

CFR part or section where identified and described	Current OMB control No.
* * * *	*
1.274-5 .....	1545-0139 1545-0771
* * * *	*

2. Adding an entry in numerical order to the table to read as follows:

CFR part or section where identified and described	Current OMB control No.
* * * *	*
1.274-5A .....	1545-0139 1545-0771
* * * *	*

**Margaret Milner Richardson,**  
*Commissioner of Internal Revenue.*

Approved: February 14, 1997.

**Donald C. Lubick,**

*Acting Assistant Secretary of the Treasury.*

[FR Doc. 97-7095 Filed 3-24-97; 8:45 am]

BILLING CODE 4830-01-U

**MINE SAFETY AND HEALTH ADMINISTRATION**

**30 CFR Part 3**

**OMB Control Numbers Under the Paperwork Reduction Act**

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Final rule; technical amendment.

**SUMMARY:** The Mine Safety and Health Administration (MSHA) is amending its regulations to display the control number approved by the Office of Management and Budget (OMB) for information collection required in the final rule for the Approval, Exhaust Gas Monitoring, and Safety Requirements for the Use of Diesel-Powered Equipment in Underground Coal Mines. The Paperwork Reduction Act requires agencies to display OMB control numbers for information collections. This notice fulfills MSHA's obligation.

**EFFECTIVE DATE:** March 24, 1997.

**FOR FURTHER INFORMATION CONTACT:** Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, VA 22203-1984; 703-235-1910 (voice); psilvey@msha.gov (internet e-mail); or 703-235-5551 (facsimile).

**SUPPLEMENTARY INFORMATION:** MSHA published a final rule presenting the

OMB control numbers in a new table format which was codified in 30 CFR Part 3 on June 29, 1995 (60 FR 33719). This fulfilled the requirements of 44 U.S.C. 3507(f) of the Paperwork Reduction Act which prohibits an agency from engaging in a collection of information without displaying the control number obtained from OMB. The table lists the part and section numbers with information collection requirements and the corresponding OMB control numbers.

MSHA submitted new information collection requirements contained in parts 7 and 75 of the final rule on the approval, exhaust gas monitoring, and safety requirements for the use of diesel-powered equipment in underground coal mines for OMB review on October 22, 1996. The final rule was published on October 25, 1996. OMB approved the paperwork requirements under control number 1219-0119 on November 26, 1996.

MSHA has determined that public notice and comment is unnecessary in this technical amendment to rulemaking. Information collection requirements go through the public review process as part of the rule to which it applies. Likewise, the renewal of an OMB control number also requires public review. As a result, MSHA finds that there is "good cause" under 5 U.S.C., 553 (b)(B) of the Administrative Procedure Act (APA) to issue this amendment to Table 1 in 30 CFR Part 3 without prior public notice and comment. MSHA has determined there is no need to delay the effective date because the technical amendment contains no new requirements for which the public would need time to plan compliance beyond that provided for in the regulation itself. MSHA finds, therefore, that there is "good cause" to except this action from the 30-day delayed effective date requirement under 5 U.S.C. 553 (d)(3) of the APA.

**List of Subjects in 30 CFR Part 3**

Reporting and recordkeeping requirements.

Dated: March 12, 1997.

**J. Davitt McAteer,**

*Assistant Secretary for Mine Safety and Health.*

Accordingly, under the authority of 30 U.S.C. 957, chapter I of title 30, Code of Federal Regulation is amended as set forth below.

**PART 3—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT**

1. The authority citation for part 3 continues to read as follows:

**Authority:** 30 U.S.C. 957; 44 U.S.C. 3501-3520.

2. Table 1 in 3.1 is amended by adding the following sections and corresponding control numbers in numerical order:

30 CFR citation	OMB control No.
7.83 .....	1219-0119
7.90 .....	1219-0119
7.97 .....	1219-0119
7.105 .....	1219-0119
75.363 .....	1219-0119
75.371(r), (kk), (ll), (mm), (nn), (oo), and (pp) .....	1219-0119
75.1901(a) .....	1219-0119
75.1904(b)(4) .....	1219-0119
75.1911(i) and (j) .....	1219-0119
75.1912(h) and (i) .....	1219-0119
75.1914(f), (g)(5), and (h) .....	1219-0119
75.1915(a), (b)(5), and (c) .....	1219-0119

[FR Doc. 97-7480 Filed 3-24-97; 8:45 am]

BILLING CODE 4510-43-P

**DEPARTMENT OF THE INTERIOR**

**Minerals Management Service**

**30 CFR Parts 250 and 254**

RIN 1010-AB81

**Response Plans for Facilities Located Seaward of the Coast Line**

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

**ACTION:** Final rule.

**SUMMARY:** This final rule revises the current interim final rule governing response plans for facilities located seaward of the coast line. The rule will bring MMS regulations into conformance with the Oil Pollution Act of 1990 (OPA). Revisions to existing rules will delete previous MMS requirements that are similar to requirements of this rule. The final rule will combine MMS requirements for oil-spill contingency plans for facilities in both State and Federal waters seaward of the coast line.

**EFFECTIVE DATE:** June 23, 1997.

**FOR FURTHER INFORMATION CONTACT:** Lawrence H. Ake, Engineering and Research Branch, at (703) 787-1567.

**SUPPLEMENTARY INFORMATION:**

**Background and Purpose**

In August 1990, Congress passed OPA which, among other things, amended section 311(j) of the Federal Water Pollution Control Act (FWPCA) by strengthening provisions concerning oil-spill prevention efforts and spill-response capability.

Under Executive Order (E.O.) 12777, MMS has responsibility under FWPCA for issuing regulations requiring owners or operators of offshore facilities to prepare and submit spill-response plans. The FWPCA requires that owners or operators of offshore facilities, including associated pipelines, prepare and submit response plans. They must also ensure the availability of private personnel and equipment to contain discharges of oil and hazardous substances. The new authorities apply to all offshore areas including State submerged lands but not to deep-water ports subject to the Deepwater Port Act (33 U.S.C. 1501 *et seq.*).

MMS published an advance notice of proposed rulemaking (ANPR) in the **Federal Register** on August 12, 1992 (57 FR 36032-36034). That notice informed the public that MMS was developing regulations governing the establishment of procedures, methods, and equipment to prevent and contain discharges of oil and hazardous substances under section 311(j)(1)(C) of FWPCA; preparation and submission of response plans under section 311(j)(5) of FWPCA and section 4202(b)(4) of OPA; and periodic inspection of containment booms and response equipment under section 311(j)(6)(A) of FWPCA. The notice also solicited information concerning the development of these requirements.

MMS reviewed and analyzed the comments received from the ANPR and published a notice of proposed rulemaking (NPR) covering these requirements on January 13, 1995 (60 FR 3177-3184).

Prior to development of the proposed rule, MMS was faced with the need to allow owners and operators of facilities

to operate under an approved spill-response plan as soon as possible. This need was dictated by a mandate in section 4202(b)(4) of OPA, that owners or operators of facilities submit response plans by February 18, 1993. Failure to do so would mean that a facility could not be used to handle, store, or transport oil until the owner or operator submitted a plan. To meet this deadline, MMS developed an interim final rule that ensured that spill-response plans of sufficient quality were being developed. The interim final rule also provided a means for facility owners to comply with the February 18, 1993, deadline. This process ensured that spill-response plans were in place at the earliest possible date and that the beneficial environmental effects of spill-response plans were realized while more extensive regulations to implement OPA were being developed.

MMS originally established an expiration date for the interim rule of February 18, 1995. This date was subsequently deleted, and the interim rule remains in effect until the effective date of this final rule.

In developing this final rule, MMS has relied on comments from the regulated community as well as experience developed during review of plans under the interim final rule.

