

**PART 16—[AMENDED]**

■ 1. The authority for part 16 continues to read as follows:

**Authority:** 5 U.S.C. 301, 552, 552a, 552b(g), and 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 534; 31 U.S.C. 3717, and 9701.

■ 2. Section 16.90 is revised to read as follows:

**§ 16.90 Exemption of Civil Rights Division Systems.**

(a) The following system of records is exempted from subsections (c)(3) and (4); (d)(1), (2), (3) and (4); (e)(1), (2), (3), (5), and (8); and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k): Central Civil Rights Division Index File and Associated Records (JUSTICE/CRT-001). These exemptions apply only to the extent that information in a record is subject to exemption pursuant to 5 U.S.C. 552a (j)(2), (k)(1) and (k)(2).

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) *Subsection (c)(3)*. To provide the subject of a criminal, civil, or administrative matter or case under investigation with an accounting of disclosures of records concerning him or her could inform that individual of the existence, nature, or scope of an actual or potential criminal or civil violation to gain valuable information concerning the nature and scope of the investigation, to determine whether he or she is the subject of the investigation, and seriously impede law enforcement efforts by permitting the record subject and other persons to whom he or she might disclose the records to avoid criminal penalties, civil remedies, or administrative measures.

(2) *Subsection (c)(4)*. This subsection is inapplicable to the extent that an exemption is being claimed for subsection (d).

(3) *Subsection (d)(1)*. Disclosure of investigatory information could interfere with the investigation, reveal the identity of confidential sources, and result in an unwarranted invasion of the privacy of others. Disclosure of classified national security information would cause damage to the national security of the United States. In addition, these records may be subject to protective orders entered by federal courts to protect their confidentiality. Further, many of the records contained in this system are copies of documents which are the property of state agencies and were obtained under express or implied promises to strictly protect their confidentiality.

(4) *Subsection (d)(2)*. Amendment of the records could interfere with ongoing criminal or civil law enforcement

proceedings and impose an impossible administrative burden by requiring investigations to be continuously reinvestigated.

(5) *Subsection (d)(3) and (4)*. These subsections are inapplicable to the extent exemption is claimed from (d)(1) and (2).

(6) *Subsection (e)(1)*. It is often impossible to determine in advance if investigatory records contained in this system are accurate, relevant, timely and complete, but, in the interests of effective law enforcement, it is necessary to retain this information to aid in establishing patterns of activity and provide investigative leads.

(7) *Subsection (e)(2)*. To collect information from the subject individual could serve notice that he or she is the subject of a criminal investigation and thereby present a serious impediment to such investigation.

(8) *Subsection (e)(3)*. To inform individuals as required by this subsection could reveal the existence of a criminal or civil investigation and compromise investigative efforts.

(9) *Subsection (e)(5)*. It is often impossible to determine in advance if investigatory records contained in this system are accurate, relevant, timely and complete, but, in the interests of effective law enforcement, it is necessary to retain this information to aid in establishing patterns of activity and provide investigative leads.

(10) *Subsection (e)(8)*. To serve notice could give persons sufficient warning to evade investigative efforts.

(11) *Subsection (g)*. This subsection is inapplicable to the extent that the system is exempt from other specific subsections of the Privacy Act.

(c) The following system of records is exempted from subsections (d)(1), (2), (3) and (4) of the Privacy Act pursuant to 5 U.S.C. 552a (k): "Files on Employment Civil Rights Matters Referred by the Equal Employment Opportunity Commission (JUSTICE/CRT-007)." These exemptions apply only to the extent that information in a record is subject to exemption pursuant to 5 U.S.C. 552a (k)(2).

(d) Exemptions from the particular subsections are justified for the following reasons:

(1) *Subsection (d)(1)*. Disclosure of investigatory information could interfere with the investigation, reveal the identity of confidential sources, and result in an unwarranted invasion of the privacy of others. In addition, these records may be subject to protective orders entered by federal courts to protect their confidentiality. Further, many of the records contained in this system are copies of documents which

are the property of state agencies and were obtained under express or implied promises to strictly protect their confidentiality.

(2) *Subsection (d)(2)*. Amendment of the records could interfere with ongoing criminal or civil law enforcement proceedings and impose an impossible administrative burden by requiring investigations to be continuously reinvestigated.

(3) *Subsection (d)(1), (2), (3) and (4)*. This system contains investigatory material compiled by the Equal Opportunity Commission pursuant to its authority under 42 U.S.C. 2000e-8. Titles 42 U.S.C. 2000e-5(b), 42 U.S.C. 2000e-8(e), and 44 U.S.C. 3508 make it unlawful to make public in any manner whatsoever any information obtained by the Commission pursuant to the authority.

