

information concerning other techniques.

### Alternative Compliance Program

The MMS is considering a SEMS pilot program under which a limited number of companies with outstanding performance records, as demonstrated by incident and compliance data, would manage their operations under a comprehensive SEMS program. For the duration of the pilot program, these companies would operate under a separate regulatory program with far fewer prescriptive requirements.

The intention of the pilot program is threefold:

1. Determine whether SEMS should be expanded beyond a voluntary regulatory program;
2. Provide MMS with experience in auditing and using SEMS as a regulatory program vehicle to ensure safe and clean operations; and
3. Determine if SEMS is practical for the oil and gas industry as a whole or only specific companies. MMS envisions that any company qualifying for the SEMS pilot program would operate according to their SEMS plan and would be relieved from information submissions, certain applications and discrete MMS approval actions except those specifically required by law. If a company is found to be out of compliance with their SEMS plan, then incidents of noncompliance and possibly civil penalties could result. It is projected that the pilot program will operate with companies needing to qualify on a periodic basis. Companies interested in the pilot program should have a fully functioning SEMS program with a verifiable history showing how their program has had a positive impact on the safety of their operations.

### Questions

The purpose of this ANPR is to seek input from industry and other interested parties on the three SEMS approaches described above. In addition to receiving input on the approaches identified in this ANPR, this process will also allow MMS to evaluate alternative ideas. MMS invites specific comments on the following:

#### SEMS Approaches

- Which of the three identified approaches do you consider most responsive to MMS's stated goals and why?
- Are there other safety and environmental management systems or programs that MMS should review? Please provide as much detail as possible.

- Does the subpart O model using audits, informal employee interviews, and testing described above, provide a suitable model for verifying the implementation of a performance-based safety and environmental management program? Are there alternative approaches to the subpart O model that the MMS should consider?

- Should MMS or a third party verify that a performance-based safety and environmental management program is working? Should audits be periodic or should they be triggered by events or indicators?

- Should MMS review the SEMS plan, review and approve the SEMS plan, or have an independent third party verify, review, and approve the SEMS plan?

- Should SEMS plans be in addition to the current prescriptive regulations or should the SEMS plan be in lieu of certain prescriptive regulations?

- What standards should a SEMS plan include to provide consistent and credible approaches to offshore operational safety and environmental performance?

—Would these documents, standards, or guidelines be domestic or international?

—Would these documents, standards, or guidelines be accepted industry best practices or internal company policies and procedures?

- What criteria should the MMS use to determine whether an operator has a viable SEMS plan?

- Is API RP 75 a sufficient model for addressing all the factors associated with offshore industry practices? If not, please provide the MMS with your suggestions on an appropriate model.

- Are there existing programs or initiatives industry is currently using that can further our ability to verify and track environmental compliance, such as ISO 14001:2004, SempCheck, European Eco-Management and Audit Scheme, or Global Environmental Management Initiative.

- How can MMS improve its current regulatory model to incorporate environmental performance measurement systems?

- What are the most appropriate compliance measures that are responsive to our broad environmental performance standards referenced in the "The Regulatory Program" section above?

#### Alternative Compliance Program

Should MMS consider developing a "pilot program" to assess an alternative compliance program for outstanding operators?

- What measure(s) should we use to determine who is allowed to participate?

- How should MMS judge prospective "pilot program" applicants? Should an applicant be required to submit a complete SEMS program or plan to MMS for evaluation? Should MMS approve such a program?

- Should a pilot program be for a fixed period of time? How long?

- Should performance issues trigger a premature end to an operator's participation in a pilot program?

- What measures should be considered?

- What type of MMS regulatory regime do you recommend for companies in a pilot program?

- What prescriptive regulations and permitting requirements should be excluded from this alternative regulatory program?

- What advantages does a SEMS regulatory approach have for companies compared to prescriptive approach?

- What disadvantage does a SEMS regulatory approach have for companies as compared to a prescriptive approach?

- Should the SEMS pilot program include only four elements as mentioned above or should it be for all 12 elements?

