

analysis under section 202(a) of the Unfunded Mandates Reform Act of 1995 is not required.

## VI. Federalism

FDA has analyzed this final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies that have substantial direct effects on the States, or on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the agency has concluded that the rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

## VII. Paperwork Reduction Act of 1995

The premarket notification information collections addressed in the guidance have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) under OMB control number 0910-0120. The labeling provisions addressed in the guidance have been approved by OMB under the PRA under OMB control number 0910-0485.

### List of Subjects in 21 CFR Part 888

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 888 is amended as follows:

### PART 888—ORTHOPEDIC DEVICES

1. The authority citation for 21 CFR part 888 continues to read as follows:

**Authority:** 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

2. Section 888.3027 is revised to read as follows:

#### § 888.3027 Polymethylmethacrylate (PMMA) bone cement.

(a) *Identification.*

Polymethylmethacrylate (PMMA) bone cement is a device intended to be implanted that is made from methylmethacrylate, polymethylmethacrylate, esters of methacrylic acid, or copolymers containing polymethylmethacrylate and polystyrene. The device is intended for use in arthroplastic procedures of the hip, knee, and other joints for the fixation of polymer or metallic prosthetic implants to living bone.

(b) *Classification.* Class II (special controls). The special control for this

device is the FDA guidance document entitled "Class II Special Controls Guidance Document: Polymethylmethacrylate (PMMA) Bone Cement."

Dated: July 5, 2002.

**Linda S. Kahan,**

*Deputy Director, Center for Devices and Radiological Health.*

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 8999]

RIN 1545-AY13

#### Treaty Guidance Regarding Payments with Respect to Domestic Reverse Hybrid Entities; Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correction to final regulations.

**SUMMARY:** This document contains corrections to final regulations that were published in the **Federal Register** on Wednesday, June 12, 2002 (67 FR 40157) relating to the eligibility for treaty benefits of items of income paid by domestic entities.

**DATES:** This correction is effective June 12, 2002.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth U. Karzon (202) 622-3880 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

The final regulations that are the subject of these corrections is under section 894 of the Internal Revenue Code.

##### Need for Correction

As published, the final regulations contain errors that may prove to be misleading and are in need of clarification.

##### Correction of Publication

Accordingly, the publication of final regulations (TD 8999), that were the subject of FR Doc. 02-14506, is corrected as follows:

1. On page 40159, column 1, in the preamble under the paragraph heading "III. Comments and Changes to § 1.894-1(d)(2)(ii)(B)(3): Definition of Related", first paragraph, line 1, the language "constructive ownership rules of sections" is corrected to read

"constructive ownership rules of section".

2. On page 40159, column 1, in the preamble under the paragraph heading "III. Comments and Changes to § 1.894-1(d)(2)(ii)(B)(3): Definition of Related", third paragraph, line 3, the language "(d)(2)(ii)(B)(ii) of the final regulations" is corrected to read "(d)(2)(ii)(B)(1)(ii) of the final regulations".

3. On page 40159, column 2, in the preamble the paragraph heading "IV. Comments and Changes to § 1.894-1(d)(2)(ii)(C): Commissioner's discretion." is corrected to read "IV. Comments and Changes to § 1.894-1(d)(2)(ii)(C): Commissioner's discretion".

4. On page 40159, column 2, in the preamble under the paragraph heading "IV. Comments and Changes to § 1.894-1(d)(2)(ii)(C): Commissioner's discretion, second paragraph, line 14, the language "following conditions are met: (1) A" is corrected to read "following conditions are met: (1) a".

5. On page 40162, column 2, second signature block, the language "Assistant Secretary of the Treasury (Tax Policy)." is corrected to read "Acting Assistant Secretary of the Treasury (Tax Policy)."

**Cynthia E. Grigsby,**

*Chief, Regulations Unit, Associate Chief Counsel, (Income Tax and Accounting).*

[FR Doc. 02-17865 Filed 7-16-02; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF THE INTERIOR

### Minerals Management Service

#### 30 CFR Part 280

RIN 1010-AC48

#### Prospecting for Minerals Other Than Oil, Gas, and Sulphur on the Outer Continental Shelf

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

**ACTION:** Final rule.

**SUMMARY:** This rule specifies how to conduct Geological and Geophysical (G&G) prospecting and research for minerals other than oil, gas, and sulphur on the Outer Continental Shelf (OCS) under a permit; requires everyone conducting G&G scientific research on the OCS without a permit to file a notice with us; informs small operators of environmental laws and regulations for safe and sound practices; and rewrites the rule in plain English. These revisions respond to changes in technology and practice.

**EFFECTIVE DATE:** The rule is effective on August 16, 2002.

**FOR FURTHER INFORMATION CONTACT:** Keith Meekins, Resource Evaluation Division, at (703) 787-1517.

**SUPPLEMENTARY INFORMATION:** On December 8, 1999, we published a Notice of Proposed Rulemaking (64 FR 68649), titled "Prospecting for Minerals Other Than Oil, Gas, and Sulphur in the Outer Continental Shelf." We received several comments on the proposed rule. All comments received were considered in the formulation of the final rule. This final rule revises the regulations at 30 CFR part 280. There are no substantive changes from the proposed to the final rule. However, there were several areas that needed minor clarification.

*Clarification of Certain Aspects of the Rule:* After further analysis, we are clarifying the rule as follows:

- For consistency, we replaced "in the OCS" with "on the OCS" throughout the rule;
- The rule only applies to activities carried out in Federal waters and not to activities in State waters (see § 280.2(a));
- The rule does not apply to gas hydrates, which are covered by regulations in 30 CFR part 251 (see § 280.4(d));
- The definition of G&G prospecting activities in § 280.1 applies only to prelease activities and not to postlease activities. Postlease activities are covered in 30 CFR part 282 (see § 280.4(c));
- The definition of OCS in § 280.1 includes areas of the Exclusive Economic Zone, such as the State of Hawaii and United States possessions in the Caribbean and Pacific Ocean, which are islands and technically do not have an OCS (refer to § 280.13—filing locations table); and
- Research activities related to hard minerals require a notice, even though the activities may be federally funded (see § 280.11(b)).

*Comments on the Rule:* We received comments on specific issues from the New York State Department of Environmental Conservation, Division of Mineral Resources; the New York State Department of Environmental Conservation, Division of Water; and the South Carolina Department of Natural Resources. In addition, at the request of the Office of the Solicitor, we have included definitions for "Geological Data and Information" and "Geophysical Data and Information."

#### Comments and Responses to Miscellaneous Issues

*Comment:* New York has an agreement regarding access to data on

offshore oil and gas resources. The commenter suggests that MMS initiate preparation of an agreement necessary to allow New York access to data under proposed § 280.73.