As with the interim rule, this final rule allows those with MMS approved spill-response plans for facilities in the Outer Continental Shelf (OCS) to expand those plans to include facilities in State waters of the same geographic area. Owners and operators of facilities in State waters with plans approved by the State must submit a copy of the plan to MMS, along with information pertaining to the approval. This rule

also allows owners and operators of facilities in State waters that do not fall in either of these categories to submit a plan based on the requirements for OCS facilities.

This rulemaking does not regulate animal or vegetable oils. MMS has determined that these oils are not handled in large quantities on offshore facilities and need not be addressed in this rule. MMS will evaluate whether to solicit public comment on the need for a future rulemaking covering these oils.

After publishing the NPR for this rule on January 13, 1995, MMS became involved in the National Response Team's effort to formulate integrated contingency plan (ICP) guidance. The ICP guidance is intended to provide a consistent format for emergency response plans. Since a particular facility may be subject to several Federal regulations, use of the ICP format will allow facility owners to address all the requirements in just one plan.

The ICP guidelines were published in the **Federal Register** on June 5, 1996 (61 FR 28641-28664). At that time, the other Federal agencies supporting the ICP process published regulatory cross-comparison matrices which showed where agency requirements could be placed under the ICP format. MMS did not provide a matrix because this rule was not yet completed. The following tables provide this matrix.

These tables may be used for guidance if you plan to submit your oil-spill response plan in the ICP format. You should submit a cross-reference with your plan that identifies the location of required sections if you choose to use any alternate format.

I. ICP DEVELOPMENT MATRIX

ICP elements	MMS requirements (30 CFR 254)
<b>Section I—Plan Introduction Elements</b>	
1. Purpose and scope of plan coverage .....	254.20; 254.50.
2. Table of contents .....	254.21.
3. Current revision date .....	254.22.
4. General facility identification information .....	254.22; 254.53(b).
a. Facility name	
b. Owner/operator/agent	
c. Physical address and directions .....	254.22; 254.53(b).
d. Mailing address	
e. Other identifying information	
f. Key contact(s) for plan development and maintenance	
g. Phone number for key contact(s)	
h. Facility phone number .....	254.23(d).
i. Facility fax number .....	254.23(d).
<b>Section II—Core Plan Elements</b>	
1. Discovery .....	254.23(f).
2. Initial response	
a. Procedures for internal and external notifications .....	254.23(g)(1).

I. ICP DEVELOPMENT MATRIX—Continued

ICP elements	MMS requirements (30 CFR 254)
b. Establishment of a response management structure .....	254.23(b).
c. Preliminary assessment	
d. Establishment of objectives and priorities for response, including: .....	254.23(g); 254.24(a).
(1) Immediate goals/tactical planning	
(2) Mitigating actions	
(3) Response resources	
e. Implementation of tactical plan	
f. Mobilization of resources .....	254.23(g) (4); (5).
3. Sustained actions .....	254.23(g) (6); (8).
4. Termination and followup actions	

Section III—Annexes

1. Facility and locality information .....	254.22(a); 254.53(b).
a. Facility maps .....	254.53(b).
b. Facility drawings	
c. Facility description/layout .....	254.22(a).
2. Notification	
a. Internal .....	254.23(g)(1).
b. Community .....	254.23(g)(1)(vi).
c. Federal and State agency .....	254.46; 254.23(g)(1)(vi).
3. Response management structure .....	254.23(b).
a. General .....	254.23(b).
b. Command	
(1) Facility incident commander and qualified individual .....	254.23(a).
(2) Information .....	254.23(b).
(3) Safety .....	254.23(b).
(4) Liaison .....	254.23(b).
c. Operations	
(1) Response objectives	
(2) Discharge or release control .....	254.23 (f); (g).
(3) Assessment/monitoring .....	254.23(g)(3).
(4) Containment .....	254.23(g) (4); (5).
(5) Recovery .....	254.23(g) (6); (7); (8).
(6) Decontamination	
(7) Nonresponder medical needs	
(8) Salvage plans	
d. Planning	
(1) Hazard assessment .....	254.26(c).
(2) Protection .....	254.26(c).
(3) Coordination with natural resource trustees .....	254.23(g)(1) (v); (vi).
(4) Waste management .....	254.23(g)(8).
e. Logistics	
(1) Medical needs	
(2) Site security	
(3) Communications .....	254.23(d).
(4) Transportation .....	254.26(d)(2).
(5) Personnel support	
(6) Equipment maintenance and support .....	254.24(b); 254.43.
f. Finance/procurement/administration	
(1) Resource list	
(2) Personnel .....	254.23 (a); (b); (c).
(3) Response equipment .....	254.24.
(4) Support equipment .....	254.26(d)(2).
(5) Contracting .....	254.25.
(6) Claims procedures	
(7) Cost documentation	
4. Incident documentation	
a. Post accident investigation	
b. Incident history .....	254.46(b)(2).
5. Training and exercises/drills .....	254.41; 254.42.
6. Response critique and plan review and modification process .....	254.30; 254.42(d).
7. Prevention .....	254.54.

II. REGULATION CROSS-COMPARISON MATRIX

MMS—30 CFR part 254	ICP citation(s)
254.1 Who must submit a response plan?	
254.2 When must I submit a response plan?	

II. REGULATION CROSS-COMPARISON MATRIX—Continued

MMS-30 CFR part 254	ICP citation(s)
254.3 May I cover more than one facility in my response plan?	
254.4 May I reference other documents in my response plan?	
254.5 General response plan requirements.	
254.6 Definitions.	
254.7 How do I submit my response plan to the MMS?	
254.8 May I appeal decisions under this rule?	
254.9 Authority for information collection.	
254.20 Purpose .....	I.1.
254.21 How must I format my response plan? .....	I.2.
254.22 What information must I include in the "Introduction and plan contents" section? .....	I.2; I.3; I.4 (c), (e); III.8.
254.23 What information must I include in the "Emergency response action plan" section? .....	II.1; II.2(a); II.2(d); II.2(f); III.2; III.3(b)(1).
254.24 What information must I include in the "Equipment inventory" appendix? .....	III.3(f)(3).
254.25 What information must I include in the "Contractual agreements" appendix? .....	III.3(f)(5).
254.26 What information must I include in the "Worst case discharge scenario" appendix? .....	III.3(d).
254.27 What information must I include in the "Dispersant use plan" appendix? .....	III.3(c).
254.28 What information must I include in the "In situ burning plan" appendix? .....	III.3(c).
254.29 What information must I include in the "Training and drills" appendix? .....	III.5.
254.30 When must I revise my spill plan? .....	III.6.
254.40 Records.	
254.41 Training your personnel .....	III.5.
254.42 Exercises for your response personnel and equipment .....	III.5.
254.43 Maintenance and periodic inspection of response equipment	
254.44 Calculating response equipment effective daily recovery capacities	
254.45 Verifying the capabilities of your response equipment	
254.46 Whom do I notify if an oil spill occurs? .....	III.2.
254.47 Determining the volume of oil of your worst case discharge scenario .....	III.3(d)
254.50 Spill-response plans for facilities located in State waters seaward of the coast line	
254.51 Modifying an existing OCS response plan	
254.52 Following the format for an OCS response plan	
254.53 Submitting a response plan developed under State requirements	
254.54 Spill prevention for facilities located in State waters seaward of the coast line .....	III.7.

**Discussion of Comments and Changes**

MMS received 32 letters commenting on the NPR. The following discussion summarizes these comments and the substantive changes made to the final rule. MMS has also restructured the regulation into a more readable and user-friendly format. A simplified question and answer format has been used, and the rule has been separated into subparts. The following discussion generally follows the order of the sections in the proposed rule.

*General Comments*

Several letters contained questions about other MMS regulations for oil-spill contingency plans currently found at 30 CFR 250.42 and 250.43. These comments questioned whether the proposed regulations were in addition to those spill-response requirements. The answer is no. The new requirements of this rule, which will be located in 30 CFR part 254, are intended to supersede those regulations which are removed from part 250 with this rule.

