

**UNITED STATES DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE**

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NOTICE TO LESSEES AND OPERATORS OF FEDERAL OIL AND GAS LEASES
IN THE OUTER CONTINENTAL SHELF
AND LOCATED IN CERTAIN AREAS OF COASTAL STATES

Guidelines for Oil Spill Financial Responsibility (OSFR) for Covered Facilities

What is the purpose of this Notice to Lessees and Operators (NTL)?

This notice provides clarification, guidance, and information to operators/owners of facilities and leases on our policies and procedures for submitting OSFR documents to the Gulf of Mexico OCS Region (GOMR) under 30 CFR part 253. The GOMR will serve as the national program manager for all OSFR applications. This notice replaces NTL 99-N01, and NTL 99-N01 Addendum No.1.

Are there any definitions in addition to those listed in 30 CFR part 253 that I must consider when I apply for OSFR?

In addition to the definitions specified in Oil Spill Prevention Act of 1990 (OPA 90) and 30 CFR 253.3, the following new and supplemental definitions apply to the OSFR program:

de minimis - a worst case oil spill potential of 1,000 barrels or less.

Fax binder - a facsimile copy of Form MMS-1019, Insurance Certificate, completed to show the full insurance slip, i.e., listing of all underwriters with their individual quota shares, and at least one insurance underwriter's signature, and submitted to MMS as a fax copy of evidence. This binder, completed in accordance with 30 CFR 253.29(d), may be used as temporary insurance evidence of OSFR for up to 90 days after the date that you need the insurance to demonstrate OSFR, while the remaining signatures are obtained. A Form MMS-1019 will not be considered as a fax binder when it requires only a single underwriter's signature. This occurs when a Lloyds of London insurance syndicate, or the underwriter of an Institute of London Underwriters (ILU) member insurance company, binds all risks and liabilities specified in OPA 90 to all other syndicates or member companies specified on the form.

Fixed offshore facility - a bottom anchored offshore facility permanently attached to the seabed of Federal, State, or territorial coastal waters of the United States of America. This term includes platforms, guyed towers, articulated gravity platforms, single- and

multi-well caissons, gravel and ice islands, caisson retained islands, sub-sea wells and manifolds, and similar facilities designed for drilling, production, storage, or transportation of oil. This does not include marina structure and piers, and marine loading docks not connected to offshore facilities in, on, or under Federal, State, or territorial coastal waters of the United States of America as described in 30 CFR 253. This definition also does not include facilities licensed under the Deepwater Port Act of 1994.

Floating offshore facility - a buoyant offshore facility, securely and substantially moored or otherwise connected to the seabed of Federal, State, or territorial coastal waters of the United States of America that cannot be moved without substantial effort. This term includes tension leg platforms, spars, and similar facilities designed or modified for drilling, production, separation, or storage of oil. These facilities may have semi-submersible or ship-shape hulls.

Incident - an oil or gas condensate spill or blowout from a single well, platform, or pipeline resulting from any equipment failure, human action, or weather condition.

Lease term pipeline - a pipeline owned and operated by a lessee or operator that is wholly contained within the boundaries of a single lease, unitized leases, or contiguous (not cornering) leases of the same owner or operator.

Mobile offshore drilling units (MODU) - facilities designed or modified to engage in drilling and exploration activities, but not production, separation, or storage of oil in or on Federal, State, or territorial coastal waters of the United States of America. This term includes drilling vessels, semi-submersibles, submersibles, jack-ups, and similar facilities that can be moved without substantial effort. These facilities may or may not have self-propulsion equipment on board and may require dynamic positioning equipment or mooring systems to maintain their position.

Oil - oil or gas condensate produced from wells or platforms with a surface location in, on, or under Federal, State, or territorial coastal waters of the United States as described in 30 CFR part 253; stored in, on, or under these waters; or transported through pipelines in or under these waters.

U.S. agent for service of process - a designated agent of the company who ensures all potential claimants have a readily available contact and to whom claimants can submit legal paperwork for claims for oil spill clean-up and damages specified in OPA 90. A company officer whose primary business office is located within the confines of the United States or a person or company whose function it is to accept and process paperwork claims for the company may be named as a company's agent.

