

Subpart F—Claims for Oil-Spill Removal Costs and Damages

- 253.60 To whom may I present a claim?
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APPENDIX TO PART 253—LIST OF U.S. GEOLOGICAL SURVEY TOPOGRAPHIC MAPS

AUTHORITY: 33 U.S.C. 2716, 28 U.S.C. 2461.

SOURCE: 63 FR 42711, Aug. 11, 1998, unless otherwise noted.

Subpart A—General**§ 253.1 What is the purpose of this part?**

This part establishes the requirements for demonstrating OSFR for covered offshore facilities (COFs) under Title I of the Oil Pollution Act of 1990 (OPA), as amended, 33 U.S.C. 2701 *et seq.*

§ 253.3 How are the terms used in this regulation defined?

Terms used in this part have the following meaning:

Advertise means publication of the notice of designation of the source of the incident and the procedures by which the claims may be presented, according to 33 CFR part 136, subpart D.

Bay means a body of water included in the Geographic Names Information System (GNIS) bay feature class. A GNIS bay includes an arm, bay, bight, cove, estuary, gulf, inlet, or sound.

Claim means a written request, for a specific sum, for compensation for damages or removal costs resulting from an oil-spill discharge or a substantial threat of the discharge of oil.

Claimant means any person or government who presents a claim for compensation under OPA.

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

Covered offshore facility (COF) means a facility:

- (1) That includes any structure and all its components (including wells completed at the structure and the associated pipelines), equipment, pipeline, or device (other than a vessel or other than a pipeline or deepwater port

licensed under the Deepwater Port Act of 1974 (33 U.S.C. 1501 *et seq.*) used for exploring for, drilling for, or producing oil or for transporting oil from such facilities. This includes a well drilled from a mobile offshore drilling unit (MODU) and the associated riser and well control equipment from the moment a drill shaft or other device first touches the seabed for purposes of exploring for, drilling for, or producing oil, but it does not include the MODU; and

(2) That is located:

(i) Seaward of the coastline; or

(ii) In any portion of a bay that is:

(A) Connected to the sea, either directly or through one or more other bays; and

(B) Depicted in whole or in part on any USGS map listed in the Appendix to this part, or on any map published by the USGS that is a successor to and covers all or part of the same area as a listed map. Where any portion of a bay is included on a listed map, this rule applies to the entire bay; and

(3) That has a worst case oil-spill discharge potential of more than 1,000 bbls of oil, or a lesser volume if the Director determines in writing that the oil-spill discharge risk justifies the requirement to demonstrate OSFR.

Designated applicant means a person the responsible parties designate to demonstrate OSFR for a COF on a lease, permit, or right-of-use and easement.

Director means the Director of the Minerals Management Service.

Fund means the Oil Spill Liability Trust Fund established by section 9509 of the Internal Revenue Code of 1986 as amended (26 U.S.C. 9509).

Geographic Names Information System (GNIS) means the database developed by the USGS in cooperation with the U.S. Board of Geographic Names which contains the federally-recognized geographic names for all known places, features, and areas in the United States that are identified by a proper name. Each feature is located by state, county, and geographic coordinates and is referenced to the appropriate 1:24,000-scale or 1:63,360-scale USGS topographic map on which it is shown.

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Guarantor means a person other than a responsible party who provides OSFR evidence for a designated applicant.

Guaranty means any acceptable form of OSFR evidence provided by a guarantor including an indemnity, insurance, or surety bond.

Incident means any occurrence or series of occurrences having the same origin that results in the discharge or substantial threat of the discharge of oil.

Indemnity means an agreement to indemnify a designated applicant upon its satisfaction of a claim.

Indemnitor means a person providing an indemnity for a designated applicant.

Independent accountant means a certified public accountant who is certified by a state, or a chartered accountant certified by the government of jurisdiction within the country of incorporation of the company proposing to use one of the self-insurance evidence methods specified in this subpart.

Insolvent has the meaning set forth in 11 U.S.C. 101, and generally refers to a financial condition in which the sum of a person's debts is greater than the value of the person's assets.

Lease means any form of authorization issued under the Outer Continental Shelf Lands Act or state law which allows oil and gas exploration and production in the area covered by the authorization.

Lessee means a person holding a leasehold interest in an oil or gas lease including an owner of record title or a holder of operating rights (working interest owner).

Oil means oil of any kind or in any form, except as excluded by paragraph (2) of this definition.

(1) Oil includes:

(i) Petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil;

(ii) Hydrocarbons produced at the wellhead in liquid form;

(iii) Gas condensate that has been separated from gas before pipeline injection.