MMS seeks responses to the above questions, an assessment of which option industry considers the most effective and efficient, and any other information deemed relevant that is not specifically asked for. After analyzing the comments received from this notice, MMS will determine the need for a public workshop to further exchange ideas. MMS encourages all interested parties to respond to these questions and to provide comments on the various options.

Dated: May 3, 2006.

**R.M. Johnnie Burton,**

*Director, Minerals Management Service.*

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## DEPARTMENT OF THE INTERIOR

### Minerals Management Service

#### 30 CFR Part 250

RIN 1010-AD19

#### Oil and Gas and Sulphur Operations in the Outer Continental Shelf (OCS)—Incorporate API RP 65 for Cementing Shallow Water Flow Zones

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

**ACTION:** Proposed rule.

**SUMMARY:** MMS is proposing to incorporate by reference the First Edition of the American Petroleum Institute's Recommended Practice for Cementing Shallow Water Flow Zones in Deep Water Wells (API RP 65) into MMS regulations. Since 1987, at least 113 OCS wells have encountered shallow water flow (SWF) to varying degrees. The majority of these wells experienced SWF to only a minor degree; however, there were instances of severe encounters resulting in abandonment of well sites and loss of wells. This action would establish best practices for cementing wells in deep water areas of the OCS that are prone to SWF.

**DATES:** MMS will consider all comments received by July 21, 2006. We will begin reviewing comments then and may not fully consider comments received after July 21, 2006.

**ADDRESSES:** You may submit comments on the rulemaking by any of the following methods. Please use the Regulation Identifier Number (RIN) 1010-AD19 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). Use RIN 1010-AD19 in the subject line.
- Fax: 703-787-1546. Identify with the RIN, 1010-AD19.
- Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; Attention: Rules Processing Team (RPT); 381 Elden Street, MS-4024; Herndon, Virginia 20170-4817. Please reference "Incorporate API RP 65 for Cementing Shallow Water Flow Zones, 1010-AD19" in your comments and include your name and return address.
- Send comments on the information collection in this rule to: Interior Desk Officer 1010-AD19, Office of Management and Budget; 202/395-6566 (facsimile); e-mail: [oir\\_docket@omb.eop.gov](mailto:oir_docket@omb.eop.gov). Please also send a copy to MMS.

**FOR FURTHER INFORMATION CONTACT:** Kirk Malstrom, Regulations & Standards Branch (703) 787-1751.

**SUPPLEMENTARY INFORMATION:**

## Background

MMS is authorized to issue and enforce rules to promote safe operations, environmental protection, and resource conservation on the OCS by the OCS Lands Act (43 U.S.C. 1331 *et seq.*). Under this authority, MMS regulates all safety aspects of oil and gas drilling, production, and well-workover operations on the OCS.

Since 1987, OCS operators have reported encountering shallow water flow (SWF) problems while drilling in specific areas of the Gulf of Mexico (GOM), including Garden Banks, Green Canyon, Mississippi Canyon, and Viosca Knoll. SWFs have also been reported to the agency from the Atwater, De Soto Canyon, East Breaks, Ewing Bank, and Port Isabel areas of the GOM. To date, MMS is aware of at least 113 wells, drilled by approximately 25 different operators, that have encountered problems with SWF. Data available to MMS shows that the water depth for these wells ranged from approximately 496 feet to 9,672 feet, with an average water depth of 3,562 feet. These wells encountered SWF from zones at depths ranging from approximately 450 feet below mud line (BML) to 3,005 feet BML, with an average depth of encounter of 1,305 feet BML. These BML depths represent the top of the SWF zone. General information on SWFs, and maps showing the location of areas in the GOM that have had documented cases of SWF, can be viewed at our Web site at: <http://www.gomr.mms.gov/homepg/offshore/safety/wtrflow.html>.

SWF is a phenomenon generally encountered at shallow depths BML in the deepwater areas of the GOM (greater than 500 feet and more commonly in water depths greater than 1,000 feet) and is typically attributable to penetrating abnormally pressured shallow sands. The greater than normal pressures in these sands can result from sediments being deposited at higher than normal rates, resulting in the pressurization of the pore water above normal hydrostatic pressure. The development of a formation, such as a shale body above this sand, may create a seal allowing the development of an abnormally pressured formation. As described, this situation does not represent a problem. However, with the development of appropriate permeability, such a formation, once penetrated, may result in an influx of water or sediment into or around the wellbore, or a SWF. Depending on the severity of the SWF, the flow may result in the creation of a channel behind the casing, creation of a large washout,

buckling of casing, cross flow between a localized group of wells, premature permanent abandonment of the well, and expenditure of additional time and expense for the operator to control the well and resume drilling operations.