Am I required to demonstrate OSFR coverage, and what facilities are covered by the regulation?

You must demonstrate OSFR coverage for a covered offshore facility(s) (COF) on a lease, pipeline (permit), or right-of-use and easement (RUE), if you are designated as a

Designated Applicant by a responsible party(s). Your coverage will include all listed facilities that you classify as COFs.

Will the U. S. Coast Guard (USCG) also require a Certificate Of Financial Responsibility (COFR)?

You must also obtain a COFR from the USCG, in compliance with 33 CFR part 138, for vessels and MODU's, for floating offshore facilities which store oil, and for loading docks used to transfer petroleum and other products to and from a vessel or floating offshore facility, including lightering of produced hydrocarbons. This COFR is in addition to the OSFR approval we issue and addresses the operator's or owner's financial responsibility for the clean up and damages from oil discharges resulting from non-well related sources and produced oil stored onboard the vessel, MODU, or floating offshore facility. You should direct any questions concerning a USCG COFR to the National Pollution Funds Center at (202) 493-6780.

Who can serve as the Designated Applicant for COFs?

A Designated Applicant for any COF can be the designated operator, the designated unit operator, a record title owner (lessee), a permittee, an operating rights holder, a RUE holder, or the parent company of any of the aforementioned entities.

How do I determine if my facility is a COF and requires OSFR coverage?

If your facility (1) has a potential worst case oil-spill discharge volume of more than 1,000 barrels of oil or gas condensate and (2) is located seaward of the coastline or in any portion of a bay that is connected to the sea either directly or through one or more other bays, it is classified as a COF, and it requires OSFR coverage.

Will the maps used to determine the location classification of a COF be updated to include potential geographical changes?

Because of coastal erosion and movement, facilities that do not currently necessitate OSFR coverage may eventually require it. Conversely, some facilities may no longer require OSFR coverage. Therefore, the maps used to determine facility location, i.e., whether the facility is inside or outside of the geographical area defined by the regulations, will be reviewed at least once every 5 years and, as appropriate, after every major hurricane. The maps will also be revised and updated as new data becomes available.

What forms must a Designated Applicant submit for OSFR approval?

A new or renewed application for OSFR approval must include only one original of each of the following:

1. Form MMS-1016, Designated Applicant Information Certification,
2. Form MMS-1017, Designation of Applicant (from each responsible party who did not previously submit this form),

3. One or more of the following forms appropriate for the type of financial evidence used:
 - A. Form MMS-1018, Self-Insurance or Indemnity Information, along with a bound, audited financial statement, and a signed Treasurer's letter.
 - B. Form MMS-1019, Insurance Certificate.
 - C. Form MMS-1020, Surety Bond.
4. Form MMS-1021, Covered Offshore Facilities.

A submittal for an addition(s) or a deletion(s) to a current, approved OSFR application must include only one original of each of the following:

- For addition(s): Form MMS-1022, Covered Offshore Facility Changes.
Form MMS-1017, Designation of Applicant (from each responsible party).
Form MMS-1019, Insurance Certificate (only if the Schedule Option is selected).

For deletion(s): Form MMS-1022, Covered Offshore Facility Changes, along with a statement that explains the basis for each COF being deleted. For example, such a statement might indicate that you have assigned your interest in the facility, your determination of the worst case oil-spill discharge volume shows that the lease or pipeline is no longer a COF, or that the COF has been decommissioned or terminated. If you assigned your interest and the worst case oil-spill potential exceeds 1,000 barrels, another responsible party must apply for OSFR coverage to add the facility before we approve removal of the COF from your demonstration.

When must I submit an application for OSFR approval, and what will I receive when MMS approves it?

You must submit an application for OSFR approval if you determine that any of your facilities can be classified COFs according to the definition under 30 CFR part 253.3.

We will issue a letter to the Designated Applicant when we approve an OSFR submittal. This letter will confirm that the submitted evidence is correct and will identify the offshore leases, RUEs, and pipelines with, as applicable, associated segments and aliquots that the application covers.