*Response:* The requirement that allows coastal States access to data on offshore oil and gas resources appears in the OCS Lands Act. This requirement does not apply to hard minerals. The agreement mentioned under § 280.73 is discretionary. The MMS may disclose proprietary data to State officials but is not under any obligation to do so. A statement has been added to § 280.73(a) that the permittees and third parties who submitted proprietary data, information, and samples will be notified about a proposed disclosure and may provide comments.

*Comment:* Use of core sampling to detect the presence of heavy metals and other contaminants could potentially fall into the category of G&G scientific research activities requiring an MMS-approved permit or 30-day notice. The commenter suggests that an exemption for State agencies involved in environmental monitoring, research, or remediation be included in § 280.4.

*Response:* There are no plans to exempt State agencies from this section. The agencies should contact the Regional Director (RD) and describe the sampling for a determination on whether the activity could be construed as hard minerals research. The RD will also be looking for assurance that cores or other information will not be sold to any person involved in hard minerals research or exploration.

*Comment:* One commenter could not find text in the document that stated whether the MMS had a right to disapprove a scientific exploration activity.

*Response:* Disapproval of a permit request is addressed in § 280.12(b).

*Comment:* One commenter seeks a clarification on whether research and monitoring activities related to biological resources require a permit, if ancillary data on sediment type is collected as part of those studies.

*Response:* This type of activity is not related to hard minerals research or exploration and, therefore, neither a permit nor a notice is required. However, a permit would be required if the data on sediment type were sold to a person involved in hard minerals research or exploration.

*Comment:* One commenter asserts that it would be too cumbersome if specific coordinates must be identified up front instead of a general area of study since exact sampling areas are not known until the study is in progress.

*Response:* A general area of study is sufficient until a more specific area is known, at which time the RD should be notified.

#### Procedural Matters

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

According to the criteria in Executive Order 12866, this rule is not a significant regulatory action and is not subject to review by the Office of Management and Budget (OMB).

a. This rule will not have an annual economic effect of \$100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. This is due to the small amount of activity currently being experienced in offshore prospecting as well as the smaller size of the companies involved as compared to those involved in oil, gas, and sulphur exploration. We estimate that this rule will affect only one entity per year, and that the total cost to regulated entities for complying with the modification of this rule will be approximately \$300 per year. For full details, see the information under the heading "Regulatory Flexibility Act."

b. This rule does not create inconsistencies with other agencies' actions because there are no changes in requirements. The notification process will allow the customer to know of the operations of other users in the area. In addition, current regulations are consistent with other agencies' actions.

c. This rule is an administrative change that will not affect entitlements, grants, user fees, loan programs, or their recipients. This rule has no effect on these programs or rights of the programs' recipients.

d. This rule does not raise any novel legal or policy issues. As previously stated, the intent of this rule is to establish consistency in all prelease activities for all minerals on the OCS.

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

The Department of the Interior certifies that this document 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.*). The Small Business Administration (SBA) defines a small business as having:

- Annual revenues of \$5 million or less for exploration service and field service companies; and
- Fewer than 500 employees for drilling companies and for companies that extract minerals other than oil, gas, or natural gas liquids.

Under the SBA's North American Industry Classification System code

213115, Support Activities for Nonmetallic Minerals (except fuels), MMS estimates that there is a total of 127 firms that could conduct geological and/or geophysical prospecting for nonenergy minerals. According to SBA criteria, 121 companies qualify as firms with fewer than 500 employees. MMS estimates that 25 percent (30) of these companies operate offshore.

The changes to 30 CFR part 280 should not have a significant economic effect. The rulemaking may involve small businesses or small entities if they want to perform prospecting activities or scientific research on the OCS.

In many ways, we try to offer customer service at no cost to smaller companies that are active on the OCS. These services include informing customers of environmental laws and regulations, making permit applications available on the Internet, making various offshore maps and stipulations accessible, etc.

There are no changes or effects with respect to the number of people performing the activities nor is there any change with regard to technology or operating costs. Changes in this rule make it parallel to the prelease exploration regulations covering oil, gas, and sulphur (30 CFR part 251). In applying for a permit, we will not require a prospecting plan. Information previously required for a prospecting plan will be submitted as a part of the permit itself. Operators will need to submit a notice for all scientific research not requiring a permit. The rule also breaks out, for clarification, procedures for submission, inspection, and selection of G&G data and information, as well as clarifying the responsibilities of third parties. It also requires us to reimburse permittees or third parties for reasonable costs for reproducing data and information that we request.

We expect that either one company may apply for a prospecting permit or one institution may file a notice of intent to conduct scientific research per year, based on MMS receiving six applications for a prospecting permit in the last 10 years. Previous activities in these areas indicate that most of these entities would be considered small.

The primary economic effect on small businesses is the cost associated with information collection activities. The only major change in reporting requirements would represent a small increase, not for those engaged in the mineral industry but, rather, for those involved in scientific research. This increased reporting requirement relates to the filing of a notice for all scientific research activities not requiring a permit. The current regulations are

silent on this issue. We estimate that the new requirements may result in filing one notice per year. Each notice would require 6 hours to prepare, at a cost of \$50 per hour, for a total cost of \$300 per notice.

In addition, because of the small numbers of entities expected to engage in these activities at this time, the number of small businesses that would experience a significant economic effect is not substantial. As a result, this rule will not have a significant economic effect on a substantial number of small entities.

We should note that this rule only applies to preliminary prelease prospecting activities. As long as sufficient sources for economically recoverable mineral resources exist onshore, the higher costs of offshore development will constrain industry. To develop and produce even the relatively easier minerals (sand and gravel), large investments of up to \$15 to \$25 million will be necessary for technology and establishing both land-based processing and marketing facilities. Currently, sand and gravel are being dredged from the OCS to support large-scale public works projects to nourish beaches. These projects are authorized and funded by Federal, State, and local governments and, to date, there have been only two or three commercial aggregate producers who have expressed an interest in future OCS development.

Locating and delineating offshore mineral resources can be expensive, depending on how much is already known about an offshore area. A prospecting program to collect seismic information and to collect a number of 20-foot cores of sediment can cost approximately \$100,000 to \$400,000. Compared to the magnitude of these costs, the costs associated with the requirements of this rule are relatively small. Given the high costs of mineral prospecting, we expect an applicant's time and expense to comply with information collection on a prelease prospecting permit to represent only a small fraction of the total costs of locating, assessing, and developing offshore strategic minerals.

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. You may comment to the Small

Business Administration without fear of retaliation. Disciplinary action for retaliation by an MMS employee may include suspension or termination from employment with the Department of the Interior.

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

This rule is not a major rule under the (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. This is based upon the small amount of activity currently being experienced in offshore prospecting, as well as the smaller size of the companies involved as compared with those involved in oil, gas, and sulphur exploration.

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

We examined the proposed rule and these final regulations under section 3507(d) of the PRA. Because of the changes proposed to the current 30 CFR part 280 regulations, we submitted the information collection requirements to OMB for approval as part of the proposed rulemaking process. The information collection requirements in the final regulations remain unchanged from the proposed rule and a submission to OMB is not required.