According to the information available to MMS, the majority of the 113 GOM wells that have encountered SWF did so to only a slight degree. However, some of the SWFs were severe and resulted in abandonment of the well sites, and required moving to an alternate location to drill new wells at great expense. A significant SWF event happened off the mouth of the Mississippi River in deepwater. The field is located in an area where SWF problems have been severe. The sediments in this area contain massive sands at above normal pressures at shallow depths BML. Once the problem of SWF was recognized, the company employed various drilling and cementing techniques while constructing wells in attempts to prevent and control the SWF problem. Ultimately the decision was made to abandon this site because many of the slots at the site were unusable due to the buckling of casing caused by SWF. It is estimated that abandonment of this site cost approximately \$100 million. A new, second site, was selected approximately 1 mile from the original site. Selection criteria for this site emphasized SWF avoidance based on seismic data.

Other SWF incidents in GOM have resulted in less expensive, but equally damaging situations. A well located in Garden Banks in deepwater was spudded and drilled in preparation for running conductor casing. The casing was run and cemented with foamed lead cement and higher density tail cement. The day after cement operations were completed, the well experienced a SWF from the drive pipe conductor casing annulus. Three days later the well was abandoned, and the rig was moved to an alternate location to commence drilling another well. The original well was monitored for SWF with a remote operating vehicle while the new well was drilled. Flow on the original well had decreased significantly and the well is currently classified as permanently abandoned. The information included in API RP 65 addressing best cementing practices in SWF environments might have helped prevent the above SWF incidents if it had been incorporated into MMS regulations.

Today, SWF remains an economic and safety issue in the deepwater areas of the GOM. Both MMS and industry have participated in various initiatives to learn about SWF. DeepStar is a joint

industry technology development project focused on advancing the technologies needed to drill and produce hydrocarbons in water depths up to 10,000 feet. Members include oil and gas companies as well as service companies. In the mid 1990's, DeepStar compiled detailed information on SWFs and made it available to interested parties. The Energy Research Clearing House (ERCH), established in 1992, is an organization dedicated to promoting exploration and production research in technical areas of interest to members. Members include oil and gas companies, service companies, and other interested organizations. ERCH continued DeepStar's efforts with SWF, and for several years maintained a database of GOM SWF occurrences, with the goal being to facilitate proper planning for future wells. Due to funding concerns, this effort has recently ended. Various workshops, conferences, forums, and studies have been conducted, both by industry and MMS, to evaluate concerns related to SWF. These initiatives have proven useful in informing interested parties of the problems with SWF and in advancing technological solutions.

MMS and industry realize that one factor with the potential to help control SWF is the use of a proper cementing program. In August, 2000, MMS approached API and requested that it work with MMS in developing a new standard to address how cementing technology can be used to minimize the occurrence of the annular flow of gas or water from OCS wells during or after cementing operations. At that time, MMS presented data to industry which documented that approximately 34 percent (11 out of 32 losses of well control) of all OCS losses of well control reported to MMS from 1995 through 2000 were a result of the annular flow of gas and/or water from the annulus of a well either during or after completion of a casing cement job. This trend has continued since that time. API was receptive to this idea and formed a Task Group composed of experts from the cement manufacturing industry, OCS lessees, drilling contractors, cementing service companies, and cementing consultants to create three new cementing standards to address various aspects of annular flow, including the specialized case of SWF.