What will happen if my OSFR submittal is incorrectly completed, missing information, or does not contain original documents?

All submittals with missing information or that are incorrectly completed will be either returned to the submitter(s) along with an explanation of why the OSFR evidence does not comply with the requirements or held pending submittal of the remaining required documents or missing information.

We will not accept, process, or approve an OSFR submittal unless it contains all original documentation. However, the program will accept an email, facsimile, or other type of copy in applications involving fax binders (Form MMS-1019), as defined above.

What dates are required in Block #3 on Form MMS-1017, Designation of Applicant, and in Block #2 on Form MMS-1022, Covered Offshore Facility Changes?

You should use the effective date of the assignment between the assignor and the assignee in section #3 on Form MMS-1017. This is not the date that the MMS Adjudication Section approves the assignment. It is the effective date of the assignment chosen by the parties as shown on the second page of Form MMS-150, Assignment of Record Title Interest in Federal OCS Oil and Gas Lease, Form MMS-151, Assignment of Operating Rights Interest in Federal OCS Oil and Gas Lease, or Form MMS-149, Assignment of Federal OCS Pipeline Right-of-Way Grant.

For section #2 on Form MMS-1022, you should use the effective date of your OSFR coverage period as shown in the “Effective Date of Evidence” column on Form MMS-1016. Because changes may be made to your demonstration during the coverage period, the verbiage, “... discharges listed in the *previously submitted application* for certification of oil spill financial responsibility...,” in this section refers to either your initial or renewed OSFR coverage.

Are additional documents required if I choose to add or drop covered facilities at the time I apply for renewal?

If you choose to add or drop a COF(s) through a renewal submittal, Form MMS-1022 must accompany the previously mentioned renewal documents. Form MMS-1022 should list, with an “A” (addition) or “D” (deletion), all previously covered facilities that will either not be a part of your renewed coverage or will become a new COF in this coverage.

If I do not already have an MMS qualification number, how do I obtain one for my OSFR application?

State operators and lessees, U.S. agent for service of process, indemnitors, insurance agents, and brokers are parties who do not normally hold Federal OCS leases and do not have a previously established qualification number. For OSFR program identification and tracking purposes, we will assign a qualification number for such parties when we receive applications which list them on the various OSFR forms. We will assign an MMS qualification number for new Federal OCS lessees and operators in connection with the processing of their lease documents. This will occur with the submission of an OSFR application.

Which method should I use to calculate my worst case oil spill potential?

For producing wells you must calculate the worst case oil spill discharge potential as four times the estimated daily production volume from an uncontrolled blowout (first 24 hours) of the highest capacity well associated with the facility. In determining the daily

discharge rate, you must consider reservoir characteristics, casing/production tubing sizes, and historical production and reservoir pressure data. You must add to this calculation (1) the maximum capacity of all oil storage tanks and flow lines on the facility (flow line volume may be estimated), and (2) the volume of oil calculated to leak from a break in any pipelines connected to the facility considering shutdown time, the effect of hydrostatic pressure, gravity, frictional wall forces, and other factors. For new wells, you must consider the worst case oil spill discharge potential to be over 1,000 barrels.

For all offshore facilities in waters landward of the OCS, you must use the methods listed in 40 CFR part 112 (Oil Pollution Prevention) or 49 CFR part 194 (Response Plans for Onshore Oil Pipelines) to calculate the worst case oil spill potential.

Are my OSFR requirements different if I choose to demonstrate financial responsibility for the maximum amount of \$150 million?

The only difference between demonstrating for \$150 million and a lower level is that you do not have to list the potential worst case oil spill amounts on Form MMS-1021 or Form MMS-1022. However, the “Potential Worst Case Oil-Spill Discharge (in Barrels)” column on these forms must always display an amount in barrels for all listed facilities if your coverage is less than \$150 million.

What is required if I wish to provide OSFR coverage for facilities with a worst case oil-spill potential under 1,001 barrels?

If you demonstrate coverage for less than \$150 million and you want to provide OSFR coverage for facilities that do not meet the minimum OSFR coverage criteria, the listed facility(s) must show a COF worst case oil-spill discharge volume of “<1,001” barrels in the appropriate column on the Form MMS-1021 and/or Form MMS-1022. This column must always be completed.

