

**DEPARTMENT OF LABOR****Occupational Safety and Health Administration****29 CFR Part 1926****Steel Erection Negotiated Rulemaking Advisory Committee**

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Notice of committee meeting.

**SUMMARY:** Under the provisions of the Federal Advisory Committee Act (FACA), notice is hereby given of a meeting of the Steel Erection Negotiated Rulemaking Advisory Committee (SENAC). Notice is also given of the location of the meeting. This meeting will be open to the public. Information on room numbers will be available in the lobby of the designated building. A schedule of additional meetings will be provided in a future notice.

**DATES:** The meeting is scheduled for April 17-19, 1995. The meeting will begin at 1:00 p.m. on April 17th.

**ADDRESSES:** Hyatt Hotel at Dulles Airport—2300 Dulles Corner Boulevard, Herndon, VA 22071; telephone (703) 713-1234.

**FOR FURTHER INFORMATION CONTACT:** Ann Cyr, Acting Director, Office of Information and Consumer Affairs, OSHA, U.S. Department of Labor, Room N-3647, 200 Constitution Avenue, N.W., Washington, D.C. 20210; telephone (202) 219-8151.

**SUPPLEMENTARY INFORMATION:** On May 11, 1994, OSHA announced that it had established the Steel Erection Negotiated Rulemaking Advisory Committee (SENAC)(59 FR 24389) in accordance with the Federal Advisory Committee Act (FACA), the Negotiated Rulemaking Act of 1990 (NRA) and section 7(b) of the Occupational Safety and Health Act (OSH Act) to resolve issues associated with the development of a Notice of Proposed Rulemaking on Steel Erection. Appointees to the Committee include representatives from labor, industry, public interests and government agencies.

SENAC began negotiations in mid June, 1994, and has met six times since. Initial meetings dealt with procedural matters, including schedules, agendas and the establishment of workgroups. The Committee established workgroups to address issues on Fall Protection, Allocation of Responsibility, Construction Specifications and Scope. During subsequent meetings, foundations for negotiations have been established and preliminary resolutions

of issues are now occurring at the meetings.

All interested parties are invited to attend the Committee meetings at the time and place indicated above. No advanced registration is required. Seating will be available to the public on a first-come, first-served basis. Individuals with disabilities wishing to attend should contact the Facilitator to obtain appropriate accommodations. During the meeting, members of the general public may informally request permission to address the Committee.

Minutes of the meetings and materials prepared for the Committee will be available for public inspection at the OSHA Docket Office, N-2625, 200 Constitution Ave., N.W., Washington, D.C. 20210; telephone (202) 219-7894. Copies of these materials may be obtained by sending a written request to the Facilitator.

The Facilitator, Philip J. Harter, can be reached at Suite 404, 2301 M Street, NW, Washington, D.C. 20037; telephone (202) 887-1033, FAX (202) 887-1036.

**Authority:** This document was prepared under the direction of Joseph A. Dear, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, pursuant to section 3 of the Negotiated Rulemaking Act of 1990, 104 Stat. 4969, Title 5 U.S.C. 561 *et seq.*; and Section 7(b) of the Occupational Safety and Health Act of 1970, 84 Stat. 1597, Title 29 U.S.C. 656.

Signed at Washington, DC, this 22nd day of March 1995.

**Joseph A. Dear,**

*Assistant Secretary of Labor.*

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**BILLING CODE 4510-26-P**

**DEPARTMENT OF THE INTERIOR****Minerals Management Service****30 CFR Chapter II****Review of Existing Regulations**

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Review of regulations; request for comment.

**SUMMARY:** In a March 1, 1994, document (59 FR 9718), the Minerals Management Service (MMS) announced its intent to establish periodic reviews of its significant regulations and asked the public to participate in the reviews. The purpose of the reviews is to identify and eliminate regulations that are obsolete, ineffective, or burdensome. In addition, the reviews are meant to identify essential regulations that should be

revised either because they are unclear, inefficient, or interfere with normal market conditions. Comments were received from the March 1 document (the Notice) and acknowledged by MMS in a July 15, 1994, document (59 FR 36108).

The purpose of this document is to: Provide a status update of the MMS action taken on the regulations identified in the March 1 review; and provide the public a second opportunity to identify MMS regulations that should be eliminated or revised. A list of regulations identified for elimination will be sent to the President by June 1, 1995.

