

identifying the purchaser or consumer, and containing no references whatever to the characteristics of the product.

(d) *Customs bonded warehouses.* Imported malt beverages held in a Customs bonded warehouse may be relabeled without notice to ATF, as long as such relabeling is done under the supervision of Customs officers, in compliance with all applicable Customs requirements, and the effect of the relabeling is not to remove from the container or label any product identification code placed on the container or label by the producer for tracing purposes. As provided in § 7.31, no imported malt beverages in containers shall be released from Customs custody for consumption without a certificate of label approval.

(e) *Foreign trade zones.* (1) Domestic malt beverages which have been withdrawn without payment of tax for deposit in a foreign trade zone pending exportation may be relabeled without notice to ATF as long as such relabeling is done under the supervision of Customs officers, in compliance with all applicable Customs requirements, and the effect of the relabeling is not to remove from the container or label any markings required by Part 25 of this chapter or any product identification code placed on the container or label by the producer for tracing purposes.

(2) Imported malt beverages which have been entered into a foreign trade zone may be relabeled without notice to ATF, as long as such relabeling is done under Customs supervision and in compliance with Customs requirements, and the effect of such relabeling is not to remove from the label or container any product identification code placed on the label or container by the producer for tracing purposes. As provided in § 7.31, no imported malt beverages in containers shall be released from Customs custody for consumption without a certificate of label approval.

Par. 9. Section 7.60 is revised to read as follows:

§ 7.60 Exports.

With the exception of the regulations at § 7.20(c), (d) and (e), the regulations in this part shall not apply to malt beverages exported in bond.

Signed: January 10, 1995.

Daniel R. Black,

Acting Director.

[FR Doc. 95-997 Filed 1-11-95; 1:43 pm]

BILLING CODE 4810-31-U

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 254

RIN 1010-AB81

Response Plans for Facilities Seaward of the Coast Line

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule to implement the Oil Pollution Act of 1990 (OPA) would establish requirements for spill-response plans for oil handling facilities seaward of the coast line, including associated pipelines. The proposed rule provides guidance to owners and operators for preparing and submitting these spill-response plans.

DATES: Comments must be received or postmarked by March 14, 1995.

ADDRESSES: All comments concerning this proposed rule should be mailed or hand-carried to the Minerals Management Service, Mail Stop 4700; 381 Elden Street; Herndon, Virginia 22070-4817, Attention: Chief, Engineering and Standards Branch.

FOR FURTHER INFORMATION CONTACT: John V. Mirabella or Lawrence Ake, Engineering and Standards Branch, telephone (703) 787-1600.

SUPPLEMENTARY INFORMATION: In August 1990, Congress passed the OPA containing various provisions to strengthen oil-spill prevention efforts and oil-spill response capability. The OPA included amendments to section 311 of the Federal Water Pollution Control Act (FWPCA). The President signed Executive Order (E.O.) 12777 on October 18, 1991 (56 FR 54757), to implement these new authorities. Section 2(b)(3) of E.O. 12777 delegated to the Secretary of the Interior (Secretary) those responsibilities under section 311(j)(1)(C) of the FWPCA, requiring the Secretary to establish procedures, methods, and requirements for equipment to prevent and contain discharges of oil and hazardous substances from offshore facilities, including associated pipelines. Under section 2(d)(3) of E.O. 12777, section 311(j)(5) of FWPCA, and section 4202(b)(4) of OPA, the Secretary is required to issue regulations requiring the owners or operators of offshore facilities, including associated pipelines, to prepare and submit response plans that ensure the availability of private spill-response personnel and equipment and to permit the operation of offshore facilities,

including associated pipelines, without approved response plans if certain conditions are met. Under section 2(e)(3) of E.O. 12777 and section 311(j)(6)(A) of FWPCA, the Secretary must require periodic inspections of containment booms and equipment used to remove discharges at offshore facilities, including associated pipelines. The Secretary has redelegated these responsibilities to the Director, MMS.

Under OPA and E.O. 12777, MMS is to administer these new requirements for all "offshore" facilities in, on, or under coastal waters of the territorial sea, rivers, lakes, and other navigable waters within the States and Territories of the United States or otherwise subject to U.S. jurisdiction including State submerged lands. The 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). Accordingly, this proposed rule addresses only facilities seaward of the coast line.

The MMS believes that adequate spill-prevention regulations meeting the requirements of OPA currently exist for facilities in the Outer Continental Shelf (OCS) at 30 CFR part 250. In addition, all States with facilities seaward of the coast line have existing programs to prevent spills. For these reasons, MMS does not propose regulations to implement the spill-prevention requirements of section 311(j)(1)(c) of the FWPCA at this time. The proposed rule requires that plan submitters provide information on the prevention methods they must utilize during operations in State waters.

The MMS will work with States on compatible spill-prevention rules for facilities in State waters seaward of the coast line. The MMS has executed a Memorandum of Understanding (MOU) with the State of Texas General Land Office and is discussing MOU's with the States of Alaska, California, and Louisiana. Further coordination is planned with States to ensure that regulations are compatible. Commenters are urged to provide comments on the types of prevention rules that should be required.

During the preparation of this notice of proposed rulemaking, MMS participated with three other Federal agencies in the drafting of the National Preparedness for Response Exercise Program (PREP). The agencies (U.S. Coast Guard, Environmental Protection Agency, Research and Special Projects

Administration, and MMS) worked with States and private industry to develop guidelines for spill-response exercises that would meet the requirements of OPA. The drill requirements set forth in this document parallel the PREP guidelines. The MMS has determined that the proposed requirements for tabletop drills for the spill management team satisfy the purpose and goal of the act's requirement that the response plan describe the periodic unannounced drills to be carried out under the plan. The tabletop exercises will drill owner or operator personnel who make decisions and organize the response to a spill. These personnel must be drilled using a spill scenario that is unannounced prior to the drill. The MMS will also periodically initiate unannounced drills to test the preparedness of owners and operators.