The PRA provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. OMB approved the requirements to collect information in 30 CFR part 280 under OMB control number 1010-0072, current expiration date of January 31, 2003.

The title of this collection of information is "30 CFR part 280, Prospecting for Minerals other than Oil, Gas, and Sulphur on the OCS." The frequency of response is generally "on occasion" or established in the permit approval. We estimate approximately one or two respondents each year.

We use the collection of information required by these regulations to ensure there is no environmental degradation, personal harm, damage to historical or archaeological sites, or interference with other uses; to analyze and evaluate preliminary or planned drilling

activities; to monitor progress and activities on the OCS; to acquire G&G data and information; and to determine eligibility for reimbursement.

Responses are mandatory or required to obtain or retain a benefit. We protect proprietary information under the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR part 2), and under regulations at 30 CFR 280.70 and applicable sections of 30 CFR parts 250 and 252. No items of a sensitive nature are collected.

*Reporting and Recordkeeping "Hour" Burden:* The approved annual burden of this collection of information is 88 hours.

*Reporting and Recordkeeping "Non-Hour Cost" Burden:* There are no "non-hour cost" burdens in the final regulations.

*Federalism (Executive Order 13132)*

According to Executive Order 13132, the rule does not have significant Federalism implications. This rule does not substantially and directly affect the relationship between the Federal and State governments. The proposed rule does not change, in any way, the role or responsibilities between the Federal, State, and local governmental entities. The rule does not relate to the structure and role of the States and will not have a direct, substantive, or significant effect on States. The rule does not impose costs on States or localities. The proposed rule will not materially alter the budgetary impact of entitlements, grants, user fees, loan programs or raise legal or policy issues.

*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 because the rule would not take away or restrict an operator's right to collect data and information under the permit terms.

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

This rule is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866. The rule does not have a significant effect on energy supply, distribution, or use because it is a modification of an already existing rule and the major modification has to do with notification of scientific research activities not exploration or energy.

*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 §§ 3(a) and 3(b)(2) of the Order.

*National Environmental Policy Act*

This rule does not constitute a major Federal action significantly affecting the quality of the human environment.

*Unfunded Mandate Reform Act (UMRA) of 1995*

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

#### List of Subjects in 30 CFR Part 280

Continental shelf, Freedom of information, Prospecting, Public lands-mineral resources, Reporting and recordkeeping requirements, Research.

Dated: July 2, 2002.

**Rebecca W. Watson,**

*Assistant Secretary, Land and Minerals Management.*

For the reasons stated in the preamble, MMS revises 30 CFR part 280 as follows:

### PART 280—PROSPECTING FOR MINERALS OTHER THAN OIL, GAS, AND SULPHUR ON THE OUTER CONTINENTAL SHELF

#### Subpart A—General Information

Sec.

- 280.1 What definitions apply to this part?
- 280.2 What is the purpose of this part?
- 280.3 What requirements must I follow when I conduct prospecting or research activities?
- 280.4 What activities are not covered by this part?

#### Subpart B—How to Apply for a Permit or File a Notice

- 280.10 What must I do before I may conduct prospecting activities?
- 280.11 What must I do before I may conduct scientific research?
- 280.12 What must I include in my application or notification?
- 280.13 Where must I send my application or notification?

#### Subpart C—Obligations Under this Part

##### Prohibitions and Requirements

- 280.20 What must I not do in conducting Geological and Geophysical (G&G) prospecting or scientific research?

- 280.21 What must I do in conducting G&G prospecting or scientific research?
- 280.22 What must I do when seeking approval for modifications?
- 280.23 How must I cooperate with inspection activities?
- 280.24 What reports must I file?

##### Interrupted Activities

- 280.25 When may MMS require me to stop activities under this part?
- 280.26 When may I resume activities?
- 280.27 When may MMS cancel my permit?
- 280.28 May I relinquish my permit?

##### Environmental Issues

- 280.29 Will MMS monitor the environmental effects of my activity?
- 280.30 What activities will not require environmental analysis?
- 280.31 Whom will MMS notify about environmental issues?

##### Penalties and Appeals

- 280.32 What penalties may I be subject to?
- 280.33 How can I appeal a penalty?

#### Subpart D—Data Requirements

##### Geological Data and Information

- 280.40 When do I notify MMS that geological data and information are available for submission, inspection, and selection?
- 280.41 What types of geological data and information must I submit to MMS?
- 280.42 When geological data and information are obtained by a third party, what must we both do?

##### Geophysical Data and Information

- 280.50 When do I notify MMS that geophysical data and information are available for submission, inspection, and selection?
- 280.51 What types of geophysical data and information must I submit to MMS?
- 280.52 When geophysical data and information are obtained by a third party, what must we both do?

##### Reimbursement

- 280.60 Which of my costs will be reimbursed?
- 280.61 Which of my costs will not be reimbursed?

##### Protections

- 280.70 What data and information will be protected from public disclosure?
- 280.71 What is the timetable for release of data and information?
- 280.72 What procedure will MMS follow to disclose acquired data and information to a contractor for reproduction, processing, and interpretation?
- 280.73 Will MMS share data and information with coastal States?

#### Subpart E—Information Collection

- 280.80 Paperwork Reduction Act statement—information collection.

**Authority:** 43 U.S.C. 1331 *et seq.*, 42 U.S.C. 4332 *et seq.*

**Subpart A—General Information****§ 280.1 What definitions apply to this part?**

Definitions in this part have the following meaning:

*Act* means the OCS Lands Act, as amended (43 U.S.C. 1331 *et seq.*).

*Adjacent State* means with respect to any activity proposed, conducted, or approved under this part, any coastal State(s):

(1) That is used, or is scheduled to be used, as a support base for geological and geophysical (G&G) prospecting or scientific research activities; or

(2) In which there is a reasonable probability of significant effect on land or water uses from such activity.

*Analyzed geological information* means data collected under a permit or a lease that have been analyzed. Some examples of analysis include, but are not limited to, identification of lithologic and fossil content, core analyses, laboratory analyses of physical and chemical properties, well logs or charts, results from formation fluid tests, and descriptions of mineral occurrences or hazardous conditions.

*Archaeological interest* means capable of providing scientific or humanistic understandings of past human behavior, cultural adaptation, and related topics through the application of scientific or scholarly techniques, such as controlled observation, contextual measurement, controlled collection, analysis, interpretation, and explanation.

*Archaeological resource* means any material remains of human life or activities that are at least 50 years of age and are of archaeological interest.

*Coastal environment* means the physical, atmospheric, and biological components, conditions, and factors that interactively determine the productivity, state, condition, and quality of the terrestrial ecosystem from the shoreline inward to the boundaries of the coastal zone.