The first standard completed by the API Task Group, "API Recommended Practice 65, Cementing Shallow Water Flow Zones in Deep Water Wells," First Edition, September, 2002 (API RP 65) offers a compilation of technology and "best practices" for use in well cementing operations in deep water

SWF environments. The standard provides flexibility in designing and implementing a cementing program for zones with SWF potential. The information in API RP 65 suggests that no single cementing technique or series of cementing techniques can be used successfully in every situation to prevent SWF. In some situations, it may be possible to use a variety of techniques outlined in the standard to help minimize the risks associated with cementing in a SWF environment. The purpose of this standard is to provide a series of alternatives which should be evaluated to minimize the risks associated with cementing a SWF zone. The majority of the standard focuses on cementing alternatives, and only discusses SWF avoidance through proper site selection in a cursory fashion.

In general, use of the best cementing practices addressed in API RP 65, including casing centralization, pipe movement, light weight cements such as a foam system, proper mud circulation prior to cementing, proper job planning, communication, and job follow-up, should lower the risk of SWF problems. There are a variety of preventative drilling techniques which can also be utilized to minimize or avoid the risks associated with SWF zones in addition to the best cementing practices included in API RP 65. These techniques include: proper planning in regard to site selection, the drilling of pilot holes, setting extra strings of casing, use of measurement-while drilling (MWD) or pressure while drilling (PWD) technology, and use of a drilling riser for shallow sections of a deep water well. These items, though valuable in either avoiding a SWF-prone area or drilling a well in such an area, are beyond the scope of this standard and will not be addressed in this proposed rule.

To assist MMS in determining the best method to use API RP 65 in its regulatory program, we specifically solicit comments on the following questions:

(1) API RP 65 presents a broad range of information on how to minimize problems associated with cementing shallow water flow zones in deep water wells. Is there a benefit to singling out a specific cementing technique or "best practice" included in this standard to incorporate into MMS regulations in lieu of incorporating the entire standard?

(2) Are there other cementing applications in MMS regulations (e.g., well abandonment operations, general cementing requirements included in 30 CFR 250.415) where the cementing

techniques discussed in API RP 65 could be used to enhance safety if it was incorporated into our regulations?

### The Purpose of This Rule

This proposed rule would upgrade requirements for cementing operations in 30 CFR Part 250 Subpart A—General, and Subpart D—Oil and Gas Drilling Operations. Subpart A—General, would be amended to incorporate by reference "API RP 65, Recommended Practice for Cementing Shallow Water Flow Zones in Deep Water Wells," First Edition, September, 2002. Subpart D—Oil and Gas Drilling Operations, § 250.415 would be amended by adding new subparagraph (e) to include information on when API RP 65 is to be evaluated in designing a cementing program. Some of the key points of this proposal include the following:

- Use of this standard is not warranted for every OCS well or for all casing strings in a particular well. Its use should be limited to situations where there is a risk of encountering a SWF based upon past drilling activity, seismic data or interpretation, or correlation of data from offset wells, in water depths greater than 500 feet. (SWF has not been encountered in wells in water depths less than 500 feet.)

- The risk associated with encountering a SWF is characterized in one of two ways: an area with an unknown shallow water flow potential, or an area known to contain a shallow water flow hazard.

- For purposes of this proposed rule, these terms are defined as follows:

—An area with an unknown shallow water flow potential means a zone or geologic formation where neither the presence nor absence of potential for a SWF has been confirmed,

—An area known to contain a shallow water flow hazard means a zone or geologic formation for which drilling has confirmed the presence of SWF.

- Use of this standard is limited to water depths greater than 500 feet for areas with an unknown shallow water flow potential or areas known to contain a shallow water flow hazard. Data available to the MMS on the 113 wells that have encountered SWF shows that the water depths for these wells ranged from approximately 500 feet to 9,675 feet, with an average water depth of 3,560 feet.

- As part of an operator's Application for Permit to Drill (Form MMS-123), a statement needs to be included concerning how API RP 65 was evaluated, and which of the cementing techniques from this standard were used as part of the cementing program for a

well drilled in either “areas with an unknown shallow water flow potential” or “areas known to contain a shallow water flow hazard”. This information will be evaluated by MMS during the review of the application for permit to drill and discussed with the operator as appropriate.

- Particular attention should be placed on evaluating, designing, and implementing the cementing programs of both the surface and conductor casing strings in wells requiring review under API RP 65. Data available to MMS on the 113 wells that have encountered SWF shows that the tops of the SWF zones ranged from approximately 450 feet BML to 3,005 feet BML, with an average depth of encounter of 1,305 feet BML. These depths are typical of the setting depths of either conductor or surface casings.