Am I required to attach a proof of authority to sign to Form MMS-1016, Designated Applicant Information Certification as stated in 30 CFR 253.40(b)?

We do not require submittal of evidence of authority to sign Form MMS-1016. Our Adjudication Unit maintains a qualification card file of each company qualified to do business with the MMS. This card identifies each individual who is authorized to execute documents. We will verify signatures on the OSFR form against this card file. Your company is responsible for maintaining the correct signatory authorization on file with the Adjudication Unit.

How should I record leases, permits, RUEs, and pipelines on Form MMS-1017, Designation of Applicant, Form MMS-1021, Covered Offshore Facilities, and Form MMS-1022, Covered Offshore Facility Changes?

Each lease, permit, RUE, or pipeline is considered as a unique, separate COF. On OSFR forms that require these COFs to be shown, each one must be listed on its own individual, single line.

Every individually listed COF must show a worst case oil-spill discharge volume in the appropriate column on Form MMS-1021 and Form MMS-1022.

Pipelines covered by OSFR must be recorded only in the area and block where the pipeline begins. If it crosses other areas and blocks, these are not required to be shown on the forms. We also require both the “G” number, if applicable, and segment number(s) to be listed for all pipelines that are COFs.

May I attach a separate listing of my COFs?

If you choose not to list your COFs on Form MMS-1017, Form MMS-1021, or Form MMS-1022, we will accept a separate, dated listing containing your COFs. This listing must contain the same headings as shown on our generated List of COFs for a Designated Applicant. A signature on the applicable MMS form that references this attached exhibit must also be included.

Am I allowed to restrict coverage of a facility to an aliquot portion?

The regulations under 30 CFR 253.11(a) allow only a single Designated Applicant for each COF. However, in those circumstances where a lease is divided by surface aliquots, we will consider each surface aliquot to be a unique COF. Therefore, a Designated Applicant may restrict coverage by only surface aliquot on the appropriate OSFR forms. The applicant cannot further sub-divide the aliquot by depth because this would be inconsistent with the purposes of OPA to allow OSFR coverage for a facility to be sub-divided. It tends to understate the worst case oil-spill discharge volumes for a facility and would frustrate the claims process should a discharge occur.

A responsible party, bears financial responsibility only for that portion of a facility in which they own an interest. Therefore, a responsible party may restrict the facility coverage by both surface and/or depth limitations on Form MMS-1017.

How should I identify OSFR evidence for facilities located on RUES?

We issue the following two types of rights-of-use and easement as defined in 30 CFR 253.3:

1. A pipeline right-of-way (ROW) is a type of RUE issued under 30 CFR 250.1009(b) for pipelines and any appurtenant structures that are installed on unleased or leased blocks and operated by another company(s). When required, you should identify the OSFR evidence for pipeline ROWs by the pipeline ROW and segment number (e.g. G02314 (2112)), if applicable, that we issue.

2. A RUE is also issued under 30 CFR 250.160 for wells and platforms needed to explore or produce a lease from a surface location on an adjacent block that is either unleased or leased and operated by another company(s). When required, you should

identify the OSFR evidence for these RUEs by the associated well surface location area and block number and RUE number that we issue.

What effect will OSFR have on permit approval?

We will not approve the following permits until we verify OSFR compliance:

- Application for Permit to Drill (APD) (Form MMS-123);
- Application for Permit to Modify (APM) (Form MMS-124), for operations that involve the use of a drilling, completion, or workover rig, or that involve removal of the surface safety equipment (tree);
- Applications for new production facilities or modifications to existing production facilities required by 30 CFR part 250, subpart H

If your Designated Applicant submitted OSFR evidence for the maximum \$150 million level, you should indicate this in your well or facility permit request.

If the proposed well operations or proposed new or modified facilities are on a lease currently identified as a COF, you must include in your permit request a statement that indicates the worst case oil-spill discharge volume for the proposed operation(s) is less than or equal to your current highest COF demonstration. If the worst case oil-spill discharge volume exceeds your current highest COF demonstration, you must submit Form MMS-1022 (Covered Offshore Facility Changes) before we will approve the request.