*Coastal zone* means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder) that are strongly influenced by each other and in proximity to the shorelands of the several coastal States. The coastal zone includes islands, transition and intertidal areas, salt marshes, wetlands, and beaches. The coastal zone extends seaward to the outer limit of the United States territorial sea and extends inland from the shorelines to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters, and the inward boundaries of which may be identified by the several coastal States, under the

authority in section 305(b)(1) of the Coastal Zone Management Act of 1972.

*Coastal Zone Management Act* means the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 *et seq.*).

*Data* means facts and statistics, measurements, or samples that have not been analyzed, processed, or interpreted.

*Deep stratigraphic test* means drilling that involves the penetration into the sea bottom of more than 500 feet (152 meters).

*Director* means the Director of the Minerals Management Service, U.S. Department of the Interior, or an official authorized to act on the Director's behalf.

*Geological data and information* means data and information gathered through or derived from geological and geochemical techniques, e.g., coring and test drilling, well logging, bottom sampling, or other physical sampling or chemical testing process.

*Geological and geophysical (G&G) prospecting activities* means the commercial search for mineral resources other than oil, gas, or sulphur. Activities classified as prospecting include, but are not limited to:

(1) Geological and geophysical marine and airborne surveys where magnetic, gravity, seismic reflection, seismic refraction, or the gathering through coring or other geological samples are used to detect or imply the presence of hard minerals; and

(2) Any drilling, whether on or off a geological structure.

*Geological and geophysical (G&G) scientific research activities* means any investigations related to hard minerals that are conducted on the OCS for academic or scientific research. These investigations would involve gathering and analyzing geological, geochemical, or geophysical data and information that are made available to the public for inspection and reproduction at the earliest practical time. The term does not include commercial G&G exploration or commercial G&G prospecting activities.

*Geological sample* means a collected portion of the seabed, the subseabed, or the overlying waters acquired while conducting prospecting or scientific research activities.

*Geophysical data and information* means any data or information gathered through or derived from geophysical measurement or sensing techniques (e.g., gravity, magnetic, or seismic).

*Governor* means the Governor of a State or the person or entity lawfully designated by or under State law to

exercise the powers granted to a Governor under the Act.

*Hard minerals* means any minerals found on or below the surface of the seabed except for oil, gas, or sulphur.

*Interpreted geological information* means the knowledge, often in the form of schematic cross sections, 3-dimensional representations, and maps, developed by determining the geological significance of geological data and analyzed and processed geologic information.

*Interpreted geophysical information* means knowledge, often in the form of seismic cross sections, 3-dimensional representations, and maps, developed by determining the geological significance of geophysical data and processed geophysical information.

*Lease* means, depending upon the requirements of the context, either:

(1) An agreement issued under section 8 or maintained under section 6 of the Act that authorizes mineral exploration, development and production; or

(2) The area covered by an agreement specified in paragraph (1) of this definition.

*Material remains* means physical evidence of human habitation, occupation, use, or activity, including the site, location, or context in which evidence is situated.

*Minerals* means all minerals authorized by an Act of Congress to be produced from "public lands" as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702). The term includes oil, gas, sulphur, geopressured-geothermal and associated resources.

*Notice* means a written statement of intent to conduct G&G scientific research that is:

(1) Related to hard minerals on the OCS; and

(2) Not covered under a permit.

*Oil, gas, and sulphur* means oil, gas, and sulphur, geopressured-geothermal and associated resources, including gas hydrates.

*Outer Continental Shelf (OCS)* means all submerged lands:

(1) That lie seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (43 U.S.C. 1301); and

(2) Whose subsoil and seabed belong to the United States and are subject to its jurisdiction and control.

*Permit* means the contract or agreement, other than a lease, issued under this part. The permit gives a person the right, under appropriate statutes, regulations, and stipulations, to conduct on the OCS:

(1) Geological prospecting for hard minerals;

(2) Geophysical prospecting for hard minerals;

(3) Geological scientific research; or

(4) Geophysical scientific research.

*Permittee* means the person authorized by a permit issued under this part to conduct activities on the OCS.

*Person* means:

(1) A citizen or national of the United States;

(2) An alien lawfully admitted for permanent residence in the United States as defined in section 8 U.S.C. 1101(a)(20);

(3) A private, public, or municipal corporation organized under the laws of the United States or of any State or territory thereof, and association of such citizens, nationals, resident aliens or private, public, or municipal corporations, States, or political subdivisions of States; or

(4) Anyone operating in a manner provided for by treaty or other applicable international agreements. The term does not include Federal agencies.

*Processed geological or geophysical information* means data collected under a permit and later processed or reprocessed.

(1) Processing involves changing the form of data as to facilitate interpretation. Some examples of processing operations may include, but are not limited to:

(i) Applying corrections for known perturbing causes;

(ii) Rearranging or filtering data; and

(iii) Combining or transforming data elements.

(2) Reprocessing is the additional processing other than ordinary processing used in the general course of evaluation. Reprocessing operations may include varying identified parameters for the detailed study of a specific problem area.

*Secretary* means the Secretary of the Interior or a subordinate authorized to act on the Secretary's behalf.

*Shallow test drilling* means drilling into the sea bottom to depths less than those specified in the definition of a deep stratigraphic test.

*Significant archaeological resource* means those archaeological resources that meet the criteria of significance for eligibility of the National Register of Historic Places as defined in 36 CFR 60.4, or its successor.

*Third party* means any person other than the permittee or a representative of the United States, including all persons who obtain data or information acquired under a permit from the permittee, or from another third party, by sale, trade, license agreement, or other means.

*You* means a person who applies for and/or obtains a permit, or files a notice

to conduct G&G prospecting or scientific research related to hard minerals on the OCS.

#### **§ 280.2 What is the purpose of this part?**

The purpose of this part is to:

(a) Allow you to conduct prospecting activities or scientific research activities on the OCS in Federal waters related to hard minerals on unleased lands or on lands under lease to a third party.

(b) Ensure that you carry out prospecting activities or scientific research activities in a safe and environmentally sound manner so as to prevent harm or damage to, or waste of, any natural resources (including any hard minerals in areas leased or not leased), any life (including fish and other aquatic life), property, or the marine, coastal, or human environment.

(c) Inform you and third parties of your legal and contractual obligations.

(d) Inform you and third parties of:

(1) The U.S. Government's rights to access G&G data and information collected under permit on the OCS;

(2) Reimbursement we will make for data and information that are submitted; and

(3) The proprietary terms of data and information that we retain.

#### **§ 280.3 What requirements must I follow when I conduct prospecting or research activities?**

You must conduct G&G prospecting activities or scientific research activities under this part according to:

(a) The Act;

(b) The regulations in this part;

(c) Orders of the Director/Regional Director (RD); and

(d) Other applicable statutes, regulations, and amendments.