### Procedural Matters

#### Public Comment Procedures

All submissions received must include the agency name and Regulation Identifier Number (RIN) for this rulemaking. Our practice is to make comments, including names and addresses of respondents, available for public review. Individual respondents may request that we withhold their address from the record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the record a respondent's identity, as allowable by the law. If you want us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. Except for proprietary information, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

#### Regulatory Planning and Review (Executive Order (E.O.) 12866)

a. This is not a significant rule under E.O. 12866 and does not require review by the Office of Management and Budget (OMB). The proposed rule would 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 proposed rule would not create an adverse effect upon the ability of the United States offshore oil and gas industry to compete in the

world marketplace, nor would the proposal adversely affect investment or employment factors locally.

The economic analysis prepared by MMS indicates that, if the techniques included in API RP 65 are evaluated by operating companies in the planning phases of wells drilled in *Areas with an Unknown Shallow Water Flow Potential* or *Areas Known to Contain a Shallow Water Flow Hazard*, this process would increase the planning costs associated with these wells by no more than \$20,000 per well (industry estimate). This cost includes planning associated with a full range of SWF mitigation measures. The measures include casing centralization, pipe movement, use of light weight cements such as a foam system, proper mud circulation prior to cementing, site selection, the drilling of pilot holes, setting extra strings of casing, use of MWD or PWD technology, and use of a drilling riser for shallow sections of a deep water well. Today, most lessees conducting operations in SWF-prone areas of the GOM already use some of these techniques. As a result, additional costs associated with implementing these techniques under this proposed rule would be negligible.

Based on information available to MMS, there have been a total of 1,275 wells drilled on the OCS in water depths of 500 feet or greater for the period 2000–2004. The cost to industry over the past 5 years for SWF mitigation would have been approximately \$25.5 million (\$20,000 per well × 1,275 wells = \$25.5 million) if proper planning were conducted prior to drilling all of these wells. In reality, a significant number of these 1,275 wells would have been located in areas known to be free of shallow water flow and would not have required an operating company to implement the techniques included in API RP 65 as part of their well planning efforts, resulting in a significant decrease to the \$25.5 million cost to the offshore industry.

Using the well data trends from 2000–2004, in water depths greater than 500 feet, MMS estimates an average of 200 wells will be drilled per year. Using the average of 200 wells, the estimated annual cost to industry would be approximately \$4 million (\$20,000 per well × 200 wells = \$4 million). Based on actual drilling figures, estimated total well costs are in excess of \$40 million per well. Industry estimates of \$20,000 per well for SWF mitigation represents only 0.05 percent of total well costs. When \$20,000 per well costs for SWF mitigation are compared to \$40 million per well total costs, it is clear that the possible consequences of SWF, well abandonment, or well loss are far more

severe than the 0.05 percent of well costs for SWF mitigation.

For the above reasons the proposed rule will have a minor economic effect on the offshore oil and gas industry.

b. The proposed rule would not create inconsistencies with other agencies' actions. It would not change the relationships of the OCS oil and gas leasing program with other agencies' actions. These relationships are all encompassed in agreements and memoranda of understanding that will not change with this proposed rule. MMS consulted with experts specializing in the field applications of well cementing, cement manufacturers, lessees, and contractors working both onshore and offshore.

c. The proposed rule would not affect entitlements, grants, loan programs, or the rights and obligations of their recipients. It is strictly a planning requirement for specific well cementing processes to prevent accidents and environmental pollution on the OCS.

d. This proposed rule would not raise novel legal or policy issues. There is a precedent for actions of this type under regulations dealing with the OCS Lands Act and the Oil Pollution Act of 1990.

#### Regulatory Flexibility Act (RFA)

DOI has determined that this proposed rule would not have a significant economic effect on a substantial number of small entities. While it would affect a substantial number of small entities, the economic effects of the rule would not be significant.