If the proposed well operations or proposed new or modified facilities are on a lease not yet identified as a COF, before we will approve the permit, you must submit with your application the worst case oil-spill discharge volume. Title 30 CFR 253.14 outlines the manner in which worst case oil-spill discharge volumes are determined for an oil platform production facility. In the case of operations covered by an APM, the following assessments must be made by the owner or operator:

1. The maximum capacity of all oil storage tanks and flow lines on the facility. Flow line volume may be estimated.
2. The volume of oil calculated to leak from a break in any pipelines connected to the facility considering shutdown time, the effect of hydrostatic pressure, gravity, frictional wall forces and other factors.
3. The daily production volume from an uncontrolled blowout of the highest capacity well associated with the facility (times 4). In determining the daily discharge rate, you must consider reservoir characteristics, casing/production tubing sizes, and historical production and reservoir pressure data.

If the sum of these three volumes above exceeds 1,000 barrels, the operator or owner is required to demonstrate OSFR coverage.

All well operations involving drilling (APDs) will automatically have a worst case oil-spill discharge volume exceeding 1,000 barrels; therefore, we will require OSFR coverage for these types of operations.

What effect will OSFR have on my lease term pipelines?

We estimate that the potential worst case spill from a production facility is greater than that of its associated lease term pipelines; therefore, you do not need to include such pipelines, that are wholly contained within the boundaries of a single lease, on an OSFR application unless the Designated Applicant is different.

What effect will OSFR have on applications for pipeline ROWs and modifications to existing pipeline ROWs required by 30 CFR part 250, subpart J?

If your Designated Applicant submitted OSFR evidence for the maximum \$150 million level, you should indicate this in your ROW application.

If your Designated Applicant did not submit OSFR evidence at the \$150 million level, then your application for a new ROW for a non-dry gas pipeline with a static volume greater than 1,000 barrels must include the worst case oil-spill discharge volume for the pipeline and any appurtenant structures. If the worst case oil-spill discharge volume exceeds 1,000 barrels, we may conditionally approve the ROW application to allow construction. However, you must submit Form MMS-1022 before you may activate the pipeline.

We assume the worst case oil-spill discharge volume for pipelines will be less than the static volume of the pipelines. We also assume the worst case oil-spill discharge volume for most pipelines used to transport dry gas will be less than 1,000 barrels. Therefore, we will not require OSFR evidence for pipelines used to transport only dry gas or for pipelines with a static volume of 1,000 barrels or less.

For applications to modify the service, size, or length of a ROW pipeline, and applications to add an appurtenant structure to a pipeline ROW, you must include a statement to indicate if the proposed modification will result in a worst case oil-spill discharge volume greater than previously stated in your OSFR application for this pipeline. If the calculations indicate a worst case oil-spill discharge volume in excess of the amount previously stated in your OSFR application for this pipeline, you must submit Form MMS-1022 before we will approve the application.

What effect will OSFR have on assignments of record title, operating rights (working interest owners), pipeline ROWs, name changes, or mergers on a leasehold basis?

If an assignment involves a COF on which the entity relinquishing the interest (assignor) is the Designated Applicant, the assignor will submit a cover letter with the assignment which states whether they will continue to maintain OSFR coverage. If the assignor will continue to maintain coverage, then the entity receiving the interest (assignee) must

submit Form MMS-1017. If the assignor will not continue to maintain coverage, then the assignee or another responsible party must either (1) submit all required OSFR forms to become the Designated Applicant for the newly assigned facility(s), or (2) state the reason(s) why the newly acquired facility(s) will not require OSFR coverage.

If an assignment involves a COF on which the assignor is not the Designated Applicant, the assignee must submit Form MMS-1017 with the assignment.

When a name change occurs, the newly named entity must submit a certificate of incorporation from the Secretary of State for the State of incorporation. Before we can accept the name change, you must also submit a rider to your insurance or surety OSFR coverage. No additional OSFR forms are required.