(4) *Subsection (d)(3) and (4)*. These subsections are inapplicable to the extent exemption is claimed from (d)(1) and (2).

Dated: October 17, 2003.

**Paul R. Corts,**

*Assistant Attorney General for Administration.*

[FR Doc. 03-27193 Filed 10-28-03; 8:45 am]

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**DEPARTMENT OF THE INTERIOR****Minerals Management Service****30 CFR Part 250**

**RIN 1010-AD07**

**Oil and Gas and Sulphur Operations in the Outer Continental Shelf Civil Penalties**

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

**ACTION:** Final rule.

**SUMMARY:** The MMS is required to review the maximum daily civil penalty assessment allowable under its regulations at least once every 3 years for the purpose of adjusting this amount in accordance with the Consumer Price Index (CPI), as prepared by the Bureau of Labor Statistics, Department of Labor. The intended effect is for punitive assessments to keep up with inflation. Thus, MMS is publishing a final rule to adjust the civil penalty assessment to comply with the Department of Labor's CPI. This final rule informs the public and the regulated community of the adjusted civil penalty assessment.

**EFFECTIVE DATE:** This rule becomes effective on November 28, 2003.

**FOR FURTHER INFORMATION CONTACT:**  
Doug Slitor, Safety and Enforcement  
Branch at (703) 787-1030 or e-mail at  
[Doug.Slitor@mms.gov](mailto:Doug.Slitor@mms.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

The Oil Pollution Act of 1990 (OPA 90) (Pub. L. 101-380) expanded and strengthened MMS's authority to impose penalties for violating regulations promulgated under the Outer Continental Shelf (OCS) Lands Act, 43 U.S.C. 1331 *et seq.* Section 8201 of OPA 90 authorizes the Secretary of the Interior (Secretary) to assess a civil penalty without providing notice and time for corrective action where a failure to comply with applicable regulations results in a threat of serious, irreparable, or immediate harm or damage to human life or the environment. The goal of the MMS OCS Civil Penalty Program is to ensure safe and clean operations on the OCS. By pursuing, assessing, and collecting civil penalties, the program is designed to encourage compliance with OCS statutes and regulations.

Not all regulatory violations warrant a review to initiate civil penalty proceedings. However, violations that cause injury, death, or environmental damage, or pose a threat to human life or the environment, will trigger such review.

In accordance with OPA 90, every 3 years MMS must analyze the civil penalty maximum amount in conjunction with the CPI prepared by the U.S. Department of Labor. If an adjustment is necessary, MMS informs the public through the **Federal Register** of the new maximum amount. MMS must comply with OPA 90 which specifies the CPI as the index and the MMS action is not discretionary. Therefore, public comments are unnecessary and in accordance with 5 U.S.C. 553(b)(3)(B), MMS is publishing an immediately final rule instead of a proposed rule.

MMS uses Office of Management and Budget (OMB) guidelines for determining how penalty amounts should be rounded. In computing this new civil penalty maximum amount, MMS divided the August 2002 CPI of 180.7 by the previously used August 1995 CPI of 152.9. This resulted in a multiplying factor of 1.18. The previous maximum amount of \$25,000 per violation per day was multiplied by the 1.18 factor and resulted in a new maximum penalty amount of \$29,500. This amount was rounded to \$30,000 as per OMB guidelines. The new civil penalty maximum amount is now

\$30,000 per violation per day. It must be remembered that this is a maximum amount and is only used when a non-compliance issue warrants it.

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

This final rule is not significant under E.O. 12866 and has not been reviewed by the Office of Management and Budget (OMB).

**Regulatory Flexibility (RF) Act**

The Department of the Interior (DOI) certifies that this rule will not have a significant economic effect on a substantial number of small entities under the RF Act (5 U.S.C. 601 *et seq.*). This rule applies to all lessees that operate on the OCS. Generally, lessees that operate under this rule would fall under the Small Business Administration's (SBA) North American Industry Classification System Codes 211111, Crude Petroleum and Natural Gas Extraction and 213111, Drilling Oil and Gas Wells. Under these codes, SBA considers all companies with fewer than 500 employees to be a small business. We estimate that of the 130 lessees that explore for and produce oil and gas on the OCS, approximately 90 are small businesses (70 percent). The primary effect of the rule is the increase in civil penalties assessed only for those operators that do not comply with Federal OCS regulations.