**DATES:** Written comments must be received by April 27, 1995.

**ADDRESSES:** Mail written comments to Department of the Interior; Minerals Management Service; Mail Stop 4013; 1849 C Street NW.; Washington, DC 20240; Attention: Bettine Montgomery, MMS Regulatory Coordinator, Policy and Management Improvement.

**FOR FURTHER INFORMATION CONTACT:** Bettine Montgomery, Policy and Management Improvement, telephone (202) 208-3976; Fax (202) 208-4891.

**SUPPLEMENTARY INFORMATION:** MMS began a review of its regulations in early 1994 pursuant to the directives contained in the President's Executive Order 12866. The Executive Order calls for periodic regulatory reviews to ensure that all significant regulations are efficient and effective, impose the least possible burden upon the public, and are tailored no broader than necessary to meet the agency's objectives and presidential priorities.

MMS invited the public to participate in the regulatory review. The invitation was sent out via different media, namely a notice dated March 1, 1994 (59 FR 9718), MMS and independent publications, and public speeches by MMS officials during that time.

MMS received approximately 40 public comments which were almost equally divided between its Royalty Management and Offshore Minerals Management Programs. MMS acknowledged the comments in a July 15, 1994, notice (59 FR 36108) and set forth its planned actions to address the comments, along with an estimated timetable for the actions.

This notice updates the MMS planned actions and related timetables. This notice also requests additional comments from the public identifying regulations that should be either eliminated or revised.

In recent years, MMS has made an effort to work more closely with its regulated customers and will increase

this effort in the future. During the past year, MMS has worked with representatives from organizations affected by its regulations and brought them into the early development of two major rulemakings. The representatives formed committees or work groups under the negotiated rulemaking process. They either have been or will be working together to form a consensus on some very difficult and sometimes contentious issues. The representatives function as the spokesperson on behalf of either industry, States, Tribes, or local governments.

MMS is committed to working more closely with its regulated customers in the future; moving from a process of regulation to one of partnership, with common objectives. In a speech on February 21, 1995, the President asked all Federal agencies to pursue a similar course. He asked them to change their regulatory culture by consulting more frequently with the people affected by their (the agency) regulations, in particular by convening groups consisting of front-line regulators and the regulated public, in order to find ways to achieve the public interest while avoiding costly litigation. The President also asked all agencies to identify (by June 1, 1995) regulations that can be eliminated and to change the way they measure performance (focusing on achieving regulatory objectives rather than on increasing compliance orders). MMS is interested in comments from the public on how we can best respond to the President's guidance.

MMS regulations are found at Title 30 in the Code of Federal Regulations. Parts 201 through 243 contain regulations applicable to MMS' Royalty Management Program; Parts 250 through 282 are applicable to MMS' Offshore Minerals Management; and Part 290 is applicable to Administrative Appeals.

#### Status Report

The following is a discussion showing the progress MMS has made in reviewing its regulations in response to the comments received to the Notice.

##### A. Offshore Minerals Management (OMM) Program

In response to the public comments on the Notice, OMM is currently reviewing the following eight sections of OMM regulations.

##### 1. Regulations Applicable to Production in Deepwater (30 CFR Part 250, Subpart H, Production)

*Comments Received*—(a) “Revise current regulations to provide for approval of extended flaring periods

under certain situations (e.g., deepwater prospects, well tests, etc.) and clarify criteria for flaring or venting small amounts of gas”.

(b) “Revise requirements associated with subsea installations \* \* \*, etc.

*Action Planned*—An MMS workgroup is finalizing a report that recommends revising various policies and regulations associated with deepwater development. The workgroup will submit the final report to MMS management in March 1995. The report will include the following recommendations:

For (a) above, current regulations provide sufficient flexibility to meet industry needs while all parties gain greater experience with deepwater operations. MMS will continue approving requests for extended gas flaring and well testing on a case-by-case basis. Regions will establish regional guidelines for approval of extended testing and flaring.

For (b) above, revise the leakage rates and extend the testing frequency and closure time requirements for underwater safety valves and subsurface safety valves for subsea wells. MMS will consider an alternate arrangement of underwater safety valves for subsea wells on a case-by-case basis. MMS will not revise the leakage rate requirements for surface safety valves at this time. This recommendation also addresses emergency shutdown system requirements for subsea wells.

*Timetable*—Based on the recommendations of the workgroup, MMS will formulate a policy on deepwater activities. MMS will continue to work with operators under existing regulations when appropriate.