If the surviving entity in a merger does not have OSFR coverage, then that entity must submit a new OSFR application if any facilities obtained through the merger can be classified as COFs. If the surviving entity in a merger has OSFR coverage on file, they must submit Form MMS-1017(s), Form MMS-1019 (if required through selection of the Schedule Option), and Form MMS-1022.

For any assignments, name changes, and mergers, you should submit only single, originally executed, OSFR forms to the Adjudication Unit.

What effect will OSFR have on my designation of operator (DOO) changes?

If a DOO change involves a COF, and the new designated operator will become the Designated Applicant, one of the following options must be taken:

If the new operator is not already a Designated Applicant and the old operator will no longer be the Designated Applicant, either you or another responsible party must submit an OSFR application package for all facilities that require OSFR coverage.

This package must include the following:

- Form MMS-1016,
- Form MMS-1017,
- Form MMS-1021.

And depending upon the combination of OSFR coverage used, one or more of the following:

- Form MMS-1018,
- Form MMS-1019,
- Form MMS-1020.

If the new operator is already a Designated Applicant and the old operator will no longer be the Designated Applicant, either you or another responsible party must submit the following for all facilities that require OSFR coverage:

- Form MMS-1017,
- Form MMS-1019 (if the Designated Applicant uses insurance for OSFR coverage and the Schedule Option was selected), and
- Form MMS-1022.

For DOO changes you should submit only single, originally executed OSFR forms to the Adjudication Unit.

What should I do when there are multiple operators, operating rights holders, or lessees on a facility or multiple facilities on a lease?

If there is more than one operator, operating rights holder, or lessee on a facility, we allow an OSFR demonstration for each surface aliquot portion of a lease; otherwise, only a single OSFR demonstration is allowed for that facility. You must decide who will be the Designated Applicant for the facility.

If a lease contains more than one location that can be classified as a COF, we require only the location with the largest potential worst case oil spill discharge to be listed on the “Potential Worst Case Oil-Spill Discharge (in Barrels)” column on the corresponding OSFR form(s).

Are the OSFR requirements impacted by any State financial responsibility programs?

The States currently affected by the rule (Alabama, Alaska, California, Florida, Louisiana, Mississippi, and Texas) may have regulations that require operators, lessees, and ROW holders to demonstrate financial responsibility in amounts different from those listed in 30 CFR 253.13. These State financial responsibility programs do not relieve you of the responsibility to comply with the Federal OSFR requirements.

Some OCS operators and lessees have facilities in State waters. If facilities in State waters exceed the *de minimis* levels of 30 CFR part 253, you must also demonstrate OSFR in addition to any State requirements. The State and Federal programs are separate and distinct.

Are there any limitations on the financial information that I must submit as OSFR evidence?

We will consider financial information as OSFR evidence only for the valid term of that evidence. For example: Self-insurance or indemnity evidence is valid from the first day of the fifth month after the end of a fiscal year to the earlier of (1) the first day of the fifth month after the end of the next fiscal year, or (2) the date the basis for the self-insurance or indemnity is no longer valid. It may no longer be valid due to the sale of the company, the sale of the specified assets of the company, the merger of the company into another company or a new company, or the application for bankruptcy protection by the company.

You must submit the audited financial statements for the end of the prior fiscal year along with all associated information specified in 30 CFR 253.23 through 253.28 for any OSFR application that includes Form MMS-1018 for each year covered by the OSFR application.

If a company provides OSFR coverage as a third party indemnitor for multiple companies, the indemnitor must demonstrate OSFR for the highest coverage level. For example, if you provide coverage for two companies where one requires \$35 million of coverage, and the other requires \$70 million of coverage, then we require the indemnitor to demonstrate OSFR for \$70 million. If you indemnify more than one Designated Applicant for OSFR coverage, at the time of OSFR renewal, the additional applicants may include copies of the original Treasurer's letter, and copies of the appropriate pages from the original financial statements.