#### **§ 280.4 What activities are not covered by this part?**

This part does not apply to:

(a) G&G prospecting activities conducted by, or on behalf of, the lessee on a lease on the OCS;

(b) Federal agencies;

(c) Postlease activities for mineral resources other than oil, gas, and sulphur, which are covered by regulations at 30 CFR part 282; and

(d) G&G exploration or G&G scientific research activities related to oil, gas, and sulphur, including gas hydrates, which are covered by regulations at 30 CFR part 251.

#### **Subpart B—How to Apply for a Permit or File a Notice**

##### **§ 280.10 What must I do before I may conduct prospecting activities?**

You must have an MMS-approved permit to conduct G&G prospecting

activities, including deep stratigraphic tests, for hard minerals. If you conduct both G&G prospecting activities, you must have a separate permit for each.

##### **§ 280.11 What must I do before I may conduct scientific research?**

You may conduct G&G scientific research activities related to hard minerals on the OCS only after you obtain an MMS-approved permit or file a notice.

(a) *Permit*. You must obtain a permit if the research activities you want to conduct involve:

(1) Using solid or liquid explosives;

(2) Drilling a deep stratigraphic test;

or

(3) Developing data and information for proprietary use or sale.

(b) *Notice*. If you conduct research activities (including federally-funded research) not covered by paragraph (a) of this section, you must file a notice with the regional director at least 30 days before you begin. If you cannot file a 30-day notice, you must provide oral notification before you begin and follow up in writing. You must also inform MMS in writing when you conclude your work.

##### **§ 280.12 What must I include in my application or notification?**

(a) *Permits*. You must submit to the RD a signed original and three copies of the permit application (form MMS-134) at least 30 days before the startup date for activities in the permit area. If unusual circumstances prevent you from meeting this deadline, you must immediately contact the RD to arrange an acceptable deadline. The form includes names of persons, type, location, purpose, and dates of activity, as well as environmental and other information.

(b) *Disapproval of permit application*. If we disapprove your application for a permit, the RD will explain the reasons for the disapproval and what you must do to obtain approval.

(c) *Notices*. You must sign and date a notice that includes:

(1) The name(s) of the person(s) who will conduct the proposed research;

(2) The name(s) of any other person(s) participating in the proposed research, including the sponsor;

(3) The type of research and a brief description of how you will conduct it;

(4) A map, plat, or chart, that shows the location where you will conduct research;

(5) The proposed projected starting and ending dates for your research activity;

(6) The name, registry number, registered owner, and port of registry of vessels used in the operation;

(7) The earliest practical time you expect to make the data and information resulting from your research activity available to the public;

(8) Your plan of how you will make the data and information you collect available to the public;

(9) A statement that you and others involved will not sell or withhold the data and information resulting from your research; and

(10) At your option, the nonexclusive use agreement for scientific research attachment to form MMS-134. (If you submit this agreement, you do not have

to submit the material required in paragraphs (c)(7), (c)(8), and (c)(9) of this section.)

**§ 280.13 Where must I send my application or notification?**

You must apply for a permit or file a notice at one of the following locations:

For the OCS off the * * *	Apply to * * *
(1) State of Alaska .....	Regional Supervisor for Resource Evaluation, Minerals Management Service, Alaska OCS Region, 949 East 36th Avenue, Anchorage, AK 99508-4363.
(2) Atlantic Coast, Gulf of Mexico, Puerto Rico, or U.S. territories in the Caribbean Sea.	Regional Supervisor for Resource Evaluation, Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, LA 70123-2394.
(3) States of California, Oregon, Washington, Hawaii, or U.S. territories in the Pacific Ocean.	Regional Supervisor for Resource Evaluation, Minerals Management Service, Pacific OCS Region, 770 Paseo Camarillo, Camarillo, CA 93010-6064.

**Subpart C—Obligations Under this Part**

**Prohibitions and Requirements**

**§ 280.20 What must I not do in conducting Geological and Geophysical (G&G) prospecting or scientific research?**

While conducting G&G prospecting or scientific research activities under a permit or notice, you must not:

(a) Interfere with or endanger operations under any lease, right-of-way, easement, right-of-use, notice, or permit issued or maintained under the Act;

(b) Cause harm or damage to life (including fish and other aquatic life), property, or the marine, coastal, or human environment;

(c) Cause harm or damage to any mineral resources (in areas leased or not leased);

(d) Cause pollution;

(e) Disturb archaeological resources;

(f) Create hazardous or unsafe conditions;

(g) Unreasonably interfere with or cause harm to other uses of the area; or

(h) Claim any oil, gas, sulphur, or other minerals you discover while conducting operations under a permit or notice.

**§ 280.21 What must I do in conducting G&G prospecting or scientific research?**

While conducting G&G prospecting or scientific research activities under a permit or notice, you must:

(a) Immediately report to the RD if you:

(1) Detect hydrocarbon or any other mineral occurrences;

(2) Detect environmental hazards that imminently threaten life and property; or

(3) Adversely affect the environment, aquatic life, archaeological resources, or other uses of the area where you are prospecting or conducting scientific research activities.

(b) Consult and coordinate your G&G activities with other users of the area for navigation and safety purposes.

(c) If you conduct shallow test drilling or deep stratigraphic test drilling activities, you must use the best available and safest technologies that the RD considers economically feasible.

**§ 280.22 What must I do when seeking approval for modifications?**

Before you begin modified operations, you must submit a written request describing the modifications and receive the RD's oral or written approval. If circumstances preclude a written request, you must make an oral request and follow up in writing.

**§ 280.23 How must I cooperate with inspection activities?**

(a) You must allow our representatives to inspect your G&G prospecting or any scientific research activities that are being conducted under a permit. They will determine whether operations are adversely affecting the environment, aquatic life, archaeological resources, or other uses of the area.

(b) MMS will reimburse you for food, quarters, and transportation that you provide for our representatives if you send in your reimbursement request to the region that issued the permit within 90 days of the inspection.

**§ 280.24 What reports must I file?**

(a) You must submit status reports on a schedule specified in the permit and include a daily log of operations.

(b) You must submit a final report of G&G prospecting or scientific research activities under a permit within 30 days after you complete acquisition activities under the permit. You may combine the final report with the last status report and must include each of the following:

(1) A description of the work performed.

(2) Charts, maps, plats and digital navigation data in a format specified by the RD, showing the areas and blocks in which any G&G prospecting or permitted scientific research activities were conducted. Identify the lines of geophysical traverses and their locations including a reference sufficient to identify the data produced during each activity.

(3) The dates on which you conducted the actual prospecting or scientific research activities.

(4) A summary of any:

(i) Hard mineral, hydrocarbon, or sulphur occurrences encountered;

(ii) Environmental hazards; and

(iii) Adverse effects of the G&G prospecting or scientific research activities on the environment, aquatic life, archaeological resources, or other uses of the area in which the activities were conducted.

(5) Other descriptions of the activities conducted as specified by the RD.