(2) Oil does not include petroleum, including crude oil or any fraction thereof, which is specifically listed or designated as a hazardous substance under

subparagraphs (A) through (F) of section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. 9601).

Oil Spill Financial Responsibility (OSFR) means the capability and means by which a responsible party for a covered offshore facility will meet removal costs and damages for which it is liable under Title I of the Oil Pollution Act of 1990, as amended (33 CFR 2701 *et seq.*), with respect to both oil-spill discharges and substantial threats of the discharge of oil.

Outer Continental Shelf (OCS) has the same meaning as the term "Outer Continental Shelf" defined in section 2(a) of the OCS Lands Act (OCSLA) (43 U.S.C. 1331(a)).

Permit means an authorization, license, or permit for geological exploration issued under section 11 of the OCSLA (43 U.S.C. 1340) or applicable state law.

Person means an individual, corporation, partnership, association (including a trust or limited liability company), state, municipality, commission or political subdivision of a state, or any interstate body.

Pipeline means the pipeline segments and any associated equipment or appurtenances used or intended for use in the transportation of oil or natural gas.

Responsible party has the following meanings:

(1) For a COF that is a pipeline, responsible party means any person owning or operating the pipeline;

(2) For a COF that is not a pipeline, responsible party means either the lessee or permittee of the area in which the COF is located, or the holder of a right-of-use and easement granted under applicable state law or the OCSLA (43 U.S.C. 1301–1356) for the area in which the COF is located (if the holder is a different person than the lessee or permittee). A Federal agency, State, municipality, commission, or political subdivision of a state, or any interstate body that as owner transfers possession and right to use the property to another person by lease, assignment, or permit is not a responsible party; and

(3) For an abandoned COF, responsible party means any person who would have been a responsible party for the COF immediately before abandonment.

Right-of-use and easement (RUE) means any authorization to use the OCS or submerged land for purposes other than those authorized by a lease or permit, as defined herein. It includes pipeline rights-of-way.

Source of the incident means the facility from which oil was discharged or which poses a substantial threat of discharging oil, as designated by the Director, National Pollution Funds Center, according to 33 CFR part 136, subpart D.

State means the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Marianas, and any other territory or possession of the United States.

§ 253.5 What is the authority for collecting Oil Spill Financial Responsibility (OSFR) information?

(a) The Office of Management and Budget (OMB) has approved the information collection requirements in this part 253 under 44 U.S.C. 3501 *et seq.* and assigned OMB control number 1010-0106.

(b) MMS collects the information to ensure that the designated applicant for a COF has the financial resources necessary to pay for cleanup and damages that could be caused by oil discharges from the COF. MMS uses the information to ensure compliance of offshore lessees, owners, and operators of covered facilities with OPA; to establish eligibility of designated applicants for OSFR certification (OSFRC); and to establish a reference source of names, addresses, and telephone numbers of responsible parties for covered facilities and their designated agents, guarantors, and U.S. agents for service of process for claims associated with oil pollution from designated covered facilities. The requirement to provide the information is mandatory. No information submitted for OSFRC is confidential or proprietary.

(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 5438, 1849 C Street, NW., Washington, DC 20240.

[63 FR 42711, Aug. 11, 1998, as amended at 65 FR 2876, Jan. 19, 2000; 74 FR 46909, Sept. 14, 2009]

Subpart B—Applicability and Amount of OSFR

§ 253.10 What facilities does this part cover?

(a) This part applies to any COF on any lease or permit issued or on any RUE granted under the OCSLA or applicable state law.

(b) For a pipeline COF that extends onto land, this part applies to that portion of the pipeline lying seaward of the first accessible flow shut-off device on land.

§ 253.11 Who must demonstrate OSFR?

(a) A designated applicant must demonstrate OSFR. A designated applicant may be a responsible party or another person authorized under this section. Each COF must have a single designated applicant.

(1) If there is more than one responsible party, those responsible parties must use Form MMS-1017 to select a designated applicant. The designated applicant must submit Form MMS-1016 and agree to demonstrate OSFR on behalf of all the responsible parties.

(2) If you are a designated applicant who is not a responsible party, you must agree to be liable for claims made under OPA jointly and severally with the responsible parties.

(b) The designated applicant for a COF on a lease must be either:

- (1) A lessee; or
- (2) The designated operator for the OCS lease under 30 CFR 250.143 or the unit operator designated under a Federally approved unit including the OCS lease. For a lease or unit not in the