A surety bond can only serve as evidence for OSFR for the amount specified on Form MMS-1020, which can be no more than the underwriting limitation amount listed in U.S. Treasury Circular 570. A bond is effective as of the date received by MMS, for an initial bond submittal, and maintains effectiveness until it is terminated or cancelled by MMS. In the case of a replacement bond submittal, the replacement bond is effective as of the date it was executed and maintains effectiveness until it is terminated or cancelled by MMS.

Should I provide any additional financial information other than what is specified in 30 CFR 253.23 and 253.26?

Your Treasurer's letter should indicate the corresponding page(s) in the Annual Report, 10-K, 20-F, etc. where the listed financial data are shown. If any required financial information is not supported by your bound statement, a separate, signed document that displays the calculations supporting the unlisted amount must accompany the Treasurer's letter.

Are there any restrictions if I use more than one form of supporting financial coverage?

The only limitations concerning more than one method of financial coverage involve the expiration and effective dates of OSFR coverage. Your coverage period will extend from the later of the listed effective dates to the earlier of the listed expiration dates.

Are there any limitations on the insurance information that I must submit as OSFR evidence?

Insurance certification can serve as evidence for OSFR only for the amount specified on Form MMS-1019, which can be no more than the claims paying ability of the identified insurance companies specified by an insurance rating service. The insurance is valid from the effective date on Form MMS-1019 to the earliest of (1) the certificate's expiration date, (2) the certificate's cancellation date, or (3) the application date for bankruptcy protection by any of the insurance companies specified on Form MMS-1019.

If you use an insurance certificate as OSFR evidence, all specified insurance companies must have "Secure" ratings, as specified in 30 CFR 253.29(a), as of the effective date of the certificate. Any specified insurance company that has a "Secure" rating must continue to have a "Secure" rating as long as we consider Form MMS-1019 to be valid.

If your certificate becomes invalid, you will have 5 working days from the date the certificate becomes invalid to provide either a new certificate or a fax binder, unless we provide an extension of time.

If applicable, the Designated Applicant must provide any delegations of authority to a broker, an underwriter of another insurance company, or an underwriting manager to bind an insurance company specified on Form MMS-1019 to all risks and liabilities specified in OPA 90. The only exceptions are (a) the underwriter of a Lloyds of London insurance syndicate specified on a Form MMS-1019 may bind all risks and liabilities specified in OPA 90 to all Lloyds of London insurance syndicates specified on this form, and (b) the underwriter of an ILU member insurance company specified on Form MMS-1019 may bind all risks and liabilities specified in OPA 90 to all ILU member insurance companies specified on this form. For those States that also require financial responsibility, you cannot use a single insurance certificate as financial evidence for both OSFR and State demonstrations. Additionally, you cannot use a single insurance certificate for both our OSFR demonstration and a USCG issued COFR. However, a single backing insurance policy, if it covers the sum total of financial evidence required by the MMS OSFR program, the USCG COFR program, and a State required demonstration, can be used as the basis for Form MMS-1019.

What is the difference between selecting the General Option and Schedule Option on Form MMS-1019, Insurance Certificate, Section #5?

Section #5 on Form MMS-1019 provides insurers with the option to limit their liability for OSFR through (1) coverage of specifically named COF's for the term of the insurance coverage (Schedule Option) or (2) expanding or contracting coverage for all COF's that a Designated Applicant may have during the term of the insurance coverage (General Option). These two options were specifically requested by the insurance industry representatives during the public comment period for 30 CFR part 253.

If an insurer selects the General Option, the Designated Applicant should submit only a Form MMS-1022 to identify those COF changes that occur during the term of the policy. Because the regulations under 30 CFR 253.29(a)(2) require the insurance evidence to “Be executed on one original insurance certificate...”, only a single policy can cover all facilities. Since the General Option allows coverage of all COFs without the restriction of an effective date, facilities may be added at any time during the life of the policy.

If an insurer selects the Schedule Option, when additions are made to the list of COFs, the Designated Applicant must submit, in addition to Form MMS-1022, a new, original Form MMS-1019. Because there is an effective date associated with this option, the policy must cover all previously listed COFs and well as the additions. In accordance with 30 CFR 253.29(a)(2) only Form MMS-1019 is acceptable as evidence of OSFR coverage.