**Interrupted Activities**

**§ 280.25 When may MMS require me to stop activities under this part?**

(a) We may temporarily stop prospecting or scientific research activities under a permit when the RD determines that:

(1) Activities pose a threat of serious, irreparable, or immediate harm. This includes damage to life (including fish and other aquatic life), property, and any minerals (in areas leased or not leased), to the marine, coastal, or human environment, or to an archaeological resource;

(2) You failed to comply with any applicable law, regulation, order or provision of the permit. This would include our required submission of reports, well records or logs, and G&G data and information within the time specified; or



(3) Stopping the activities is in the interest of national security or defense.

(b) The RD will advise you either orally or in writing of the procedures to temporarily stop activities. We will confirm an oral notification in writing and deliver all written notifications by courier or certified/registered mail. You must stop all activities under a permit as soon as you receive an oral or written notification.

#### **§ 280.26 When may I resume activities?**

The RD will advise you when you may start your permit activities again.

#### **§ 280.27 When may MMS cancel my permit?**

The RD may cancel a permit at any time.

(a) If we cancel your permit, the RD will advise you by certified or registered mail 30 days before the cancellation date and will state the reason.

(b) After we cancel your permit, you are still responsible for proper abandonment of any drill site according to the requirements of 30 CFR 251.7(b)(8). You must comply with all other obligations specified in this part or in the permit.

#### **§ 280.28 May I relinquish my permit?**

(a) You may relinquish your permit at any time by advising the RD by certified or registered mail 30 days in advance.

(b) After you relinquish your permit, you are still responsible for proper abandonment of any drill sites according to the requirements of 30 CFR 251.7(b)(8). You must also comply with all other obligations specified in this part or in the permit.

### **Environmental Issues**

#### **§ 280.29 Will MMS monitor the environmental effects of my activity?**

We will evaluate the potential of proposed prospecting or scientific research activities for adverse impact on the environment to determine the need for mitigation measures.

#### **§ 280.30 What activities will not require environmental analysis?**

We anticipate that activities of the type listed below typically will not cause significant environmental impact and will normally be categorically excluded from additional environmental analysis. The types of activities include:

- (a) Gravity and magnetometric observations and measurements;
- (b) Bottom and subbottom acoustic profiling or imaging without the use of explosives;
- (c) Hard minerals sampling of a limited nature such as shallow test drilling;

(d) Water and biotic sampling, if the sampling does not adversely affect shellfish beds, marine mammals, or an endangered species or if permitted by the National Marine Fisheries Service or another Federal agency;

(e) Meteorological observations and measurements, including the setting of instruments;

(f) Hydrographic and oceanographic observations and measurements, including the setting of instruments;

(g) Sampling by box core or grab sampler to determine seabed geological or geotechnical properties;

(h) Television and still photographic observation and measurements;

(i) Shipboard hard mineral assaying and analysis; and

(j) Placement of positioning systems, including bottom transponders and surface and subsurface buoys reported in Notices to Mariners.

#### **§ 280.31 Whom will MMS notify about environmental issues?**

(a) In cases where Coastal Zone Management Act consistency review is required, the Director will notify the Governor of each adjacent State with a copy of the application for a permit immediately upon the submission for approval.

(b) In cases where an environmental assessment is to be prepared, the Director will invite the Governor of each adjacent State to review and provide comments regarding the proposed activities. The Director's invitation to provide comments will allow the Governor a specified period of time to comment.

(c) When a permit is issued, the Director will notify affected parties including each affected coastal State, Federal agency, local government, and special interest organization that has expressed an interest.

### **Penalties and Appeals**

#### **§ 280.32 What penalties may I be subject to?**

(a) *Penalties for noncompliance under a permit.* You are subject to the penalty provisions of section 24 of the Act (43 U.S.C. 1350) and the procedures contained in 30 CFR part 250, subpart N for noncompliance with:

- (1) Any provision of the Act;
- (2) Any provisions of a G&G or drilling permit; or
- (3) Any regulation or order issued under the Act.

(b) *Penalties under other laws and regulations.* The penalties prescribed in this section are in addition to any other penalty imposed by any other law or regulation.

#### **§ 280.33 How can I appeal a penalty?**

See 30 CFR § 250.1409 and 30 CFR part 290, subpart A, for instructions on how to appeal any decision assessing a civil penalty under 43 U.S.C. 1350 and 30 CFR part 250, subpart A.

#### **§ 280.34 How can I appeal an order or decision?**

See 30 CFR part 290, subpart A, for instructions on how to appeal an order or decision.

### **Subpart D—Data Requirements**

#### **Geological Data and Information**

#### **§ 280.40 When do I notify MMS that geological data and information are available for submission, inspection, and selection?**

(a) You must notify the RD, in writing, when you complete the initial analysis, processing, or interpretation of any geological data and information. Initial analysis and processing are the stages of analysis or processing where the data and information first become available for in-house interpretation by the permittee or become available commercially to third parties via sale, trade, license agreement, or other means.

(b) The RD may ask if you have further analyzed, processed, or interpreted any geological data and information. When asked, you must respond to us in writing within 30 days.

(c) The RD may ask you or a third party to submit the analyzed, processed, or interpreted geologic data and information for us to inspect or permanently retain. You must submit the data and information within 30 days after such a request.

#### **§ 280.41 What types of geological data and information must I submit to MMS?**

Unless the RD specifies otherwise, you must submit geological data and information that include:

(a) An accurate and complete record of all geological (including geochemical) data and information describing each operation of analysis, processing, and interpretation;

(b) Paleontological reports identifying by depth any microscopic fossils collected, including the reference datum to which paleontological sample depths are related and, if the RD requests, washed samples, that you maintain for paleontological determinations;

(c) Copies of well logs or charts in a digital format, if available;

(d) Results and data obtained from formation fluid tests;

(e) Analyses of core or bottom samples and/or a representative cut or split of the core or bottom sample;



(f) Detailed descriptions of any hydrocarbons or other minerals or hazardous conditions encountered during operations, including near losses of well control, abnormal geopressures, and losses of circulation; and

(g) Other geological data and information that the RD may specify.

**§ 280.42 When geological data and information are obtained by a third party, what must we both do?**

A third party may obtain geological data and information from a permittee, or from another third party, by sale, trade, license agreement, or other means. If this happens:

(a) The third-party recipient of the data and information assumes the obligations under this part, except for the notification provisions of § 280.40(a) and is subject to the penalty provisions of § 280.32(a)(1) and 30 CFR part 250, subpart N; and

(b) A permittee or third party that sells, trades, licenses, or otherwise provides data and information to a third party must advise the recipient, in writing, that accepting these obligations is a condition precedent of the sale, trade, license, or other agreement; and

(c) Except for license agreements, a permittee or third party that sells, trades, or otherwise provides data and information to a third party must advise the RD in writing within 30 days of the sale, trade, or other agreement, including the identity of the recipient of the data and information; or

(d) For license agreements, a permittee or third party that licenses data and information to a third party must, within 30 days of a request by the RD, advise the RD, in writing, of the license agreement, including the identity of the recipient of the data and information.

