); and ATP Oil & Gas Corporation (ATP). In all, MMS identified 22 issues raised by these respondents. Nearly all are either related to adoption of the other eight industry standards covered in the December 27, 2001, NPR; the approval procedures for floating production platforms; or the proposed rewrite of Subpart I. All of these comments will be discussed in a separate final rule.

Industry has had years of experience applying API RP 2A on the OCS, and no respondent objected to the adoption of the 21st edition of API RP 2A. The ABS raised one technical issue related to its adoption, as follows:

The document adopts the API-RP2A-WSD [working stress design]. Is the API-RP2A-LRFD [load and resistance factors design] not acceptable at this time for any application? Some of the requirements in API-RP2A-LRFD, such as hydrostatic collapse of tubular members for deepwater applications, may be more reasonable than those in WSD. If acceptable, guidance in the regulations should specify load and resistance factors.

Since the early 1980s, MMS has followed the policy currently outlined in §§ 250.141 and 250.142 of our operating regulations, whereby we promote the use of technology or innovative practices that are not necessarily covered in our regulations. For example, § 250.141 tells the lessee or operator that "You may use alternate procedures or equipment after receiving approval as described in this section." The approval must be in writing from

either the MMS District or Regional Supervisor. Paragraph (a) of § 250.141 requires that "Any alternate procedures or equipment that you propose to use must provide a level of safety and environmental protection that equals or surpasses current MMS requirements." Paragraph (c) of § 250.141 requires that the lessee or operator submit information or provide an oral presentation to describe the site-specific applications, performance characteristics, and safety features of the alternate procedures or equipment. Also, under § 250.142, the lessee or operator may submit a written request to the District or Regional Supervisor for an approval to depart from current MMS operating regulations.

Thus, if a lessee or operator believes that the load and resistance factor design (LRFD) version of API RP 2A is more appropriate for its proposed platform than the working stress design (WSD) version, the lessee or operator may submit its arguments to use the former under §§ 250.141 and 250.142 of MMS operating regulations.

#### Procedural Matters

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

This document is not a significant rule and is not subject to review by OMB under Executive Order 12866.

(1) The rule will not have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The overall effect of the rule will not create an adverse effect upon the ability of the United States offshore oil and gas industry to compete in the world marketplace, nor will the rule adversely affect investment or employment factors locally. The economic analysis for this rule is available from the Department of the Interior; Minerals Management Service; Operations Analysis Branch; Mail Stop 4022; 381 Elden Street; Herndon, Virginia 20170-4817; Attention: Carl W. Anderson.

(2) This rule will not create inconsistencies with other agencies' actions. This rule does not change the relationships of the OCS oil and gas leasing program with other agencies' actions. These relationships are all encompassed in agreements and memorandums of understanding that will not change with this rule.

(3) This rule does not alter the budgetary effects or entitlements, grants,

user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues. There are precedents for actions of this type under past lease stipulations and regulations dealing with safety provisions under the OCS Lands Act.

##### *Regulatory Flexibility (RF Act)*

The Department of the Interior certifies that this proposed rule will not have a significant economic effect on a substantial number of small entities under the RF Act (5 U.S.C. 601 *et seq.*). This rule applies to all lessees that operate on the OCS. Small lessees that operate under this rule would fall under the Small Business Administration's (SBA) North American Industry Classification System Codes 211111, Crude Petroleum and Natural Gas Extraction and 213111, Drilling Oil and Gas Wells. For the purposes of this section, the "small entity" is considered to be an individual, limited partnership, or small company, considered to be at "arm's length" from the control of any parent company, with fewer than 500 employees. Mid-size and large corporations and partnerships under their direct control have access to lines of credit and internal corporate cash flows that are not available to the "small entity." Some of the operators MMS regulates under the OCS oil and gas leasing program are considered small entities. We estimate that of the 130 lessees that explore for and produce oil and gas on the OCS, approximately 90 are small businesses (70 percent). The 21st edition of API RP 2A will reduce the costs of new platforms to these lessees, because the 21st edition allows lower-cost design criteria for platforms that have lower "consequences of failure." Thus, an unmanned platform can be built with lower-cost design criteria than a manned platform. Under the 19th and 20th editions of API RP 2A, both unmanned and manned platforms had to be built under high-cost design criteria. Therefore, MMS concludes that this final rule will have a beneficial effect on small operators.