One comment pointed out that the rule does not contain an appeals process. We have added a section explaining the appeals process.

Several comments addressed the issue of hazardous substance response planning. They complained that some of the proposed requirements duplicated requirements of the Environmental Protection Agency (EPA). Another comment suggested that it would be prudent for MMS to follow the example of other agencies and separate hazardous discharge response planning from this rule and address that subject later. MMS agrees and is not now issuing response planning requirements for hazardous materials. Typically, hazardous substances are used in very limited quantities on offshore facilities. We are presently collecting additional information on the types and quantities of hazardous substances used offshore. MMS is also monitoring the development of other Federal requirements on this subject. The U.S. Coast Guard will provide MMS and other Federal agencies with the public responses to their recent ANPR on hazardous substance response planning. MMS will proceed with rulemaking concerning response planning for hazardous materials after we determine more precisely the extent of hazardous substance usage and can develop a rule that will act in concert with other

regulations currently being developed by other agencies.

Several comments stressed that the rule should specifically mention that pipelines would not require a plan after they had been abandoned in place. Others felt it burdensome to maintain current plans for wells or facilities that had been temporarily abandoned. We changed the rule to show that an owner or operator no longer needs to maintain a plan after it has received written notice from the Regional Supervisor that a plan is no longer required.

Many commenters felt that MMS did not need to request that copies of contracts with oil-spill response organizations be included with the response plan. They cited the voluminous nature of many of these contracts as a primary reason. MMS agrees, and the final rule allows owners and operators to certify that such contracts exist but does not require their submission.

Several comments criticized that the rule as proposed would require compliance without allowing sufficient time to prepare a new plan. We have changed the final rule in two areas. First, the effective date of the rule has been set at 90 days after publication in the **Federal Register**. Second, owners

and operators with currently approved plans do not have to submit plans complying with this rule until the next update of their plan is due. The Regional Supervisor may extend this deadline upon request.

MMS received several comments arguing that MMS's definition for "coast line" was confusing. The wording, however, was taken from the Submerged Lands Act, and where oil production activities are underway, the line has been delineated and adopted by the courts. It is used here because MMS also uses this established line in a memorandum of understanding (MOU) with other Federal agencies that administer spill response planning under OPA. In this MOU, MMS negotiated a redelegation of its responsibilities for "offshore" facilities located landward of the coast line to other Federal agencies with existing inland regulatory capabilities and responsibilities. (This redelegation was published in the **Federal Register** on February 28, 1994 (59 FR 9494)). These facilities located landward of the coast line may have to file spill-response plans with the EPA or the Department of Transportation. Our aim was to have each agency regulate the type of facility that it has historically regulated. MMS attempted to use a clearly definable line that would segregate the majority of facilities correctly. Some facilities, however, are clearly of the type used offshore yet lie landward of this demarcation line. If you feel that your facility falls into this category, you may contact the Regional Supervisor, agreeing to accept the jurisdiction of MMS and requesting that the agency with jurisdiction relinquish jurisdiction over your facility to MMS.

The proposed rule defined the 'qualified individual' (QI) as a member of the spill management team that directs the response to an oil spill. Several comments pointed out that this went beyond the requirements of OPA and stated that it was not necessary for the qualified individual to perform these duties. MMS has amended this language in the final rule.

Many comments noted that 'adverse weather' should be defined to exclude hurricane conditions. MMS agrees that hurricane conditions, when no response to a spill is practical, should be excluded from the definition.

MMS received several comments that were critical of the fact that the proposed rule included condensate in the definition of oil. The commenters felt the rule would be burdensome for owners and operators that handled only small volumes of condensate, since spills from those facilities would

dissipate rapidly with minimal environmental effect. The definition has been left intact. MMS feels that the Regional Supervisors are best able to deal with these situations on a case-by-case basis. The Regional Supervisors have the authority to reduce plan requirements if they feel that a spill from the facility poses little or no risk to the environment.

The definition of owner and operator has been changed to more closely follow the definition in the Clean Water Act.

Several comments argued that an in situ burning plan should only be required if burning was already authorized in the appropriate Area Contingency Plan (ACP). However, regardless of the current language in an ACP, the Federal On Scene Coordinator has the authority to permit burning on a case-by-case basis to prevent or reduce hazard to human life. Additionally, the Region VI Regional Response Team, which oversees the Federal Region where most offshore facilities are located, has established a preapproval zone for in situ burning. MMS believes that this option for spill removal is important in the offshore environment and will leave the requirement in the rule.

We received many comments concerning the worst case spill scenario. The major problem cited was the requirement to use a 30-day *total* of the oil that could escape from an uncontrolled flowing well as a worst case for a production or drilling facility. Commenters felt that using the *total* from 30 days flow was unrealistic and represented an unreasonable scenario. MMS has amended this language to clarify how the scenario should describe responding to a well that flows for 30 days. The scenario should demonstrate how you would remove, store, and dispose of the oil escaping from an uncontrolled well on a daily basis for 30 days. MMS does not intend that the rule be read to require you to demonstrate how you would respond to the 30-day total flow from the well as if it had occurred in a short period of time, as could happen in a tanker accident.

MMS received several comments concerning referencing of material in the plan. The comments suggested including specific statements throughout the rule allowing material to be referenced rather than included in the plan. MMS has instead inserted a general statement on referencing in the plan that applies to the entire document.

Several commenters expressed the opinion that a response to an actual oil spill should be treated as a drill for training purposes if proper evaluations

are made and records kept. This would be consistent with the National Preparedness for Response Exercise Program (PREP) Guidelines that were produced as a unified Federal effort. MMS modified the rule to allow owners or operators to take training credit for an actual spill response when they generate proper records.

MMS received several comments pointing out that oil spills must be reported to the National Response Center as required by law. These comments urged MMS to not require duplicate reporting of spills. Current regulations require the reporting of all spills, regardless of size, to MMS. In response to these comments, MMS has dropped the requirement that spills of less than 1 barrel be reported to MMS. This change will reduce the reporting burden for operators by more than 95 percent. MMS believes that it is important that the agency be notified of spills greater than 1 barrel, and this requirement will remain.

Several commenters felt that the requirement to submit revisions to the plan were too onerous and unrealistic. We made several changes in response to these comments. First, we changed the requirement for an annual update to require a complete review and update every 2 years. Second, we deleted several requirements that require notification and approval. We still require notification and approval for substantive changes that affect the ability to respond to the worst case spill scenario.

MMS received several comments that were critical of the requirement that plans include the steps taken to prevent spills from facilities located in State waters. The commenters felt that the rule gave the MMS Regional Supervisor open ended authority to require additional spill prevention measures in State waters. The rule has been modified to make it clear that the Regional Supervisor would only require additional prevention measures when it is determined that efforts to prevent spills do not reflect good industry practices. MMS does not presently plan to create new prevention regulations for facilities in State waters. However, MMS does plan to work with coastal States to ensure that sufficient State oversight is in place to ensure that the objectives of OPA are met. MMS expects and intends that the States will assume primary responsibility for spill prevention associated with facilities in their waters. As a first step in this process, MMS has signed MOU's with the major oil producing coastal States concerning the regulation and inspection of offshore facilities. The

MOU's are designed to help ensure that Federal and State regulations are compatible, encourage uniform enforcement strategies, and provide for joint Federal and State inspections, drills, and investigations.

**Author**

Larry Ake, Engineering and Research Branch, MMS, prepared this document.

**E.O. 12866**

This rule was reviewed under E.O. 12866. The Department of the Interior (DOI) has determined that the rule is not a significant rule under the criteria of E.O. 12866 and, therefore, the rule was not reviewed by the Office of Management and Budget (OMB).