**Geophysical Data and Information**

**§ 280.50 When do I notify MMS that geophysical data and information are available for submission, inspection, and selection?**

(a) You must notify the RD in writing when you complete the initial processing and interpretation of any geophysical data and information. Initial processing is the stage of processing where the data and information become available for in-house interpretation by the permittee, or become available commercially to third parties via sale, trade, license agreement, or other means.

(b) The RD may ask whether you have further processed or interpreted any geophysical data and information. When asked, you must respond to us in writing within 30 days.

(c) The RD may request that the permittee or third party submit geophysical data and information before making a final selection for retention. Our representatives may inspect and select the data and information on your premises, or the RD can request delivery of the data and information to the appropriate regional office for review.

(d) You must submit the geophysical data and information within 30 days of receiving the request, unless the RD extends the delivery time.

(e) At any time before final selection, the RD may review and return any or all geophysical data and information. We will notify you in writing of any data the RD decides to retain.

**§ 280.51 What types of geophysical data and information must I submit to MMS?**

Unless the RD specifies otherwise, you must include:

(a) An accurate and complete record of each geophysical survey conducted under the permit, including digital navigational data and final location maps;

(b) All seismic data collected under a permit presented in a format and of a quality suitable for processing;

(c) Processed geophysical information derived from seismic data with extraneous signals and interference removed, presented in a quality format suitable for interpretive evaluation, reflecting state-of-the-art processing techniques; and

(d) Other geophysical data, processed geophysical information, and interpreted geophysical information including, but not limited to, shallow and deep subbottom profiles, bathymetry, sidescan sonar, gravity and magnetic surveys, and special studies such as refraction and velocity surveys.

**§ 280.52 When geophysical data and information are obtained by a third party, what must we both do?**

A third party may obtain geophysical data, processed geophysical information, or interpreted geophysical information from a permittee, or from another third party, by sale, trade, license agreement, or other means. If this happens:

(a) The third-party recipient of the data and information assumes the obligations under this part, except for the notification provisions of § 280.50(a) and is subject to the penalty provisions of § 280.32(a)(1) and 30 CFR 250, subpart N; and

(b) A permittee or third party that sells, trades, licenses, or otherwise provides data and information to a third party must advise the recipient, in writing, that accepting these obligations

is a condition precedent of the sale, trade, license, or other agreement; and

(c) Except for license agreements, a permittee or third party that sells, trades, or otherwise provides data and information to a third party must advise the RD, in writing within 30 days of the sale, trade, or other agreements, including the identity of the recipient of the data and information; or

(d) For license agreements, a permittee or third party that licenses data and information to a third party must, within 30 days of a request by the RD, advise the RD, in writing, of the license agreement, including the identity of the recipient of the data and information.

**Reimbursement**

**§ 280.60 Which of my costs will be reimbursed?**

(a) We will reimburse you or a third party for reasonable costs of reproducing data and information that the RD requests if:

(1) You deliver G&G data and information to us for the RD to inspect or select and retain (according to §§ 280.40 and 280.50);

(2) We receive your request for reimbursement and the RD determines that the requested reimbursement is proper; and

(3) The cost is at your lowest rate (or a third party's) or at the lowest commercial rate established in the area, whichever is less.

(b) We will reimburse you or the third party for the reasonable costs of processing geophysical information (which does not include cost of data acquisition) if, at the request of the RD, you processed the geophysical data or information in a form or manner other than that used in the normal conduct of business.

**§ 280.61 Which of my costs will not be reimbursed?**

(a) When you request reimbursement, you must identify reproduction and processing costs separately from acquisition costs.

(b) We will not reimburse you or a third party for data acquisition costs or for the costs of analyzing or processing geological information or interpreting geological or geophysical information.

**Protections**

**§ 280.70 What data and information will be protected from public disclosure?**

In making data and information available to the public, the RD will follow the applicable requirements of:

(a) The Freedom of Information Act (5 U.S.C. 552);

(b) The implementing regulations at 43 CFR part 2;  
 (c) The Act; and  
 (d) The regulations at 30 CFR parts 250 and 252.  
 (1) If the RD determines that any data or information is exempt from disclosure under the Freedom of Information Act, we will not disclose the data and information unless either:  
 (i) You and all third parties agree to the disclosure; or  
 (ii) A provision of 30 CFR parts 250 and 252 allows us to make the disclosure.

(2) We will keep confidential the identity of third-party recipients of data and information collected under a permit. We will not release the identity unless you and the third parties agree to the disclosure.  
 (3) When you detect any significant hydrocarbon occurrences or environmental hazards on unleased lands during drilling operations, the RD will immediately issue a public announcement. The announcement must further the national interest

without unduly damaging your competitive position.  
**§ 280.71 What is the timetable for release of data and information?**  
 We will release data and information that you or a third party submits and we retain according to paragraphs (a) and (b) of this section.  
 (a) If the data and information are not related to a deep stratigraphic test, we will release them to the public according to items (1), (2), and (3) in the following table:

If you or a third party submits and we retain * * *	The Regional Director will disclose them to the public * * *
(1) Geological data and information ..... (2) Geophysical data ..... (3) Geophysical information ..... (4) Data and information related to a deep stratigraphic test.	10 years after issuing the permit. 50 years after you or a third party submit the data. 25 years after you or a third party submit the information 25 years after you complete the test, unless the provisions of paragraph (b) of this section apply.

(b) This paragraph applies if you are covered by paragraph (a)(4) of this section and a lease sale is held or a noncompetitive agreement is negotiated after you complete a test well. We will release the data and information related to the deep stratigraphic test at the earlier of the following times:  
 (1) Twenty-five years after you complete the test; or  
 (2) Sixty calendar days after we issue a lease, located partly or totally within 50 geographic miles (92.7 kilometers) of the test.

**§ 280.72 What procedure will MMS follow to disclose acquired data and information to a contractor for reproduction, processing, and interpretation?**

(a) When practical, the RD will advise the person who submitted data and information under §§ 280.40 or 280.50 of the intent to provide the data or information to an independent contractor or agent for reproduction, processing, and interpretation.  
 (b) The person notified will have at least five working days to comment on the action.  
 (c) When the RD advises the person who submitted the data and information, all other owners of the data or information will be considered to have been notified.  
 (d) The independent contractor or agent must sign a written commitment not to sell, trade, license, or disclose data or information to anyone without the RD's consent.