Your comments are important. 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 enforcement actions of MMS, call toll-free (888) 734-3247.

*Small Business Regulatory Enforcement Fairness Act (SBREFA)*

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

(a) Does not have an annual effect on the economy of \$100 million or more.

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

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or ability of United States-based enterprises to compete with foreign-based enterprises. The 21st edition of API RP 2A will reduce the costs of new platforms to these lessees, because it allows lower-cost design criteria for platforms that have lower "consequences of failure." Thus, an unmanned platform can be built with lower-cost design criteria than a manned platform. Under the 19th and 20th editions of API RP 2A, both unmanned and manned platforms had to be built under high-cost design criteria. Therefore, MMS concludes that the rule will not have a significant economic impact on a substantial number of small entities.

*Paperwork Reduction Act (PRA) of 1995*

The revision to a section of Subparts A and I of 30 CFR 250 will simplify, to a modest degree, the information collection (IC) aspects of MMS regulations. These are currently approved under OMB control numbers 1010-0114 (Subpart A) and 1010-0058 (Subpart I). For purposes of only incorporating by reference the 21st edition of API RP 2A into MMS regulations, MMS did not submit an information collection request (ICR) to OMB for these sections.

This final rule incorporates by reference into MMS regulations the 21st edition of API RP 2A in place of the 19th and 20th editions and a supplement to the 20th edition that are currently listed in § 250.198(e). By incorporating the 21st edition, MMS will actually reduce the paperwork burden for lessees and operators, because they will no longer have to refer to NTLs No. 98-1N and 98-4N to correct the deficiencies that API has acknowledged exist in the 19th and 20th editions of API RP 2A.

Potential respondents are approximately 130 Federal OCS lessees and operators and Certified Verification Agents or other third-party reviewers of fixed and floating platforms. Responses are mandatory. The frequency of response varies by section, but is

primarily on occasion or annually. The IC does not include questions of a sensitive nature. MMS will protect information considered proprietary according to 30 CFR 250.196 (Data and information to be made available to the public) and 30 CFR part 252 (OCS Oil and Gas Information Program).

MMS will use the information collected and records maintained under current Subpart I regulations to determine the structural integrity of all fixed platforms and to ensure that such integrity will be maintained throughout the useful life of these structures. The information is necessary to determine that platforms and structures are sound and safe for their intended purpose and the safety of personnel and pollution prevention. 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 burden in this final rule. You may submit your comments directly to the Office of Information and Regulatory Affairs, OMB. Please send a copy of your comments to MMS so that MMS can use them in future paperwork burden analyses of our regulations. Refer to the **ADDRESSES** section for mailing instructions.

The current OMB control numbers are 1010-0114 (subpart A) and 1010-0058 (subpart I).

a. MMS specifically solicits comments on the following questions:

(1) Is the collection of information necessary for MMS to properly perform its functions, and will it be useful?

(2) Are the estimates of the burden hours of the collection reasonable?

(3) Do you have any suggestions that would enhance the quality, clarity, or usefulness of the information to be collected?

(4) Is there a way to minimize the information collection burden on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology?

b. In addition, the PRA requires agencies to estimate the total annual reporting and recordkeeping "non-hour" cost burden resulting from the collection of information. MMS has not identified any and solicits your comments on this item. For reporting and recordkeeping only, your response should split the cost estimate into two components: (1) The total capital and startup cost component, and (2) annual operation, maintenance, and purchase of services component. Your estimates should consider the costs to generate, maintain, and disclose or provide the information. You should describe the

methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Generally, your estimates should not include equipment or services purchased before October 1, 1995, to comply with requirements not associated with the information collection, for reasons other than to provide information or keep records for the Government, or as part of a usual and customary business or private practice.

*Unfunded Mandate Reform Act (UMRA) of 1995 (Executive Order 12866)*

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. 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. Based on our Paperwork Burden analysis and our economic analysis for this rule, which will incorporate by reference the 21st edition of API RP 2A into MMS regulations, the annual incremental cost of complying with this regulation for approximately 98 businesses will be negligible. These businesses are already complying with the requirements of the 19th and 20th editions of API RP 2A, and upgrading to the 21st edition will only simplify the requirements. Therefore, this rule will not result in any takings, and the Department of the Interior does not need to prepare a Takings Implication Assessment under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. The rule will not take away or restrict a lessee's right to develop an OCS oil and gas lease according to the lease terms.