**Regulatory Flexibility Act**

DOI has determined that this final rule will not have a significant economic effect on a substantial number of small entities. This rule will not have a significant economic effect on any entity, regardless of size. Any minor effects of this rulemaking will primarily affect lessees and operators—entities that are not, by definition, small due to the technical complexities and financial resources necessary to conduct OCS activities. The indirect effects of this rulemaking on small entities that provide support for offshore activities were also determined to be small.

**Paperwork Reduction Act**

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), OMB approved the information collection requirements in the NPR covering 30 CFR part 254. The OMB control number is 1010-0091. 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 OMB control number.

All comments, including any on the information collection aspects of the NPR, are discussed in an earlier section of the preamble. The final rule changes the structure of the regulation, thereby changing the citations for the information collection requirements. However, no significant changes to the information collection resulted from the comments and restructuring or other revisions in the final rule.

MMS estimates the public reporting burden for this information collection will average approximately 107 hours per response. This includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection.

**Takings Implication Assessment**

DOI determined 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.

**E.O. 12988**

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

**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 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.

**National Environmental Policy Act**

DOI determined that this rule 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**

**30 CFR Part 250**

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference, 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.

**30 CFR Part 254**

Continental shelf, Environmental protection, Oil and gas development and production, Oil and gas exploration, Pipelines, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements.

Dated: March 13, 1997.

**Bob Armstrong,**

*Assistant Secretary, Land and Minerals Management.*

For the reasons stated in the preamble, the Minerals Management Service (MMS) amends 30 CFR parts 250 and 254 as follows:

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

1. The authority for part 250 continues to read as follows:

**Authority:** 43 U.S.C. 1334.

2. The last sentence of § 250.19(a) is revised to read as follows:

**§ 250.19 Accident reports.**

(a) \* \* \* All spills of oil or other liquid pollutants must be reported as described in § 254.46.

\* \* \* \* \*

3. Section 250.33(b)(2) of subpart B is revised to read as follows:

**§ 250.33 Exploration Plan.**

\* \* \* \* \*

(b) \* \* \*

(2) An oil-spill response plan as described in part 254 or reference to an approved Regional Response Plan.

\* \* \* \* \*

4. Section 250.34(b)(3) of subpart B is revised to read as follows:

**§ 250.34 Development and Production Plan.**

\* \* \* \* \*

(b) \* \* \*

(3) A description of the environmental safeguards to be implemented, including an updated oil-spill response plan as described in part 254 of this chapter or reference to an approved plan.

\* \* \* \* \*

**§ 250.41 [Heading revised]**

5. The heading of § 250.41 of subpart C is revised to read "Inspection of facilities."

**§ 250.41 [Amended]**

6. Paragraphs (b) and (c) of § 250.41 are removed.

**§ 250.42 [Removed]**

7. Section 250.42 of subpart C is removed.

**§ 250.43 [Removed]**

8. Section 250.43 of subpart C is removed.

9. Part 254 is revised to read as follows:

**PART 254—OIL-SPILL RESPONSE REQUIREMENTS FOR FACILITIES LOCATED SEAWARD OF THE COAST LINE**

**Subpart A—General**

Sec.

254.1 Who must submit a spill-response plan?

254.2 When must I submit a response plan?

254.3 May I cover more than one facility in my response plan?

- 254.4 May I reference other documents in my response plan?
- 254.5 General response plan requirements.
- 254.6 Definitions.
- 254.7 How do I submit my response plan to the MMS?
- 254.8 May I appeal decisions under this rule?
- 254.9 Authority for information collection.

#### Subpart B—Oil-Spill Response Plans for Outer Continental Shelf Facilities

- 254.20 Purpose.
- 254.21 How must I format my response plan?
- 254.22 What information must I include in the "Introduction and plan contents" section?
- 254.23 What information must I include in the "Emergency response action plan" section?
- 254.24 What information must I include in the "Equipment inventories" appendix?
- 254.25 What information must I include in the "Contractual agreements" appendix?
- 254.26 What information must I include in the "Worst case discharge scenario" appendix?
- 254.27 What information must I include in the "Dispersant use plan" appendix?
- 254.28 What information must I include in the "In situ burning plan" appendix?
- 254.29 What information must I include in the "Training and drills" appendix?
- 254.30 When must I revise my response plan?

#### Subpart C—Related Requirements for Outer Continental Shelf Facilities

- 254.40 Records.
- 254.41 Training your response personnel.
- 254.42 Exercises for your response personnel and equipment.
- 254.43 Maintenance and periodic inspection of response equipment.
- 254.44 Calculating response equipment effective daily recovery capacities.
- 254.45 Verifying the capabilities of your response equipment.
- 254.46 Whom do I notify if an oil spill occurs?
- 254.47 Determining the volume of oil of your worst case discharge scenario.

#### Subpart D—Oil-Spill Response Requirements for Facilities Located in State Waters Seaward of the Coast Line

- 254.50 Spill-response plans for facilities located in State waters seaward of the coast line.
- 254.51 Modifying an existing OCS response plan.
- 254.52 Following the format for an OCS response plan.
- 254.53 Submitting a response plan developed under State requirements.
- 254.54 Spill prevention for facilities located in State waters seaward of the coast line.

Authority: 33 U.S.C. 1321

#### Subpart A—General

##### § 254.1 Who must submit a spill-response plan?

(a) If you are the owner or operator of an oil handling, storage, or transportation facility, and it is located seaward of the coast line, you must submit a spill-response plan to MMS for approval. Your spill-response plan must demonstrate that you can respond quickly and effectively whenever oil is discharged from your facility. Refer to § 254.6 for the definitions of "oil," "facility," and "coast line" if you have any doubts about whether to submit a plan.

(b) You must maintain a current response plan for an abandoned facility until you physically remove or dismantle the facility or until the Regional Supervisor notifies you in writing that a plan is no longer required.

(c) Owners or operators of offshore pipelines carrying essentially dry gas do not need to submit a plan. You must, however, submit a plan for a pipeline that carries:

- (1) Oil;
- (2) Condensate that has been injected into the pipeline; or
- (3) Gas and naturally occurring condensate.

(d) If you are in doubt as to whether you must submit a plan for an offshore facility or pipeline, you should check with the Regional Supervisor.

(e) If your facility is located landward of the coast line, but you believe your facility is sufficiently similar to OCS facilities that it should be regulated by MMS, you may contact the Regional Supervisor, offer to accept MMS jurisdiction over your facility, and request that MMS seek from the agency with jurisdiction over your facility a relinquishment of that jurisdiction.

##### § 254.2 When must I submit a response plan?

(a) You must submit, and MMS must approve, a response plan that covers each facility located seaward of the coast line before you may use that facility. To continue operations, you must operate the facility in compliance with the plan.

(b) Despite the provisions of paragraph (a) of this section, you may operate your facility after you submit your plan while MMS reviews it for approval. To operate a facility without an approved plan, you must certify in writing to the Regional Supervisor that you have the capability to respond, to the maximum extent practicable, to a worst case discharge or a substantial threat of such a discharge. The certification must show that you have

ensured by contract, or other means approved by the Regional Supervisor, the availability of private personnel and equipment necessary to respond to the discharge. Verification from the organization(s) providing the personnel and equipment must accompany the certification. MMS will not allow you to operate a facility for more than 2 years without an approved plan.

(c) If you have a plan that MMS already approved, you are not required to immediately rewrite the plan to comply with this part. You must, however, submit the information this regulation requires when submitting your first plan revision (see § 254.30) after the effective date of this rule. The Regional Supervisor may extend this deadline upon request.

##### § 254.3 May I cover more than one facility in my response plan?

(a) Your response plan may be for a single lease or facility or a group of leases or facilities. All the leases or facilities in your plan must have the same owner or operator (including affiliates) and must be located in the same MMS Region (see definition of Regional Response Plan in § 254.6).

(b) Regional Response Plans must address all the elements required for a response plan in Subpart B, *Oil Spill Response Plans for Outer Continental Shelf Facilities*, or Subpart D, *Oil Spill Response Requirements for Facilities Located in State Waters Seaward of the Coast Line*, as appropriate.

