

FR 9033), or 6-96 (62 FR 111), as applicable; and 29 CFR Part 1911.

\* \* \* \* \*

4. Paragraph (n)(2)(i)(C) of § 1910.1052 is revised to read as follows:

**§ 1910.1052 Methylene chloride.**

\* \* \* \* \*

- (n) \* \* \*
- (2) \* \* \*
- (i) \* \* \*

(C) For all other employers, within 150 days after the effective date of this section.

\* \* \* \* \*

[FR Doc. 97-20890 Filed 8-7-97; 8:45 am]

BILLING CODE 4510-26-M

**DEPARTMENT OF THE INTERIOR**

**Minerals Management Service**

**30 CFR Part 250**

RIN 1010-AC11

**Outer Continental Shelf Civil Penalties**

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

**ACTION:** Final rule.

**SUMMARY:** This rule revises MMS regulations governing the Outer Continental Shelf (OCS) Civil Penalty Program. MMS is revising these regulations to clarify and simplify assessing and collecting OCS civil penalties. In addition, MMS is adjusting the maximum civil penalty per day per violation from \$20,000 to \$25,000 due to inflation.

**EFFECTIVE DATE:** October 7, 1997.

**FOR FURTHER INFORMATION CONTACT:** Greg Gould, Program Coordinator, at (703) 787-1591 or fax (703) 787-1575.

**SUPPLEMENTARY INFORMATION:**

**Background**

MMS proposed revising the regulations for civil penalties in a notice of proposed rulemaking published in the **Federal Register** (61 FR 66967) on December 19, 1996. We received one comment during the 90-day comment period, which closed on March 19, 1997. This final rule revises the regulations at 30 CFR 250.200.

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 OCS Lands Act.

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.

**Intent of Proposed Rule**

The goal of the proposed rule was to rewrite the regulations at 30 CFR part 250, subpart N to simplify the language into "plain English." The new question-and-answer format provides a better understanding of the OCS civil penalty process.

Besides simplifying the regulations, MMS proposed to increase the maximum civil penalty to \$25,000 per day per violation. The provisions of OPA 90 require the Secretary to adjust at least every 3 years the maximum civil penalty to reflect any increases in the Consumer Price Index for all-urban consumers (CPI-U) as prepared by the Department of Labor.

**Comments on the Rule**

One major oil company commented on the rule. The company strongly opposed the amount of the increase to the maximum civil penalty. In particular, the company believed that rounding to the nearest \$5,000 was inappropriate, and recommended rounding to the nearest \$500.

**Response to the Comments**

In computing the new civil penalty maximum amount, MMS divided the August 1995 CPI-U by the August 1990 CPI-U and multiplied the resulting value by the current maximum civil penalty (152.5/131.6=1.159; 1.159x20,000=23,180)

Section 5(a) of Pub. L. 101-410 provides that "Any increase determined under this subsection shall be rounded to the nearest multiple of \$5,000 in the case of penalties greater than \$10,000 but less than or equal to \$100,000." Therefore, MMS rounded the maximum civil penalty from \$23,180 to \$25,000 based on the formula provided in the law. The final rule also includes a few

other changes from the proposed rule that are not substantive.

**Executive Order (E.O.) 12866**

This final rule is significant under E.O. 12866 and has been reviewed by the Office of Management and Budget (OMB).

**Regulatory Flexibility Act**

The Department of the Interior (DOI) has determined that this final rule will not have a significant effect on a substantial number of small entities. In general, the entities that engage in offshore activities are not considered small because of the technical and financial resources and experience necessary to safely conduct such activities. DOI also determined that the indirect effects of this final rule on small entities that provide support for offshore activities are small.

**Paperwork Reduction Act**

The final rule does not contain collections of information that require approval by OMB under 44 U.S.C. 3501, *et seq.* The requirements in subpart N are exempted as defined in 5 CFR 1320.4(a)(2) and 1320.4(c).

**Taking Implication Assessment**

DOI certifies that this final rule does not represent a governmental action capable of interference with constitutionally protected property rights. Thus, DOI does not need to prepare a Takings Implication Assessment pursuant to E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

**Unfunded Mandates Reform Act of 1995**

DOI has determined and certifies according to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this final rule will not impose a cost of \$100 million or more in any given year on State, local, and tribal governments, or the private sector.

**E.O. 12988**

DOI has certified to OMB that the final rule meets the applicable reform standards provided in sections 3(a) and 3(b)(2) of E.O. 12988.

**National Environmental Policy Act**

DOI determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment; therefore, an Environmental Impact Statement 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: June 19, 1997.

**Sylvia V. Baca,**

*Acting Assistant Secretary, Land and Minerals Management.*

For the reasons stated in the preamble, Minerals Management Service (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. Subpart N is revised to read as follows:

**Subpart N—Outer Continental Shelf (OCS) Civil Penalties**

Sec.