Based on information available to MMS, there have been a total of 1,275 wells drilled on the OCS in water depths of 500 feet or greater for the period 2000–2004. Of the total 1,275 wells drilled, 1,107 were drilled by large businesses and 168 by small businesses. The 168 wells were drilled by a total of 15 small businesses. In the GOM with water depths greater than 500 feet the 1,107 large business wells correspond to 87 percent of all wells drilled, leaving 13 percent as small business wells.

Industry estimates of \$20,000 for SWF mitigation represents only 0.05 percent of total well costs. With an estimated average of 200 wells drilled per year in water depths greater than 500 feet, the total cost for all SWF mitigation is estimated at \$4 million annually. Thirteen percent (26 wells) of the estimated 200 wells drilled, represent small businesses. Twenty-six wells account for approximately \$520,000 (\$20,000 per well × 26 annual small business wells = \$520,000) of the total annual industry cost of \$4 million for SWF mitigation.

The proposed rule would have a minor economic effect on the oil and gas offshore platform operators on the OCS, regardless of company size. This is due to the comparison of the relatively small SWF mitigation costs to the high drilling costs. Moreover, in the overwhelming majority of cases, operators choose to perform improved and safer well cementing procedures on their own initiative, not because of an MMS safety inspection. The proposed rule would add relatively little to the cost of a well cementing procedure. Thus, there would not be a significant impact on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). The proposed rule would not cause the business practices of any of these companies to change.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses 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 at 1-888-734-3247.

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

This proposed rule is not a major rule under 5 U.S.C. 804(2), the SBREFA. The proposed rule would not increase significantly the cost of well cementing. If there is an increase, it would not be a large cost compared to the overall cost of a well cementing procedure. Moreover, it may reduce significantly the possibility of a damaging and costly incident during the course of a well cementing operation. Such an accident could be economically disastrous for a small entity. Thus, the proposed rule would have a minor economic effect on the small offshore oil and gas operators. Based on our economic analysis:

a. It would not have an annual effect on the economy of \$100 million or more. As indicated in our cost analysis, direct annual costs to industry for the entire proposed rule could not be assessed adequately. The proposed rule would have a minor economic effect on the offshore oil and gas industries.

b. It would not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

c. It would 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.

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

This proposed rule does not contain any unfunded mandates to state, local, or tribal governments, nor would it impose significant regulatory costs on the private sector. Anticipated costs to the private sector will be far below the \$100 million threshold for any year that was established by UMRA.

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

DOI certifies that this proposed rule does not represent a governmental action capable of interference with constitutionally protected property rights.

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

According to E.O. 13132, the proposed rule does not have significant federalism effects. The proposed rule does not change the role or responsibilities of federal, state, and local governmental entities. It does not relate to the structure and role of states and will not have direct, substantive, or significant effects on states.

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

According to E.O. 12988, the Office of the Solicitor, Department of the Interior, has determined that this proposed rule would 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*

The proposed revisions to 30 CFR 250 refer to, but do not change, information collection requirements in current regulations. They propose no new reporting or recordkeeping requirements, and an OMB form 83-1 submission to OMB under the PRA, § 3507(d), is not required. The PRA provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information and assigns a number, you are not required to respond. OMB approved the referenced information collection requirements for 30 CFR 250 under OMB control numbers 1010-0114 (22,288 burden hours), expiration October 31, 2007, and 1010-0141 (163,714 burden hours), expiration August 31, 2008.

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

This proposed rule does not constitute a major federal action significantly affecting the quality of the human environment. A detailed statement under NEPA is not required.

#### *Energy, Supply, Distribution, or Use (Executive Order 13211)*

Executive Order 13211 requires the agency to prepare a Statement of Energy Effects when it takes a regulatory action that is identified as a significant energy action. This proposed rule is not a significant energy action, and therefore does not require a Statement of Energy Effects, because it:

- Is not a significant regulatory action under E.O. 12866,
- Is not likely to have a significant adverse effect on the supply, distribution, or use of energy, and
- Has not been designated by the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, as a significant energy action.