This rule will have no impact on the oil and gas industry operators that comply with Federal OCS regulations. For those operators whose non-compliance results in a civil penalty, the increase resulting from the inflation factor of 1.18 amounts to an increase of less than \$200,000 spread over an average of 37 cases per year or slightly over \$5,000 additional per case. This is using data over the past 9 years and averaging civil penalties paid and number of cases paid per year. This dollar amount is very minor considering the considerable sums of money operators must have to operate on the OCS. This is true for even the smallest of OCS operators.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small 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 actions of MMS, call 1-888-REG-FAIR (1-888-734-3247). 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 SBREFA (5 U.S.C. 804(2)). This rule:

1. Does not have an annual effect on the economy of \$100 million or more. As described above, we estimate an annual increase of \$5,000 per civil penalty case.

2. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The minor increase in cost will not change the way the oil and gas industry conducts business, nor will it affect regional oil and gas prices; therefore, it will not cause major cost increases for consumers, the oil and gas industry, or any government agencies.

3. 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. All lessees and drilling contractors, regardless of nationality, will have to comply with the requirements of this rule. Therefore, the rule will not affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises.

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

This regulation does not contain any information collection requirements subject to the PRA. We will not submit Form 83-I to OMB for review and approval under Section 3507(d) of the PRA.

**Federalism (Executive Order 13132)**

According to Executive Order 13132, this rule does not have Federalism implications. This rule does not substantially and directly affect the relationship between Federal and State governments. This final rule only increases the maximum civil penalty amount per day allowed. This is outside State jurisdiction. States have no role in this activity. The rule does not impose costs on States or localities.

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

In accordance with E.O. 13175, this rule does not have tribal implications that impose substantial direct

compliance costs on Indian tribal governments.

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

According to Executive Order 12630, the rule does not have significant Takings Implications. A Takings Implication Assessment is not required. The rulemaking is not a governmental action capable of interfering with constitutionally protected property rights.

#### 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 does meet the requirements of sections 3(a) and 3(b)(2) of the Order.

#### National Environmental Policy Act

The final rulemaking does not introduce requirements that would cause lessees or operators to perform or change any activities on the OCS which would result in environmental impacts beyond those addressed in the National Environmental Policy Act documents associated with the OCS plans.

#### Unfunded Mandates Reform Act (UMRA) of 1995 (Executive Order 12866)

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The rule does not have any Federal mandates, nor does the rule 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 250

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

Dated: October 20, 2003.

Rebecca W. Watson,

Assistant Secretary—Land and Minerals Management.

■ For the reasons stated in the preamble, MMS amends 30 CFR Part 250 as follows:

#### PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

■ 1. Authority citation for Part 250 continues to read as follows:

Authority: 43 U.S.C. 1334.

■ 2. Section 250.1403 is revised to read as follows:

##### § 250.1403 What is the maximum civil penalty?

The maximum civil penalty is \$30,000 per day per violation.

[FR Doc. 03-27280 Filed 10-28-03; 8:45 am]

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#### POSTAL SERVICE

##### 39 CFR Part 111

##### Price of Semipostal Stamp

AGENCY: Postal Service.

ACTION: Final rule; correction.

**SUMMARY:** The effective date for the pricing and issuance of *Stop Family Violence* Semipostal Stamp published in the **Federal Register** on August 18, 2003 (Vol. 68, No. 159, pages 49362-49363) is changed from October 11, 2003 to October 8, 2003.

**DATES:** This notice is effective October 29, 2003.

**SUPPLEMENTARY INFORMATION:** On October 8, 2003, President George Bush announced the nationwide sale of the *Stop Family Violence* Semipostal Stamp at a White House ceremony recognizing October as Domestic Violence Awareness Month.

Stanley F. Mires,  
Chief Counsel, Legislative.

[FR Doc. 03-27185 Filed 10-28-03; 8:45 am]

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#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 180

[OPP-2003-0327; FRL-7330-4]

##### Imidacloprid; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

**SUMMARY:** This regulation establishes a time-limited tolerance for the combined residues of imidacloprid, (1-[6-chloro-3-pyridinyl] methyl)-N-nitro-2-imidazolidinimine) and its metabolites containing the 6-chloropyridinyl

moiety, all expressed as parent in or on soybean seed. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide as a seed treatment on soybean seed. This regulation establishes a maximum permissible level for residues of imidacloprid in this food commodity. The tolerance will expire and is revoked on December 31, 2006.

**DATES:** This regulation is effective October 29, 2003. Objections and requests for hearings, identified by docket (ID) number OPP-2003-0327, must be received on or before December 29, 2003.

**ADDRESSES:** Written objections and hearing requests may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** Andrew Ertman, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-9367; e-mail address: *Sec-18-Mailbox@epa.gov*.

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

##### A. Does this Action Apply to Me?

You may be potentially affected by this action if you are a Federal or State government agency involved in administration of environmental quality programs (e.g., Departments of Agriculture, Environment). Potentially affected entities may include, but are not limited to:

- Federal or State Government Entity (NAICS 9241).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

##### B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action