(c) When developing a Regional Response Plan, you may group leases or facilities subject to the approval of the Regional Supervisor for the purposes of:

- (1) Calculating response times;
- (2) Determining quantities of response equipment;
- (3) Conducting oil-spill trajectory analyses;
- (4) Determining worst case discharge scenarios; and
- (5) Identifying areas of special economic and environmental importance that may be impacted and the strategies for their protection.

(d) The Regional Supervisor may specify how to address the elements of a Regional Response Plan. The Regional Supervisor also may require that Regional Response Plans contain additional information if necessary for compliance with appropriate laws and regulations.

##### § 254.4 May I reference other documents in my response plan?

You may reference information contained in other readily accessible documents in your response plan. Examples of documents that you may

reference are the National Contingency Plan (NCP), Area Contingency Plan (ACP), MMS environmental documents, and Oil Spill Removal Organization (OSRO) documents that are readily accessible to the Regional Supervisor. You must ensure that the Regional Supervisor possesses or is provided with copies of all OSRO documents you reference. You should contact the Regional Supervisor if you want to know whether a reference is acceptable.

#### § 254.5 General response plan requirements.

(a) The response plan must provide for response to an oil spill from the facility. You must immediately carry out the provisions of the plan whenever there is a release of oil from the facility. You must also carry out the training, equipment testing, and periodic drills described in the plan, and these measures must be sufficient to ensure the safety of the facility and to mitigate or prevent a discharge or a substantial threat of a discharge.

(b) The plan must be consistent with the National Contingency Plan and the appropriate Area Contingency Plan(s).

(c) Nothing in this part relieves you from taking all appropriate actions necessary to immediately abate the source of a spill and remove any spills of oil.

(d) In addition to the requirements listed in this part, you must provide any other information the Regional Supervisor requires for compliance with appropriate laws and regulations.

#### § 254.6 Definitions.

For the purposes of this part:

*Adverse weather conditions* means weather conditions found in the operating area that make it difficult for response equipment and personnel to clean up or remove spilled oil or hazardous substances. These include, but are not limited to: Fog, inhospitable water and air temperatures, wind, sea ice, current, and sea states. It does not refer to conditions such as a hurricane, under which it would be dangerous or impossible to respond to a spill.

*Area Contingency Plan* means an Area Contingency Plan prepared and published under section 311(j) of the Federal Water Pollution Control Act (FWPCA).

*Coast line* means the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters.

*Discharge* means any emission (other than natural seepage), intentional or unintentional, and includes, but is not limited to, spilling, leaking, pumping,

pouring, emitting, emptying, or dumping.

*District Supervisor* means the MMS officer with authority and responsibility for a district within an MMS Region.

*Facility* means any structure, group of structures, equipment, or device (other than a vessel) which is used for one or more of the following purposes: Exploring for, drilling for, producing, storing, handling, transferring, processing, or transporting oil. The term excludes deep-water ports and their associated pipelines as defined by the Deepwater Port Act of 1974, but includes other pipelines used for one or more of these purposes. A mobile offshore drilling unit is classified as a facility when engaged in drilling or downhole operations.

*Maximum extent practicable* means within the limitations of available technology, as well as the physical limitations of personnel, when responding to a worst case discharge in adverse weather conditions.

*National Contingency Plan* means the National Oil and Hazardous Substances Pollution Contingency Plan prepared and published under section 311(d) of the FWPCA, (33 U.S.C. 1321(d)) or revised under section 105 of the Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. 9605).

*National Contingency Plan Product Schedule* means a schedule of dispersants and other chemical or biological products, maintained by the Environmental Protection Agency, that may be authorized for use on oil discharges in accordance with the procedures found at 40 CFR 300.910.

*Oil* means oil of any kind or in any form, including but not limited to petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil. This also includes hydrocarbons produced at the wellhead in liquid form (includes distillates or condensate associated with produced natural gas), and condensate that has been separated from a gas prior to injection into a pipeline. It does not include petroleum, including crude oil or any fraction thereof, which is specifically listed or designated as a hazardous substance under paragraphs (A) through (F) of section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U. S. C. 9601) and which is subject to the provisions of that Act. It also does not include animal fats and oils and greases and fish and marine mammal oils, within the meaning of paragraph (2) of section 61(a) of title 13, United States Code, and oils of vegetable origin, including oils from the

seeds, nuts, and kernels referred to in paragraph (1)(A) of that section.

*Oil spill removal organization (OSRO)* means an entity contracted by an owner or operator to provide spill-response equipment and/or manpower in the event of an oil or hazardous substance spill.

*Outer Continental Shelf* means all submerged lands lying 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 of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

*Owner or operator* means, in the case of an offshore facility, any person owning or operating such offshore facility. In the case of any abandoned offshore facility, it means the person who owned such facility immediately prior to such abandonment.

*Pipeline* means pipe and any associated equipment, appurtenance, or building used or intended for use in the transportation of oil located seaward of the coast line, except those used for deep-water ports. Pipelines do not include vessels such as barges or shuttle tankers used to transport oil from facilities located seaward of the coast line.

*Qualified individual* means an English-speaking representative of an owner or operator, located in the United States, available on a 24-hour basis, with full authority to obligate funds, carry out removal actions, and communicate with the appropriate Federal officials and the persons providing personnel and equipment in removal operations.

*Regional Response Plan* means a spill-response plan required by this part which covers multiple facilities or leases of an owner or operator, including affiliates, which are located in the same MMS Region.

*Regional Supervisor* means the MMS official with responsibility and authority for operations or other designated program functions within an MMS Region.

*Remove* means containment and cleanup of oil from water and shorelines or the taking of other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, public and private property, shorelines, and beaches.

*Spill* is synonymous with "discharge" for the purposes of this part.

*Spill management team* means the trained persons identified in a response plan who staff the organizational structure to manage spill response.



*Spill-response coordinator* means a trained person charged with the responsibility and designated the commensurate authority for directing and coordinating response operations.

*Spill-response operating team* means the trained persons who respond to spills through deployment and operation of oil-spill response equipment.

*State waters located seaward of the coast line* means the belt of the seas measured from the coast line and extending seaward a distance of 3 miles (except the coast of Texas and the Gulf coast of Florida, where the State waters extend seaward a distance of 3 leagues).

*You* means the owner or the operator as defined in this section.

**§ 254.7 How do I submit my response plan to the MMS?**

You must submit the number of copies of your response plan that the appropriate MMS regional office requires. If you prefer to use improved information technology such as electronic filing to submit your plan, ask the Regional Supervisor for further guidance.

(a) Send plans for facilities located seaward of the coast line of Alaska to: Minerals Management Service, Regional Supervisor, Field Operations, Alaska OCS Region, 949 East 36th Avenue, Anchorage, AK 99508-4302.

(b) Send plans for facilities in the Gulf of Mexico or Atlantic Ocean to: Minerals Management Service, Regional Supervisor, Field Operations, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, LA 70123-2394.

(c) Send plans for facilities in the Pacific Ocean (except seaward of the coast line of Alaska) to: Minerals Management Service, Regional Supervisor, Office of Development Operations and Safety, Pacific OCS Region, 770 Paseo Camarillo, Camarillo, CA 93010-6064.

**§ 254.8 May I appeal decisions under this rule?**

You may appeal orders or decisions issued under the regulations in this part pursuant to part 290 of this title. If you file an appeal with the Director, it does not suspend the requirement for you to comply with an order or decision other than one that requires the payment of a civil penalty. Compliance also is not suspended pending an appeal to the Interior Board of Land Appeals under 43 CFR part 4.

**§ 254.9 Authority for 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.* OMB assigned the control number 1010-0091. The title of this information collection is "30 CFR Part 254, Oil Spill Response Requirements for Facilities Located Seaward of the Coast line."