##### 2. Regulations Applicable to Blowout Preventer (BOP) Testing and Maintenance Requirements (30 CFR 250.56 and 57)

*Comments Received*—“Revise BOP testing regulations to allow for less frequent and shorter tests. Allow 14 day BOP test interval vs. current 7 day \* \* \*.”

*Action Planned*—MMS recently completed a study to assess the performance of BOP systems during testing. The results of this study did not support industry claims about the high reliability of BOP equipment or provide justification for less frequent testing.

*Timetable*—MMS will continue its review of BOP testing and maintenance requirements, with a focus on stricter maintenance requirements. With improved performance, MMS would consider if further flexibility on BOP testing frequency can be provided to

industry. At this time, MMS does not plan on revising its regulations.

##### 3. Regulations Governing Safety and Pollution Prevention Equipment (30 CFR 250.126)

*Comments Received*—“Reduce associated administrative burden on lessees and operators by eliminating unnecessary record keeping requirements (i.e., inventory lists, paperwork notifications, etc.)”.

*Action Planned*—MMS considered the use of a negotiated rulemaking as part of this review.

*Timetable*—MMS has initiated the “convening” stage of the negotiated rulemaking. This stage is nearing completion and the “convener’s” recommendation on whether to proceed with the negotiated rulemaking will be made by April 1995. If the “convener” recommends against a negotiated rulemaking, MMS will use other means to address this issue.

##### 4. Regulations Governing Conservation of Resources and Diligence (30 CFR 250, Subpart A, General and Subpart K, Oil and Gas Production Rates)

*Comments Received*—(a) “Revise Suspension of Production approval/lease holding criteria \* \* \*”, (b) “Revise Determination of Well Producibility to make wireline testing and/or mud logging analysis optional \* \* \*”, (c) “revise current regulations to provide for approval of extended flaring periods \* \* \*”, (d) “Relax restrictions on commingling reservoirs in a common wellbore \* \* \*”, (e) “Allow flexibility in the methods of testing subsea wells. \* \* \*”, etc.

*Action Planned*—(a), (b), and, (d) above have been reviewed by MMS. MMS is considering options to revise the regulations. For (c) above, MMS will review current regulations when air quality studies currently underway are completed. For (e) above, MMS will not change the regulations. Current regulations allow operators to request that different testing methods be allowed when conventional testing is impractical.

*Timetable*—For (a), (b), and, (d) above, the course of action should be determined by the summer of 1995. Rulemaking will be initiated if appropriate.

##### 5. Regulations Regarding Construction and Removal of Platforms and Structures (30 CFR 250, Subpart I, Platforms and Structures)

*Comments Received*—(a) “Modify platform design wave return period calculation by placing a cap of 100 years on the field life calculation \* \* \*”, (b)

"Adopt API RP2A (20th edition) Section 14, Surveys, in its entirety \* \* \*", (c) "Revise site clearance requirements \* \* \*", (d) "Revise requirements for placing protective domes over well stubs \* \* \*", etc.

*Action Planned*—For (a) above, MMS has reviewed this request. MMS is reviewing options to revise its regulations. For (b) above, MMS will not modify the regulations. Current rules allow operators to petition for longer inspection intervals. For (c) and (d) above, MMS published a notice on February 1, 1995 (60 FR 6281), asking for comments on these issues. Based on the responses, MMS will formulate a policy.

*Timetable*—For (a) above, the course of action should be determined by the summer of 1995. Appropriate action will follow. For (c) and (d) above, comments were due on March 3, 1995. MMS will consider regulatory options following analysis of the comments. A course of action should be established by the fall of 1995.

#### 6. Regulations Applicable to Directional Surveys (30 CFR 250.51)

*Comments Received*—"Revise directional survey requirements to allow a composite measurement-while-drilling directional survey to be acceptable \* \* \*"

*Action Planned*—MMS has completed a review of this issue and is planning to update the regulations to keep up with current technology.

*Timetable*—Proposed changes to the regulations are being circulated internally. Proposed rule should be prepared by summer of 1995.

#### 7. Regulations Applicable to Daily Pollution Inspection Requirements (30 CFR 250.41)

*Comments Received*—"Revise current requirements for daily pollution inspection of unmanned production facilities \* \* \*."

*Action Planned*—MMS is currently studying this issue to see if changes to the regulations are warranted.

*Timetable*—By summer of 1995, MMS will make a decision on whether changes to the regulations are needed.