**§ 280.73 Will MMS share data and information with coastal States?**

(a) We can disclose proprietary data, information, and samples submitted to us by permittees or third parties that we

receive under this part to the Governor of any adjacent State that requests it according to paragraphs (b), (c), and (d) of this section. The permittee or third parties who submitted proprietary data, information, and samples will be notified about the disclosure and will have at least five working days to comment on the action.  
 (b) We will make a disclosure under this section only after the Governor and the Secretary have entered into an agreement containing all of the following provisions:  
 (1) The confidentiality of the information will be maintained.  
 (2) In any action taken for failure to protect the confidentiality of proprietary information, neither the Federal Government nor the State may raise as a defense:  
 (i) Any claim of sovereign immunity; or  
 (ii) Any claim that the employee who revealed the proprietary information was acting outside the scope of his/her employment in revealing the information.  
 (iii) The State agrees to hold the Federal Government harmless for any violation by the State or its employees or contractors of the agreement to protect the confidentiality of proprietary data and information and samples.  
 (iv) The materials containing the proprietary data, information, and samples will remain the property of the Federal Government.  
 (c) The data, information, and samples available for reproduction to the State(s) under an agreement must be related to leased lands. Data and information on unleased lands may be viewed but not copied or reproduced.

(d) The State must return to us the materials containing the proprietary data, information, and samples when we ask for them or when the State no longer needs them.  
 (e) Information received and knowledge gained by a State official under paragraph (d) of this section is subject to confidentiality requirements of:  
 (1) The Act; and  
 (2) The regulations at 30 CFR parts 280, 281, and 282.

**Subpart E—Information Collection**

**§ 280.80 Paperwork Reduction Act statement—information collection.**

(a) The Office of Management and Budget (OMB) has approved the information collection requirements in this part under 44 U.S.C. 3501 *et seq.* and assigned OMB control number 1010-0072. The title of this information collection is “30 CFR Part 280, Prospecting for Minerals other than Oil, Gas, and Sulphur on the Outer Continental Shelf.”  
 (b) We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.  
 (c) We use the information collected under this part to:  
 (1) Evaluate permit applications and monitor scientific research activities for environmental and safety reasons.  
 (2) Determine that prospecting does not harm resources, result in pollution, create hazardous or unsafe conditions, or interfere with other users in the area.  
 (3) Approve reimbursement of certain expenses.

(4) Monitor the progress and activities carried out under an OCS prospecting permit.

(5) Inspect and select G&G data and information collected under an OCS prospecting permit.

(d) Respondents are Federal OCS permittees and notice filers. Responses are mandatory or are required to obtain or retain a benefit. We will protect information considered proprietary under applicable law and under regulations at § 280.70 and 30 CFR part 281.

(e) Send comments regarding any aspect of the collection of information under this part, including suggestions for reducing the burden, to the Information Collection Clearance Officer, Minerals Management Service, Mail Stop 4230, 1849 C Street, NW., Washington, DC 20240.

[FR Doc. 02-17879 Filed 7-16-02; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD07-01-037]

RIN 2115-AE84

#### Regulated Navigation Area; Savannah River, Georgia

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

**SUMMARY:** The Coast Guard is establishing a Regulated Navigation Area on a portion of the Savannah River to regulate waterway traffic when vessels carrying Liquefied Natural Gas (LNG) are transiting or moored on the Savannah River. This action is necessary because of the size, draft, and volatile cargo of LNG tankships. This rule enhances public and maritime safety by minimizing the risk of collision, allision or grounding and the possible release of LNG.

**DATES:** This rule is effective on August 16, 2002.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD07-01-037], and are available for inspection or copying at Marine Safety Office Savannah, between 7:30 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander James Hanzalik at the Marine Safety Office Savannah; phone (912) 652-4353 extension 205.

### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

On June 19, 2001 we published a notice of proposed rulemaking (NPRM) in the **Federal Register** entitled "Regulated Navigation Area; Savannah River, Georgia" (66 FR 32915). The Coast Guard received twenty-two letters commenting on the proposed rule. No public hearing was requested, and none was held.

Since immediate action was necessary to protect the public from the dangers associated with transporting LNG, on October 10, 2001 and May 10, 2002, we published two temporary final rules in the **Federal Register** entitled "Regulated Navigation Area; Savannah River, Georgia" (66 FR 51562 and 67 FR 31730, respectively) creating temporary rules while we published a Supplemental Notice of Proposed Rulemaking (SNPRM), received comments and prepared the final rule.

Due in part to the comments we received and changes to the initial NPRM, on December 14, 2001, we published a SNPRM in the **Federal Register** entitled "Regulated Navigation Area; Savannah River, Georgia" (66 FR 64778), offering the public the opportunity to comment on our revised proposal. The Coast Guard received three letters commenting on the supplemental proposed rule. No public hearing was requested, and none was held.

#### Background and Purpose

The Savannah River has a narrow and restricted channel with many bends. The Liquefied Natural Gas (LNG) facility is located at one of these bends on Elba Island. The LNG tankship berth is located adjacent to and parallel with the toe of the shipping channel. Because of these factors, the hazardous nature of LNG and the substantial volume of deep draft vessel traffic in Savannah (approximately 5000 annual transits), the risk of collision or allision involving an LNG tankship must be addressed.

The Elba Island LNG facility has been struck by passing vessels twice in the past 20 years. In both instances the facility was inactive. However, damage to both the facility and vessels was extensive. The potential consequences from this type of allision would be significantly more severe with an LNG tankship moored at the Elba Island dock.

The current temporary final rule expired on June 30, 2002. This final rule is needed to prevent incidents involving LNG tankships while in transit, and while moored at the facility, and is necessary to protect the safety of life

and property on the navigable waters from hazards associated with LNG activities.

#### Discussion of Comments and Changes

The Coast Guard received twenty-two comment letters addressing the original notice of proposed rulemaking. These comments and our responses can be found in the SNPRM in the **Federal Register** (66 FR 64778) and the temporary final rule published on October 10, 2001 (66 FR 51562). The Coast Guard incorporated some of the comments and made content changes and other administrative and numbering corrections in the SNPRM published on December 14, 2001.

We received a total of three comment letters to the SNPRM published on December 14, 2001, that restated the same concerns addressed in the NPRM. The Coast Guard stands by its previous position and comments and has not modified this final rule. In addition to the comments restated, two of these comment letters requested that the Coast Guard extend the temporary final rule for one year "to document the cost of delays and make a reasonable determination of the impact of these proposed regulations." As stated in the comments section of the SNPRM and the regulatory evaluation section of this final rule, the Coast Guard maintains our position that the costs associated with this rule will be minimal and we do not agree that an extension of the temporary rule is necessary. If however, as experience with this rule is gained and costs are documented which warrant a reassessment of this rule, the Coast Guard may review the cost and benefits of the final rule and may revise it.

A third comment letter received in response to the SNPRM suggested that the "Captain of the Port be given the authority to waive portions of the final rule which operational experience has shown to be unnecessary." The final rule allows the Captain of the Port to waive any requirements imposed by this rule, if the Captain of the Port finds that it is in the best interest of safety or in the interest of national security.

#### Regulatory Evaluation

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