(b) MMS collects this information to ensure that the owner or operator of an offshore facility is prepared to respond to an oil spill. MMS uses the information to verify compliance with the mandates of the Oil Pollution Act of 1990 (OPA). The requirement to submit this information is mandatory. No confidential or proprietary information is collected.

(c) 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 OMB control number.

(d) 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 4700; 381 Elden Street; Herndon, Virginia 20170-4817 and to the Office of Information and Regulatory Affairs, Office of Management and Budget; Attention: Desk Officer for the Department of the Interior (1010-0091); 725 17th Street NW, Washington, DC 20503.

**Subpart B—Oil-Spill Response Plans for Outer Continental Shelf Facilities**

**§ 254.20 Purpose.**

This subpart describes the requirements for preparing spill-response plans for facilities located on the OCS.

**§ 254.21 How must I format my response plan?**

(a) You must divide your response plan for OCS facilities into the sections specified in paragraph (b) and explained in the other sections of this subpart. The plan must have an easily found marker identifying each section. You may use an alternate format if you include a cross-reference table to identify the location of required sections. You may use alternate contents if you can demonstrate to the Regional Supervisor that they provide for equal or greater levels of preparedness.

(b) Your plan must include:

- (1) Introduction and plan contents.
- (2) Emergency response action plan.
- (3) Appendices:
  - (i) Equipment inventory.
  - (ii) Contractual agreements.
  - (iii) Worst case discharge scenario.
  - (iv) Dispersant use plan.

(v) In situ burning plan.

(vi) Training and drills.

**§ 254.22 What information must I include in the "Introduction and plan contents" section?**

The "Introduction and plan contents" section must provide:

- (a) Identification of the facility the plan covers, including its location and type;
- (b) A table of contents;
- (c) A record of changes made to the plan; and
- (d) A cross-reference table, if needed, because you are using an alternate format for your plan.

**§ 254.23 What information must I include in the "Emergency response action plan" section?**

The "Emergency response action plan" section is the core of the response plan. Put information in easy-to-use formats such as flow charts or tables where appropriate. This section must include:

(a) Designation, by name or position, of a trained qualified individual (QI) who has full authority to implement removal actions and ensure immediate notification of appropriate Federal officials and response personnel.

(b) Designation, by name or position, of a trained spill management team available on a 24-hour basis. The team must include a trained spill-response coordinator and alternate(s) who have the responsibility and authority to direct and coordinate response operations on your behalf. You must describe the team's organizational structure as well as the responsibilities and authorities of each position on the spill management team.

(c) Description of a spill-response operating team. Team members must be trained and available on a 24-hour basis to deploy and operate spill-response equipment. They must be able to respond within a reasonable minimum specified time. You must include the number and types of personnel available from each identified labor source.

(d) A planned location for a spill-response operations center and provisions for primary and alternate communications systems available for use in coordinating and directing spill-response operations. You must provide telephone numbers for the response operations center. You also must provide any facsimile numbers and primary and secondary radio frequencies that will be used.

(e) A listing of the types and characteristics of the oil handled, stored, or transported at the facility.

(f) Procedures for the early detection of a spill.

(g) Identification of procedures you will follow in the event of a spill or a substantial threat of a spill. The procedures should show appropriate response levels for differing spill sizes including those resulting from a fire or explosion. These will include, as appropriate:

(1) Your procedures for spill notification. The plan must provide for the use of the oil spill reporting forms included in the Area Contingency Plan or an equivalent reporting form.

(i) Your procedures must include a current list which identifies the following by name or position, corporate address, and telephone number (including facsimile number if applicable):

(A) The qualified individual;

(B) The spill-response coordinator and alternate(s); and

(C) Other spill-response management team members.

(ii) You must also provide names, telephone numbers, and addresses for the following:

(A) OSRO's that the plan cites;

(B) Federal, State, and local regulatory agencies that you must consult to obtain site specific environmental information; and

(C) Federal, State, and local regulatory agencies that you must notify when an oil spill occurs.

(2) Your methods to monitor and predict spill movement;

(3) Your methods to identify and prioritize the beaches, waterfowl, other marine and shoreline resources, and areas of special economic and environmental importance;

(4) Your methods to protect beaches, waterfowl, other marine and shoreline resources, and areas of special economic or environmental importance;

(5) Your methods to ensure that containment and recovery equipment as well as the response personnel are mobilized and deployed at the spill site;

(6) Your methods to ensure that devices for the storage of recovered oil are sufficient to allow containment and recovery operations to continue without interruption;

(7) Your procedures to remove oil and oiled debris from shallow waters and along shorelines and rehabilitating waterfowl which become oiled;

(8) Your procedures to store, transfer, and dispose of recovered oil and oil-contaminated materials and to ensure that all disposal is in accordance with Federal, State, and local requirements; and

(9) Your methods to implement your dispersant use plan and your in situ burning plan.

**§ 254.24 What information must I include in the "Equipment inventory" appendix?**

Your "Equipment inventory appendix" must include:

(a) An inventory of spill-response materials and supplies, services, equipment, and response vessels available locally and regionally. You must identify each supplier and provide their locations and telephone numbers.

(b) A description of the procedures for inspecting and maintaining spill-response equipment in accordance with § 254.43.

**§ 254.25 What information must I include in the "Contractual agreements" appendix?**

Your "Contractual agreements" appendix must furnish proof of any contracts or membership agreements with OSRO's, cooperatives, spill-response service providers, or spill management team members who are not your employees that you cite in the plan. To provide this proof, submit copies of the contracts or membership agreements or certify that contracts or membership agreements are in effect. The contract or membership agreement must include provisions for ensuring the availability of the personnel and/or equipment on a 24-hour-per-day basis.

**§ 254.26 What information must I include in the "Worst case discharge scenario" appendix?**

The discussion of your worst case discharge scenario must include all of the following elements:

(a) The volume of your worst case discharge scenario determined using the criteria in § 254.47. Provide any assumptions made and the supporting calculations used to determine this volume.

(b) An appropriate trajectory analysis specific to the area in which the facility is located. The analysis must identify onshore and offshore areas that a discharge potentially could affect. The trajectory analysis chosen must reflect the maximum distance from the facility that oil could move in a time period that it reasonably could be expected to persist in the environment.

(c) A list of the resources of special economic or environmental importance that potentially could be impacted in the areas identified by your trajectory analysis. You also must state the strategies that you will use for their protection. At a minimum, this list must include those resources of special economic and environmental importance, if any, specified in the appropriate Area Contingency Plan(s).

(d) A discussion of your response to your worst case discharge scenario in adverse weather conditions. This discussion must include:

(1) A description of the response equipment that you will use to contain and recover the discharge to the maximum extent practicable. This description must include the types, location(s) and owner, quantity, and capabilities of the equipment. You also must include the effective daily recovery capacities, where applicable. You must calculate the effective daily recovery capacities using the methods described in § 254.44. For operations at a drilling or production facility, your scenario must show how you will cope with the initial spill volume upon arrival at the scene and then support operations for a blowout lasting 30 days.

(2) A description of the personnel, materials, and support vessels that would be necessary to ensure that the identified response equipment is deployed and operated promptly and effectively. Your description must include the location and owner of these resources as well as the quantities and types (if applicable);

(3) A description of your oil storage, transfer, and disposal equipment. Your description must include the types, location and owner, quantity, and capacities of the equipment; and

(4) An estimation of the individual times needed for:

(i) Procurement of the identified containment, recovery, and storage equipment;

(ii) Procurement of equipment transportation vessel(s);

(iii) Procurement of personnel to load and operate the equipment;

(iv) Equipment loadout (transfer of equipment to transportation vessel(s));

(v) Travel to the deployment site (including any time required for travel from an equipment storage area); and

(vi) Equipment deployment.