#### 8. Regulations Applicable to Production Safety System Training (30 CFR 250.214)

*Comments Received*—"Revise training regulations to reduce the associated burden on operators by modifying requirements (e.g., frequency, refresher requirements, structure, etc.) and allow expanded training delivery modes."

*Action Planned*—MMS has issued an Advance Notice of Proposed Rulemaking and received comments. A Notice of Proposed Rulemaking (NPR) which would provide greater flexibility to Industry is being prepared at this time.

*Timetable*—The NPR should be published by late 1995.

#### B. Royalty Management Program (RMP)

RMP is reviewing regulations in the following six areas.

##### 1. Regulations Applicable to Valuation of Gas Produced From Unitized/Communitized Properties (Takes vs. Entitlements). Also, Regulations Applicable to Non-Arm's-Length Sales (30 CFR 202), and Payment/Reporting Systems

To resolve the complex issues dealing with the valuation of gas for royalty purposes, MMS is using the negotiated rulemaking process. This process enables MMS to arrive at a consensus with industry, the States, and Indian tribes. All Committee meetings are announced in the **Federal Register**.

*Comments Received*—"Regulations concerning Takes vs. Entitlements are confusing and make compliance difficult \* \* \* valuing gas under a non-arm's-length transaction is burdensome \* \* \*."

*Action Planned on Federal Leases*—Formed the Federal Gas Valuation Negotiated Rulemaking Committee with representation from MMS, industry, and the States. The Committee addressed valuation of gas produced from agreements (Takes vs. Entitlements), the benchmark valuation system for valuing gas sold under non-arm's-length contracts, and reporting simplicity and administrative cost savings. MMS is now preparing a proposed rule based on the consensus arrived at by the Committee in early February.

*Timetable*—MMS plans to publish a proposed rule by mid-1995.

*Action Planned on Indian Leases*—MMS has obtained approval for a negotiated rulemaking for revising Indian gas valuation regulations. An informal MMS group had been studying the issues, but MMS has now superseded this group with the Indian Gas Valuation Negotiated Rulemaking Committee. This Committee consists of representatives from MMS, various Indian tribes, the Council of Energy Resources Tribes, the Bureau of Indian Affairs, and industry. The Committee will discuss major portion analysis, dual accounting, and percentage of proceeds contracts.

*Timetable*—The first meeting of the Committee was held on February 22 and 23, 1995.

##### 2. Regulations Clarifying the Responsibilities of Payors and Lessees (30 CFR 218 and 211)

*Comments Received*—"Existing regulations are unclear as to the obligations and liabilities of payors and lessees."

*Action Planned*—A workgroup was assembled to review the options associated with this issue. The workgroup reached agreement and developed a proposed rule. The rule will establish liability for royalty due on Federal and Indian leases, and will clarify the responsibility to pay and report royalty and other payments.

*Timetable*—MMS plans to publish the proposed rule by mid-1995.

##### 3. Refunds Due to Industry Which Are Controlled by Section 10 of the Outer Continental Shelf Lands Act

*Comments Received*—Industry has difficulty complying with the 2-year limitation on refunds. There is an inequity between the 2-year refund requirement and the no-year limitation for MMS to collect royalty underpayments.

*Action Taken*—On July 28, 1994, MMS published a final rule titled "Offsets, Recoupments and Refunds of Excess Payments of Royalties, Rentals, Bonuses, or Other Amounts Under Federal Offshore Minerals Leases" (59 FR 38359). This rule established procedures for obtaining refunds and credits of excess payments and clarifies what payments are not subject to Section 10's requirements. The rule also provides for a *de minimus* exception to the MMS approval process.

##### 4. Penalties and Assessments

*Comments Received*—Recent regulations and pending legislation tend toward ever increasing penalties and assessments. Sufficient incentives already exist to ensure correct and timely payments. Many reporting errors by payors are due to unavoidable circumstances. Severe penalties are unjustified.

*Action Taken*—MMS has used penalties and assessments not so much to punish but to ensure compliance with the Federal Oil and Gas Royalty Management Act (FOGRMA). FOGRMA requires MMS to distribute money to shareholders in the same month it is collected from payors on Federal and Indian leases. Without an effective strategy to encourage timely and accurate reporting, the collection and distribution system could quickly fall

out of compliance with the demands of the legislation. MMS, however, is looking at situations where it can ease some of the reporting requirements and minimize assessments. For example, MMS has taken action to adjust its billing thresholds to minimize "nuisance" bills for trivial assessments.