- 250.200 How does MMS begin the civil penalty process?
- 250.201 Index table.
- 250.202 Definitions.
- 250.203 What is the maximum civil penalty?
- 250.204 Which violations will MMS review for potential civil penalties?
- 250.205 When is a case file developed?
- 250.206 When will MMS notify me and provide penalty information?
- 250.207 How do I respond to the letter of notification?
- 250.208 When will I be notified of the Reviewing Officer's decision?
- 250.209 What are my appeal rights?

**Subpart N—Outer Continental Shelf (OCS) Civil Penalties**

**§ 250.200 How does MMS begin the civil penalty process?**

This subpart explains MMS's civil penalty procedures whenever a lessee, operator or other person engaged in oil, gas, sulphur or other minerals operations in the OCS has a violation. Whenever MMS determines, on the basis of available evidence, that a violation occurred and a civil penalty review is appropriate, it will prepare a case file. MMS will appoint a Reviewing Officer.

**§ 250.201 Index Table.**

The following table is an index of the sections in this subpart:

**§ 250.201 Table.**

	Section
Definitions .....	250.202
What is the maximum civil penalty? .....	250.203
Which violations will MMS review for potential civil penalties? .....	250.204
When is a case file developed? ...	250.205
When will MMS notify me and provide penalty information? .....	250.206
How do I respond to the letter of notification? .....	250.207
When will I be notified of the Reviewing Officer's decision? .....	250.208
What are my appeal rights? .....	250.209

**§ 250.202 Definitions.**

Terms used in this subpart have the following meaning:

*Case file* means an MMS document file containing information and the record of evidence related to the alleged violation.

*Civil penalty* means a fine. It is an MMS regulatory enforcement tool used in addition to Notices of Incidents of Noncompliance and directed suspensions of production or other operations.

*I, me* in a question or *you* in a response means the person, or agent of a person engaged in oil, gas, sulphur, or other minerals operations in the Outer Continental Shelf (OCS).

*Person* means, in addition to a natural person, an association (including partnerships and joint ventures), a State, a political subdivision of a State, or a private, public, or municipal corporation.

*Reviewing Officer* means an MMS employee assigned to review case files and assess civil penalties.

*Violation* means failure to comply with the Outer Continental Shelf Lands Act (OCSLA) or any other applicable laws, with any regulations issued under the OCSLA, or with the terms or provisions of leases, licenses, permits, rights-of-way, or other approvals issued under the OCSLA.

*Violator* means a person responsible for a violation.

**§ 250.203 What is the maximum civil penalty?**

The maximum civil penalty is \$25,000 per day violation.

**§ 250.204 Which violations will MMS review for potential civil penalties?**

MMS will review each of the following violations for potential civil penalties:

(a) Violations that you do not correct within the period MMS grants;

(b) Violations that MMS determines may constitute a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), property, any mineral deposit, or the marine, coastal, or human environment; or

(c) Violations that cause serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), property, any mineral deposit, or the marine, coastal, or human environment.

**§ 250.205 When is a case file developed?**

MMS will develop a case file during its investigation of the violation, and forward it to a Reviewing Officer if any of the conditions in § 250.204 exist. The Reviewing Officer will review the case file and determine if a civil penalty is appropriate. The Reviewing Officer may administer oaths and issue subpoenas requiring witnesses to attend meetings, submit depositions, or produce evidence.

**§ 250.206 When will MMS notify me and provide penalty information?**

If the Reviewing Officer determines that a civil penalty should be assessed, the Reviewing Officer will send the violator a letter of notification. The letter of notification will include:

- (a) The amount of the proposed civil penalty;
- (b) Information on the alleged violation(s); and
- (c) Instruction on how to obtain a copy of the case file, schedule a meeting, submit information, or pay the penalty.

**§ 250.207 How do I respond to the letter of notification?**

You have 30 calendar days after you receive the Reviewing Officer's letter to either:

- (a) Request, in writing, a meeting with the Reviewing Officer;
- (b) Submit additional information; or
- (c) Pay the proposed civil penalty.

**§ 250.208 When will I be notified of the Reviewing Officer's decision?**

At the end of the 30 calendar days or after the meeting and submittal of additional information, the Reviewing Officer will review the case file, including all information you submitted, and send you a decision. The decision will include the amount of any final civil penalty, the basis for the civil penalty, and instructions for paying or appealing the civil penalty.

**§ 250.209 What are my appeal rights?**

When you receive the Reviewing Officer's decision, you must either pay

the penalty or file an appeal with MMS under part 290 of this chapter. If you do not either pay the penalty or file a timely appeal, MMS will take one or more of the following actions:

(a) MMS will collect the amount you were assessed, plus interest, late payment charges, and other fees as provided by law, from the date of assessment until the date MMS receives payment;

(b) MMS may initiate additional enforcement proceedings including, if appropriate, cancellation of the lease, right-of-way, license, permit, or approval, or the forfeiture of a bond under this part; or

(c) MMS may bar you from doing further business with the Federal Government according to Executive Orders 12549 and 12689, and section 2455 of the Federal Acquisition Streamlining Act of 1994, 31 U.S.C. 6101. The Department of the Interior's regulations implementing these authorities are found at 43 CFR part 62, subpart D.