(e) In preparing the discussion required by paragraph (d) of this section, you must:

(1) Ensure that the response equipment, materials, support vessels, and strategies listed are suitable, within the limits of current technology, for the range of environmental conditions anticipated at your facility; and

(2) Use standardized, defined terms to describe the range of environmental conditions anticipated and the capabilities of response equipment. Examples of acceptable terms include those defined in American Society for Testing of Materials (ASTM) publication F625-94, *Standard Practice for Describing Environmental Conditions Relevant to Spill Control Systems for Use on Water*, and ASTM F818-93, *Standard Definitions Relating to Spill Response Barriers*.

**§ 254.27 What information must I include in the "Dispersant use plan" appendix?**

Your dispersant use plan must be consistent with the National Contingency Plan Product Schedule and other provisions of the National Contingency Plan and the appropriate Area Contingency Plan(s). The plan must include:

- (a) An inventory and a location of the dispersants and other chemical or biological products which you might use on the oils handled, stored, or transported at the facility;
- (b) A summary of toxicity data for these products;
- (c) A description and a location of any application equipment required as well as an estimate of the time to commence application after approval is obtained;
- (d) A discussion of the application procedures;
- (e) A discussion of the conditions under which product use may be requested; and
- (f) An outline of the procedures you must follow in obtaining approval for product use.

**§ 254.28 What information must I include in the "In situ burning plan" appendix?**

Your in situ burning plan must be consistent with any guidelines authorized by the National Contingency Plan and the appropriate Area Contingency Plan(s). Your in situ burning plan must include:

- (a) A description of the in situ burn equipment including its availability, location, and owner;
- (b) A discussion of your in situ burning procedures, including provisions for ignition of an oil spill;
- (c) A discussion of environmental effects of an in situ burn;
- (d) Your guidelines for well control and safety of personnel and property;
- (e) A discussion of the circumstances in which in situ burning may be appropriate;
- (f) Your guidelines for making the decision to ignite; and
- (g) An outline of the procedures you must follow to obtain approval for an in situ burn.

**§ 254.29 What information must I include in the "Training and drills" appendix?**

Your "Training and drills" appendix must:

- (a) Identify and include the dates of the training provided to members of the spill-response management team and the qualified individual. The types of training given to the members of the spill-response operating team also must be described. The training requirements for your spill management team and your spill-response operating team are

specified in § 254.41. You must designate a location where you keep course completion certificates or attendance records for this training.

- (b) Describe in detail your plans for satisfying the exercise requirements of § 254.42. You must designate a location where you keep the records of these exercises.

**§ 254.30 When must I revise my response plan?**

- (a) You must review your response plan at least every 2 years and submit all resulting modifications to the Regional Supervisor. If this review does not result in modifications, you must inform the Regional Supervisor in writing that there are no changes.

- (b) You must submit revisions to your plan for approval within 15 days whenever:

- (1) A change occurs which significantly reduces your response capabilities;
- (2) A significant change occurs in the worst case discharge scenario or in the type of oil being handled, stored, or transported at the facility;
- (3) There is a change in the name(s) or capabilities of the oil spill removal organizations cited in the plan; or
- (4) There is a significant change to the Area Contingency Plan(s).

- (c) The Regional Supervisor may require that you resubmit your plan if the plan has become outdated or if numerous revisions have made its use difficult.

- (d) The Regional Supervisor will periodically review the equipment inventories of OSRO's to ensure that sufficient spill removal equipment is available to meet the cumulative needs of the owners and operators who cite these organizations in their plans.

- (e) The Regional Supervisor may require you to revise your plan if significant inadequacies are indicated by:

- (1) Periodic reviews (described in paragraph (d) of this section);
- (2) Information obtained during drills or actual spill responses; or
- (3) Other relevant information the Regional Supervisor obtained.

**Subpart C—Related Requirements for Outer Continental Shelf Facilities****§ 254.40 Records.**

You must make all records of services, personnel, and equipment provided by OSRO's or cooperatives available to any authorized MMS representative upon request.

**§ 254.41 Training your response personnel.**

- (a) You must ensure that the members of your spill-response operating team who are responsible for operating response equipment attend hands-on training classes at least annually. This training must include the deployment and operation of the response equipment they will use. Those responsible for supervising the team must be trained annually in directing the deployment and use of the response equipment.

- (b) You must ensure that the spill-response management team, including the spill-response coordinator and alternates, receives annual training. This training must include instruction on:

- (1) Locations, intended use, deployment strategies, and the operational and logistical requirements of response equipment;
- (2) Spill reporting procedures;
- (3) Oil-spill trajectory analysis and predicting spill movement; and
- (4) Any other responsibilities the spill management team may have.

- (c) You must ensure that the qualified individual is sufficiently trained to perform his or her duties.

- (d) You must keep all training certificates and training attendance records at the location designated in your response plan for at least 2 years. They must be made available to any authorized MMS representative upon request.

**§ 254.42 Exercises for your response personnel and equipment.**

- (a) You must exercise your entire response plan at least once every 3 years (triennial exercise). You may satisfy this requirement by conducting separate exercises for individual parts of the plan over the 3-year period; you do not have to exercise your entire response plan at one time.

- (b) In satisfying the triennial exercise requirement, you must, at a minimum, conduct:

- (1) An annual spill management team tabletop exercise. The exercise must test the spill management team's organization, communication, and decisionmaking in managing a response. You must not reveal the spill scenario to team members before the exercise starts.

- (2) An annual deployment exercise of response equipment identified in your plan that is staged at onshore locations. You must deploy and operate each type of equipment in each triennial period. However, it is not necessary to deploy and operate each individual piece of equipment.

- (3) An annual notification exercise for each facility that is manned on a 24-

hour basis. The exercise must test the ability of facility personnel to communicate pertinent information in a timely manner to the qualified individual.

(4) A semiannual deployment exercise of any response equipment which the MMS Regional Supervisor requires an owner or operator to maintain at the facility or on dedicated vessels. You must deploy and operate each type of this equipment at least once each year. Each type need not be deployed and operated at each exercise.

(c) During your exercises, you must simulate conditions in the area of operations, including seasonal weather variations, to the extent practicable. The exercises must cover a range of scenarios over the 3-year exercise period, simulating responses to large continuous spills, spills of short duration and limited volume, and your worst case discharge scenario.

(d) MMS will recognize and give credit for any documented exercise conducted that satisfies some part of the required triennial exercise. You will receive this credit whether the owner or operator, an OSRO, or a Government regulatory agency initiates the exercise. MMS will give you credit for an actual spill response if you evaluate the response and generate a proper record. Exercise documentation should include the following information:

- (1) Type of exercise;
- (2) Date and time of the exercise;
- (3) Description of the exercise;
- (4) Objectives met; and
- (5) Lessons learned.

(e) All records of spill-response exercises must be maintained for the complete 3-year exercise cycle. Records should be maintained at the facility or at a corporate location designated in the plan. Records showing that OSRO's and oil spill removal cooperatives have deployed each type of equipment also must be maintained for the 3-year cycle.

(f) You must inform the Regional Supervisor of the date of any exercise required by paragraph (b)(1), (2), or (4) of this section at least 30 days before the exercise. This will allow MMS personnel the opportunity to witness any exercises.

(g) The Regional Supervisor periodically will initiate unannounced drills to test the spill response preparedness of owners and operators.

(h) The Regional Supervisor may require changes in the frequency or location of the required exercises, equipment to be deployed and operated, or deployment procedures or strategies. The Regional Supervisor may evaluate the results of the exercises and advise the owner or operator of any needed

changes in response equipment, procedures, or strategies.

(i) Compliance with the National Preparedness for Response Exercise Program (PREP) Guidelines will satisfy the exercise requirements of this section. Copies of the PREP document may be obtained from the Regional Supervisor.

**§ 254.43 Maintenance and periodic inspection of response equipment.**

(a) You must ensure that the response equipment listed in your response plan is inspected at least monthly and is maintained, as necessary, to ensure optimal performance.