Under the Schedule Option the insured and insurer have the following two alternatives available for correct OSFR submittal:

- (1) The Schedule Option date line can list, along with the effective date of the new, current policy, all previous effective dates from all preceding policies within the

initial term period. If this choice is selected, only a Form MMS-1022, displaying the newest additions, is required to be submitted with Form MMS-1019.

- (2) The Schedule Option date line can list only the date of the new, current policy. If this choice is selected, the previously submitted Form MMS-1021 and Form MMS-1022(s) spanning the initial term period, along with the newest Form MMS-1022, are required to be submitted with Form MMS-1019.

What are the civil penalties for noncompliance with OSFR?

We may assess civil penalties of up to a maximum of \$27,500 per COF per day for noncompliance with the requirements of 30 CFR 253.51(a). However, we will consider the following guidelines when we assess these penalties:

Amounts of Civil Penalties Per COF for Noncompliance with Oil Spill Financial Responsibility (OSFR) Requirements¹			
Category of Noncompliance	Period of Noncompliance		
	1st Week	2nd & 3rd Weeks	After 3 Weeks
Failure to submit OSFR evidence	\$500	\$2,000/week	\$500/day
Failure of a Responsible Party to Prepare Form MMS-1017 (Designation of Applicant)	\$1,000	\$2,500/week	\$500/day
Misrepresentation in OSFR coverage	\$2,500	\$5,000/week	\$1,000/day
Cancellation of OSFR without alternative coverage	\$2,500	\$5,000/week	\$1,000/day
Failure to correct an erroneous or inadequate submission within 30 days of MMS request ²	\$100	\$250/week	\$1,000/week

¹ Penalties will double each time there is an additional violation within 1 calendar year of the first violation, up to a maximum of \$27,500/day. Periodically as needed to ensure compliance, we will update the penalty amounts in this table.

² Includes under-subscribed insurance slips, use of insurers not rated “Secure” or better, errors in lease, permit, or RUE identification and similar problems with the OSFR evidence submitted.

We will provide a written notice of our intent to recommend the imposition of civil penalties. We may recommend the U. S. Department of Justice pursue criminal penalties for knowing and willful violations of the OSFR requirements which may include shutting-in OCS offshore operations of the Designated Applicant and the responsible parties for the COFs in question. We will coordinate enforcement actions with the States for those lessees and operators who have COFs in State waters.

How can I obtain OSFR information and application forms?

We have an Internet web site to assist you with various aspects of the OSFR program. For example, you can print all OSFR application forms through a pdf format at our site (www.gomr.mms.gov/homepg/lseale/osfr). Because these application forms expire every three years, you must use the correct updated forms, when they become available, with all OSFR submittals.

Where do I send my OSFR information?

You should mail all OSFR information to the following address:

Minerals Management Service
Gulf of Mexico Region
Oil Spill Financial Responsibility Program
1201 Elmwood Park Boulevard, Mail Stop 5421
New Orleans, Louisiana 70123

Guidance Document Statement

The MMS GOMR issues NTL's as guidance documents in accordance with 30 CFR 250.103 to clarify, supplement, and provide more detail about certain MMS regulatory requirements and to outline the information you provide in your various submittals. Under that authority, this NTL sets forth a policy on and an interpretation of a regulatory requirement that provides a clear and consistent approach to complying with that requirement.

Paperwork Reduction Act of 1995 Statement: This NTL refers to several information collection provisions in our regulations and forms which the Office of Management and Budget (OMB) has approved and assigned OMB control numbers. The primary collection of information referred to is required by 30 CFR part 253 (OMB Control Number 1010-0106). Other information collections referred to are required by 30 CFR part 254 and 30 CFR part 256 (OMB Control Numbers 1010-0091 and 1010-0006 respectively). This notice provides clarification, description, or interpretation of requirements and does not impose additional information collection requirements subject to the Paperwork Reduction Act of 1995.

If you have any questions on this NTL, you may contact Patrick Clancy, Jr. at (504) 736-2600 or at patrick.clancy@mms.gov.

8-26-08
Dated:



Chris C. Oynes
Associate Director for
Offshore Minerals Management