*Federalism (Executive Order 13132)*

According to Executive Order 13132, this rule does not have Federalism implications. This rule will not substantially or directly affect the relationship between the Federal and State governments because it deals strictly with technical standards that the offshore oil and gas industry must use in designing, fabricating, and installing

fixed offshore facilities. This rule will not impose costs on States or localities, nor will it require any action on the part of States or localities.

*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.

*National Environmental Policy Act (NEPA)*

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. MMS has analyzed this rule under the criteria of the NEPA and 516 Departmental Manual 6, Appendix 10.4C(1). MMS completed a Categorical Exclusion Review for this action on November 20, 2000, and concluded that "the rulemaking does not represent an exception to the established criteria for categorical exclusion; therefore, preparation of an environmental

analysis or environmental impact statement will not be required."

*Consultation and Coordination With Indian Tribal Governments (Executive Order 13175)*

In accordance with Executive Order 13175, this rule does not have tribal implications that impose substantial direct compliance costs on Indian tribal governments.

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

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Dated: April 8, 2003.

**Rebecca W. Watson,**  
*Assistant Secretary, Land and Minerals Management.*

■ For the reasons stated in the preamble, 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.*

■ 2. In § 250.198, in the table in paragraph (e), the following changes are made:

- A. Remove entries for API RP 2A, 19th Edition; API RP 2A, 20th Edition; and API RP 2A, 20th Edition, Supplement 1.
- B. Add the entry for API RP 2A, 21st Edition, as follows:

**§ 250.198 Documents incorporated by reference.**

*	*	*	*	*
(e)	*	*	*	*

Title of document	Incorporated by reference at
* * * * *	
API RP 2A—WSD, Recommended Practice for Planning, Designing and Constructing Fixed Offshore Platforms—Working Stress Design; Twenty-first Edition, December 2000 (API Order No. G2AWSD).	§ 250.900(g); § 250.912(a).
* * * * *	

■ 3. In § 250.900, revise paragraph (g) to read as follows:

**§ 250.900 General requirements.**

\* \* \* \* \*

(g) In addition to the requirements of this subpart, platform design, fabrication, and installation shall conform to API RP 2A—WSD "Recommended Practice For Planning, Designing, And Constructing Fixed Offshore Platforms—Working Stress Design," (incorporated by reference, see § 250.198), or American Concrete Institute (ACI) 357R, "Guide for the Design and Construction of Fixed Offshore Concrete Structures," (incorporated by reference, see § 250.198), as appropriate. Alternative codes or rules may be utilized with approval of the Regional Supervisor. The requirements contained in these documents (API RP 2A—WSD and ACI 327R) are incorporated by reference in this part, see § 250.198.

■ 4. In § 250.912(a), revise the first sentence to read as follows:

**§ 250.912 Periodic inspection and maintenance.**

(a) All platforms installed in the OVS shall be inspected periodically in accordance with the provisions of section 14, Surveys of API RP 2A—WSD (incorporated by reference, see § 250.198). \* \* \*

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[FR Doc. 03-9669 Filed 4-18-03; 8:45 am]

**BILLING CODE 4310-MR-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[CGD01-03-019]

RIN 1625-AA00

**Safety Zone; Wiscasset, ME, Maine Yankee Reactor Pressure Vessel Removal**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing temporary safety zones in the waters of the Back River, Montsweag Bay, between Bailey Point and Foxbird Island in Wiscasset, Maine, and around the transport barge during its transit to sea. These safety zones are needed to protect persons, facilities, vessels and others in the maritime community from the safety hazards associated with the handling, loading, and transportation of a major component of the Decommissioned Maine Yankee Nuclear Plant that is classified as Class 7 Hazardous Waste. Entry into these safety zones will be prohibited unless authorized by the Captain of the Port, Portland, Maine.

**DATES:** This rule is effective from 12 a.m. e.d.t. on April 15, 2003, until 12 a.m. e.d.t. on June 30, 2003.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD01-03-019 and are available for inspection or copying at Marine Safety Office