(b) You must ensure that records of the inspections and the maintenance activities are kept for at least 2 years and are made available to any authorized MMS representative upon request.

**§ 254.44 Calculating response equipment effective daily recovery capacities.**

(a) You are required by § 254.26(d)(1) to calculate the effective daily recovery capacity of the response equipment identified in your response plan that you would use to contain and recover your worst case discharge. You must calculate the effective daily recovery capacity of the equipment by multiplying the manufacturer's rated throughput capacity over a 24-hour period by 20 percent. This 20 percent efficiency factor takes into account the limitations of the recovery operations due to available daylight, sea state, temperature, viscosity, and emulsification of the oil being recovered. You must use this calculated rate to determine if you have sufficient recovery capacity to respond to your worst case discharge scenario.

(b) If you want to use a different efficiency factor for specific oil recovery devices, you must submit evidence to substantiate that efficiency factor. Adequate evidence includes verified performance data measured during actual spills or test data gathered according to the provisions of § 254.45 (b) and (c).

**§ 254.45 Verifying the capabilities of your response equipment.**

(a) The Regional Supervisor may require performance testing of any spill-response equipment listed in your response plan to verify its capabilities if the equipment:

- (1) Has been modified;
- (2) Has been damaged and repaired; or
- (3) Has a claimed effective daily

recovery capacity that is inconsistent with data otherwise available to MMS.

(b) You must conduct any required performance testing of booms in accordance with MMS-approved test

criteria. You may use the document "Test Protocol for the Evaluation of Oil-Spill Containment Booms," available from MMS, for guidance. Performance testing of skimmers also must be conducted in accordance with MMS approved test criteria. You may use the document "Suggested Test Protocol for the Evaluation of Oil Spill Skimmers for the OCS," available from MMS, for guidance.

(c) You are responsible for any required testing of equipment performance and for the accuracy of the information submitted.

**§ 254.46 Whom do I notify if an oil spill occurs?**

(a) You must immediately notify the National Response Center (1-800-424-8802) if you observe:

- (1) An oil spill from your facility;
- (2) An oil spill from another offshore facility; or
- (3) An offshore spill of unknown origin.

(b) In the event of a spill of 1 barrel or more from your facility, you must orally notify the Regional Supervisor without delay. You also must report spills from your facility of unknown size but thought to be 1 barrel or more.

(1) If a spill from your facility not originally reported to the Regional Supervisor is subsequently found to be 1 barrel or more, you must then report it without delay.

(2) You must file a written followup report for any spill from your facility of 1 barrel or more. The Regional Supervisor must receive this confirmation within 15 days after the spillage has been stopped. All reports must include the cause, location, volume, and remedial action taken. Reports of spills of more than 50 barrels must include information on the sea state, meteorological conditions, and the size and appearance of the slick. The Regional Supervisor may require additional information if it is determined that an analysis of the response is necessary.

(c) If you observe a spill resulting from operations at another offshore facility, you must immediately notify the responsible party and the Regional Supervisor.

**§ 254.47 Determining the volume of oil of your worst case discharge scenario.**

You must calculate the volume of oil of your worst case discharge scenario as follows:

(a) For an oil production platform facility, the size of your worst case discharge scenario is the sum of the following:

- (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; and

(3) The daily production volume from an uncontrolled blowout 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. Your scenario must discuss how to respond to this well flowing for 30 days as required by § 254.26(d)(1).

(b) For exploratory or development drilling operations, the size of your worst case discharge scenario is the daily volume possible from an uncontrolled blowout. In determining the daily discharge rate, you must consider any known reservoir characteristics. If reservoir characteristics are unknown, you must consider the characteristics of any analog reservoirs from the area and give an explanation for the selection of the reservoir(s) used. Your scenario must discuss how to respond to this well flowing for 30 days as required by § 254.26(d)(1).

(c) For a pipeline facility, the size of your worst case discharge scenario is the volume possible from a pipeline break. You must calculate this volume as follows:

(1) Add the pipeline system leak detection time to the shutdown response time.

(2) Multiply the time calculated in paragraph (c)(1) of this section by the highest measured oil flow rate over the preceding 12-month period. For new pipelines, you should use the predicted oil flow rate in the calculation.

(3) Add to the volume calculated in paragraph (c)(2) of this section the total volume of oil that would leak from the pipeline after it is shut in. Calculate this volume by taking into account the effects of hydrostatic pressure, gravity, frictional wall forces, length of pipeline segment, tie-ins with other pipelines, and other factors.

(d) If your facility which stores, handles, transfers, processes, or transports oil does not fall into the categories listed in paragraph (a), (b), or (c) of this section, contact the Regional Supervisor for instructions on the calculation of the volume of your worst case discharge scenario.

#### **Subpart D—Oil-Spill Response Requirements for Facilities Located in State Waters Seaward of the Coast Line.**

##### **§ 254.50 Spill response plans for facilities located in State waters seaward of the coast line.**

Owners or operators of facilities located in State waters seaward of the coast line must submit a spill-response plan to MMS for approval. You may choose one of three methods to comply with this requirement. The three methods are described in §§ 254.51, 254.52, and 254.53.

##### **§ 254.51 Modifying an existing OCS response plan.**

You may modify an existing response plan covering a lease or facility on the OCS to include a lease or facility in State waters located seaward of the coast line. Since this plan would cover more than one lease or facility, it would be considered a Regional Response Plan. You should refer to § 254.3 and contact the appropriate regional MMS office if you have any questions on how to prepare this Regional Response Plan.

##### **§ 254.52 Following the format for an OCS response plan.**

You may develop a response plan following the requirements for plans for OCS facilities found in subpart B of this part.

##### **§ 254.53 Submitting a response plan developed under State requirements.**

(a) You may submit a response plan to MMS for approval that you developed in accordance with the laws or regulations of the appropriate State. The plan must contain all the elements the State and OPA require and must:

(1) Be consistent with the requirements of the National Contingency Plan and appropriate Area Contingency Plan(s).

(2) Identify a qualified individual and require immediate communication between that person and appropriate Federal officials and response personnel if there is a spill.

(3) Identify any private personnel and equipment necessary to remove, to the maximum extent practicable, a worst case discharge as defined in § 254.47. The plan must provide proof of contractual services or other evidence of a contractual agreement with any OSRO's or spill management team members who are not employees of the owner or operator.

(4) Describe the training, equipment testing, periodic unannounced drills, and response actions of personnel at the facility. These must ensure both the safety of the facility and the mitigation

or prevention of a discharge or the substantial threat of a discharge.

(5) Describe the procedures you will use to periodically update and resubmit the plan for approval of each significant change.

(b) Your plan developed under State requirements also must include the following information:

(1) A list of the facilities and leases the plan covers and a map showing their location;

(2) A list of the types of oil handled, stored, or transported at the facility;

(3) Name and address of the State agency to whom the plan was submitted;

(4) Date you submitted the plan to the State;

(5) If the plan received formal approval, the name of the approving organization, the date of approval, and a copy of the State agency's approval letter if one was issued; and

(6) Identification of any regulations or standards used in preparing the plan.

##### **§ 254.54 Spill prevention for facilities located in State waters seaward of the coast line.**

In addition to your response plan, you must submit to the Regional Supervisor a description of the steps you are taking to prevent spills of oil or mitigate a substantial threat of such a discharge. You must identify all State or Federal safety or pollution prevention requirements that apply to the prevention of oil spills from your facility, and demonstrate your compliance with these requirements. You also should include a description of industry safety and pollution prevention standards your facility meets. The Regional Supervisor may prescribe additional equipment or procedures for spill prevention if it is determined that your efforts to prevent spills do not reflect good industry practices.

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## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 300**

[FRL-5800-8]

#### **National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of deletion of the Carter Industrials Site, Michigan from the National Priorities List (NPL).