In a related area, MMS is addressing the financial impacts incurred by payors that fail to timely file certain forms. MMS formed a study group to evaluate the existing regulatory requirements for oil and gas allowances including the assessments and sanctions for untimely filed forms. The Study Group was comprised of representatives from MMS, industry, and the State and Tribal Royalty Audit Committee. It addressed the need for and equity of allowance payback and late payment interest charges for untimely filed forms. The Study Group found that the penalties were not consistent with the crime and proposed alternatives to the payback penalty. MMS has prepared two proposed rules to implement the Study Group's recommendations—one dealing with oil and gas, and one dealing with coal.

*Timetable*—MMS plans to publish the proposed rules by mid-1995.

#### 5. The Appeals Process

*Comments Received*—Current appeals process is too long.

*Action Taken*—MMS has undertaken a streamlining review of its administrative appeals process. MMS has transferred decisionmaking on routine appeals from the Appeals Division to the Royalty Management Program. This has reduced the Appeals Division's workload by 20 percent and freed up staff to work on more complex appeals cases.

MMS also initiated three pilot programs in its streamlining efforts. One pilot program aims to decrease the time and expense incurred by MMS in its preparation of an appellant's administrative record. A second pilot program involves reformatting the decisionmaking process to speed the issuance of shorter, more timely decisions. The third pilot program will test the use of alternative dispute resolution mechanisms to resolve many of the administrative appeals.

*Timetable*—The first two pilots were put in place the latter half of 1994, and the third pilot began the end of February 1995.

#### 6. Other

*Comments Received*—MMS received unfavorable comments on proposed rules concerning administrative offset and credit adjustments. Comments were

also received about closing audit periods and receiving orders to perform self-audits. Finally, there were comments received about the estimated royalty payment system and that guidance given to payors over the phone was overruled by RMP auditors.

*Action Taken*—The administrative offset and credit adjustment rules have been consolidated as a final rule. MMS recognizes that many companies oppose these rules but considers the rules to be important enough that they should proceed to the final rulemaking stage.

Some of the issues regarding closing audit periods and orders to perform recalculations of royalties are being addressed in a manual MMS is preparing on audit procedures. With respect to the other comments received, MMS will address them in order ways, such as ongoing customer service initiatives.

*Timetable*—Publication of the administrative offset-credit adjustment final rule is scheduled for mid-1995. The audit manual will be available later this year.

Dated: March 22, 1995.

**Cynthia Quarterman,**

*Acting Director, Minerals Management Service.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA-144-2-6918a; FRL-5179-3]

#### Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, San Diego County Air Pollution Control District and San Joaquin Valley Unified Air Pollution Control District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** EPA is proposing to approve revisions to the California State Implementation Plan (SIP) which concern the control of volatile organic compound (VOC) emissions from fixed and floating roof tanks at bulk plants and terminals; and fugitives at light crude oil production, gas production, and natural gas processing facilities.

The intended effect of proposing approval of these rules is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act).

EPA's final action on this NPRM will incorporate these rules into the federally approved SIP. In addition, final action on these rules will serve as a final determination that deficiencies in each rule identified by EPA in a limited approval/limited disapproval action on August 30, 1993 have been corrected and that any sanctions or Federal Implementation Plan (FIP) obligations are permanently stopped. An Interim Final Determination published in today's **Federal Register** will defer the imposition of sanctions until EPA takes final rulemaking action. EPA has evaluated each of these rules and is proposing to approve them under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

**DATES:** Comments must be received on or before April 27, 1995.

**ADDRESSES:** Comments may be mailed to: Daniel A. Meer, Rulemaking Section [A-5-3], Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the rules and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rules are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95814.

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123.

San Joaquin Valley Unified Air Pollution Control District 1999 Tuolumne Street, Fresno, CA 93721.

**FOR FURTHER INFORMATION CONTACT:** Mae Wang, Rulemaking Section [A-5-3], Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, (415) 744-1200.

#### SUPPLEMENTARY INFORMATION:

##### Applicability

The rules being proposed for approval into the California SIP include: San Diego County Air Pollution Control District (SDCAPCD) Rule 61.1, Receiving and Storing Volatile Organic Compounds at Bulk Plants and Bulk Terminals; and San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) Rule 4403, Components Serving Light Crude Oil or Gases at