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## DEPARTMENT OF THE INTERIOR

### 30 CFR Part 250

RIN 1010-AC12

#### Safety and Pollution Prevention Equipment Quality Assurance Requirements

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

**ACTION:** Final rule.

**SUMMARY:** This rule amends the regulations governing the quality assurance (QA) program for safety and pollution prevention equipment (SPPE) used on the Outer Continental Shelf (OCS). The rule requires lessees to install only QA certified SPPE after April 1, 1998. However, the rule allows the continued use of noncertified SPPE installed prior to April 1, 1998, provided the equipment does not require remanufacturing. Amendments to the rule reduce the paperwork burden on both industry and MMS and ensure that OCS lessees continue to use the best available and safest equipment.

**EFFECTIVE DATE:** September 8, 1997. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of September 8, 1997.

**FOR FURTHER INFORMATION CONTACT:** Bill Hauser, Engineering and Research Branch, at (703) 787-1613.

#### SUPPLEMENTARY INFORMATION:

##### Background

MMS proposed revising the regulations for the SPPE program in a notice of proposed rulemaking published in the **Federal Register** (61 FR 66639) on December 18, 1996. We received two sets of comments during the 60-day comment period, which closed on February 18, 1997. This final rule amends the regulations found at 30 CFR 250.126.

To fully understand this rule, you need to know that SPPE consists of the following equipment: surface safety valves (SSV) and their actuators; underwater safety valves and their actuators; and subsurface safety valves (SSSV) and associated safety valve locks and landing nipples. MMS requires lessees to install SPPE in their wells to protect the safety of personnel and to prevent the accidental release of produced fluids or gases (thus the name safety and pollution prevention equipment). Certified SPPE means that the manufacturer built the equipment under a QA program recognized by MMS. Noncertified SPPE is SPPE that was not manufactured under a recognized QA program but was in a lessee's inventory on April 1, 1988. MMS required each lessee to submit a list of this inventory to MMS by August 29, 1988.

##### Intent of Proposed Rule

The proposed rule had two goals: (1) to reduce the paperwork associated with the SPPE QA regulations and (2) to ensure that lessees continue to use high quality SPPE on the OCS. To reduce paperwork, the proposed rule eliminated the need for companies to update their list of noncertified SPPE. It also eliminated the detailed reporting requirements regarding the installation and failure of certified equipment.

The proposed rule addressed the quality of SPPE by limiting the use of noncertified SPPE. Under the proposed rule a lessee could not install noncertified SPPE after April 1, 1998. In addition, a lessee would have to replace noncertified SPPE already in service with certified SPPE when one of the following conditions occurred:

- (1) Noncertified SPPE failed during normal operations,
- (2) Noncertified SPPE failed during testing, or
- (3) Noncertified SPPE was removed from service for any other reason.

##### Comments on the Rule

The Offshore Operators Committee (OOC) and a major oil company were the only two commenters on the rule.

OOC, an organization that represents 85 companies that operate in the Gulf of Mexico, commended MMS' effort to reduce the paperwork associated with the program, but strongly objected to replacing noncertified SPPE with certified SPPE as proposed by the rule. They stated that the rules should allow noncertified SPPE to stay in service as long as it functions properly. Replacement of an internal seal or temporary removal from a well during routine operations should not prohibit the use of noncertified SPPE after it has functioned acceptably for many years. OOC recommended that MMS should require replacement only when the noncertified SPPE has to be remanufactured.

OOC estimated that approximately 3,000 noncertified SSV's and 1,000 noncertified SSSV's remain in service on the OCS. OOC estimated that the cost to replace these noncertified SPPE would be \$51,000,000. Their estimate did not include the cost to replace noncertified landing nipples for the SSSV.

The major oil company endorsed OOC's comments. It reiterated that the rule should require replacement of noncertified SPPE only when it must be re-manufactured or repaired by hot work, such as welding.

##### Response to Comments

After review of the comments, MMS agrees that the rule should not prohibit the use of noncertified SPPE if it requires only minor repairs, such as the replacement of a seal. Therefore, we have revised the final rule to require replacement of noncertified SPPE only when the noncertified SPPE requires offsite repair, remanufacturing, or hot work, such as welding. This will allow lessees to continue using noncertified SPPE provided the equipment works properly, and when necessary, requires only minor repairs. Once noncertified SPPE requires offsite repair, remanufacturing, or hot work, it may not be used on the OCS. MMS believes this restriction helps ensure that lessees continue to use high quality SPPE.

MMS plans to examine the performance of noncertified and certified SPPE as part of a research study that will examine leakage rates and testing criteria for SPPE. This research will begin this year. We invite and encourage industry participation in this research study. The results will impact future rulemaking on SPPE testing requirements.

We also clarified § 250.126(b)(2) of the rule to state that a lessee may not install additional noncertified SPPE after April 1, 1998.