#### *Clarity of This Regulation*

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed rule clearly stated?
  - Does the proposed rule contain technical language or jargon that interferes with its clarity?
  - Does the format (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?
  - Is the description of the proposed rule in the "Supplementary Information" section of this preamble helpful in understanding the proposed rule? What else can we do to make the proposed rule easier to understand?
- Send a copy of any comments that concern how we could make this proposed rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may also e-mail the comments to this address: [Exsec@ios.doi.gov](mailto:Exsec@ios.doi.gov).

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

Continental shelf, Environmental impact statements, Environmental protection, Investigations, Oil and gas exploration, Public lands—mineral resources, Reporting and recordkeeping requirements, Incorporation by reference.

Dated: May 10, 2006.  
**R.M. "Johnnie" Burton,**  
*Acting Assistant Secretary, Land and Minerals Management.*

For the reasons stated in the preamble, the Minerals Management Service (MMS) proposes to amend 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.

2. In § 250.198, the following document incorporated by reference is added to the table in paragraph (e) in alphanumerical order.

**§ 250.198 Documents incorporated by reference.**

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

Title of documents	Incorporated by reference at
* * * * * API RP 65, Recommended Practice for Cementing Shallow Water Flow Zones in Deep Water Wells, First Edition, September, 2002. Product No. G56001 * * * * *	* § 250.415(e). *

3. In § 250.415, add a new paragraph (e) as set forth below.

**§ 250.415 What must my casing and cementing programs include?**

\* \* \* \* \*

(e) For wells drilled in water depths greater than 500 feet, show how you evaluated the best practices included in API RP 65, Recommended Practice for Cementing Shallow Water Flow Zones in Deep Water Wells (incorporated by reference as specified in § 250.198), to design your cement program to minimize the consequences of encountering a shallow water flow for the following two areas:

- (1) An "area with an unknown shallow water flow potential" is a zone or geologic formation where neither the presence nor absence of potential for a shallow water flow has been confirmed.
- (2) An "area known to contain a shallow water flow hazard" is a zone or geologic formation for which drilling has confirmed the presence of shallow water flow.

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**DEPARTMENT OF THE INTERIOR**  
**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 943**  
**[Docket No. TX-051-FOR]**

**Texas Regulatory Program**

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.  
**ACTION:** Proposed rule; withdrawal of proposed amendment.

**SUMMARY:** We, the Office of Surface Mining Reclamation and Enforcement (OSM), are announcing the withdrawal

of an amendment to the Texas regulatory program (Texas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Texas proposed revisions to and additions of regulations regarding coal combustion by-products and coal combustion products. Texas intended to revise its program to clarify how the use and disposal of coal combustion by-products and coal combustion products are regulated at coal mine sites in Texas. By letter dated April 11, 2006, Texas withdrew the amendment at its own initiative.

**DATES:** This withdrawal is made on May 22, 2006.

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**SUPPLEMENTARY INFORMATION:**

- I. Background on the Texas Program
- II. Submission of the Proposed Amendment

**I. Background on the Texas Program**

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, "a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act \* \* \*; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Texas program effective February 16, 1980. You can find background information on the Texas program, including the

Secretary's findings, the disposition of comments, and the conditions of approval, in the February 27, 1980, **Federal Register** (45 FR 12998). You can find later actions on the Texas program at 30 CFR 943.10, 943.15, and 943.16.

**II. Submission of the Proposed Amendment**

By letter dated December 9, 2003 (Administrative Record No. TX-656), Texas sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Texas sent the amendment at its own initiative.

We announced receipt of the proposed amendment in the February 3, 2004, **Federal Register** (69 FR 5102). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. At the request of nine citizen groups and two industry groups, we held a public hearing in Austin, Texas, on March 1, 2004. We entered a transcript of the public hearing into the administrative record (Administrative Record No. TX-656.31). At the request of one citizen group, we extended the public comment period on March 3, 2004 (69 FR 9983). The extended public comment period ended on March 19, 2004. We received comments from four industry groups, two State agencies, one Federal agency, one consulting company, and ten citizen groups.

During our review of the amendment, we identified concerns about air pollution control, hydrologic information, performance bond release, recordkeeping and annual reporting, and the definition of "coal combustion by-products." We notified Texas of these concerns by letters dated February 13, 2004, and May 7, 2004 (Administrative Record Nos. TX-656.04 and TX-656.39). On April 11, 2006