The MMS published an advance notice of proposed rulemaking (ANPR) in the **Federal Register** on August 12, 1992 (57 FR 36032), soliciting comments through September 28, 1992. In the ANPR, MMS presented four optional methods for developing these new rules and solicited comments on the four options. The MMS received 48 comments from various individual companies and trade associations within the offshore petroleum industry, support contractors, State and local governments, and Federal agencies.

The MMS developed this proposed rule taking into account the comments received on the ANPR and the experience gained in developing and implementing the interim final rule at 30 CFR part 254. The interim final rule, covering only the spill-response portion of MMS's new authorities, and only facilities located in the OCS or in the territorial sea, was published in the **Federal Register** on February 8, 1993. The MMS is interested in receiving comments from all interested parties and especially those who have experience in developing spill-response plans in response to the interim final rule.

The MMS plans no public hearing at this time. Persons wishing to request a public hearing should make a request by writing to MMS at the address provided above. If a public hearing will aid in the development of a final rule, the date and time of the public hearing will be announced in the **Federal Register**.

Author: This document was prepared by Lawrence Ake, Engineering and Technology Division, MMS.

E.O. 12866

This proposed rule was reviewed under E.O. 12866. The proposed rule

was determined to not be a significant rule under the criteria of E.O. 12866.

Regulatory Flexibility Act

The Department of the Interior (DOI) has determined that this proposed rule will not have a significant effect on a substantial number of small entities. In general, the entities that engage in offshore oil and gas activities are not considered small due to the technical and financial resources and experience necessary to safely conduct such activities.

Paperwork Reduction Act

The collection of information contained in this proposed rule has been approved by the Office of Management and Budget (OMB) as required by 44 U.S.C. 3501 *et seq.* The collection of this information has been assigned OMB clearance number 1010-0091.

Public reporting burden for this collection of information is estimated to average 106.5 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Information Collection Clearance Officer; Minerals Management Service; Mail Stop 2053; 381 Elden Street; Herndon, Virginia 22070-4817 and the Office of Management and Budget; Paperwork Reduction Project (1010-0091); Washington, DC 20503.

Takings Implication Assessment

The DOI certifies that the proposed rule does not represent a governmental action capable of interference with constitutionally protected property rights. Thus, a Takings Implication Assessment need not be prepared pursuant to E.O. 12630.

E.O. 12778

The DOI has certified to OMB that these proposed regulations meet the applicable standards provided in sections 2(a) and 2(b)(2) of E.O. 12778.

National Environmental Policy Act

The DOI has determined that this action does not constitute a major Federal action affecting the quality of the human environment; therefore, preparation of an Environmental Impact Statement is not required.

List of Subjects in 30 CFR Part 254

Continental shelf, Environmental protection, Oil and gas development and production, Oil and gas exploration, Oil pollution, Pipelines.

Dated: November 1, 1994.

Bob Armstrong,

Assistant Secretary, Land and Minerals Management.

For the reasons set forth in the preamble, 30 CFR part 254 is proposed to be revised as follows:

PART 254—RESPONSE PLANS FOR FACILITIES LOCATED SEAWARD OF THE COAST LINE

- Sec.
- 254.0 Authority for information collection.
 - 254.1 Purpose and implementation.
 - 254.2 Definitions.
 - 254.3 General requirements.
 - 254.4 Submission of information.
 - 254.5 Response plans for Outer Continental Shelf (OCS) facilities.
 - 254.6 Worst case discharge.
 - 254.7 Determining response equipment capacities.
 - 254.8 Training.
 - 254.9 Drills.
 - 254.10 Maintenance and periodic inspection of equipment.
 - 254.11 Equipment performance testing.
 - 254.12 Notification requirements.
 - 254.13 Plan revision and resubmission.
 - 254.14 Response plans for facilities in State waters located seaward of the coast line.
 - 254.15 Approval of plans.

Authority: 33 U.S.C. 1321.

§ 254.0 Authority for information collection.

The information collection requirements in 30 CFR part 254 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1010-0091. The information is being collected to inform the Minerals Management Service (MMS) of owner, operator, and lessee preparations for response to potential pollution of the offshore environment. The requirement to respond is mandatory. The public reporting burden for this collection of information is estimated to average 106.5 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burdens indicated for a specific information collection or any other aspect of the collection of information pursuant to the provisions of this part, including suggestions for reducing the burden, to the Information Collection Clearance Officer; Minerals Management Service;

Mail Stop 2053; 381 Elden Street; Herndon, Virginia 22070-4817 and the Office of Management and Budget; Paperwork Reduction Project (1010-0091); Washington, DC 20503.

§ 254.1 Purpose and implementation.

(a) With this part, MMS establishes requirements for spill-response plans for facilities located seaward of the coast line, including those facilities in State water located seaward of the coast line. Each owner or operator of a facility located seaward of the coast line must have a spill-response plan that covers each facility.

(b) The provisions of the plan must be carried out whenever there is a release of oil or a hazardous substance into waters adjacent to the facility. If there is a spill, a designated qualified individual must immediately initiate actions described under the plan.

(c) No facility located seaward of the coast line may be used to handle, store, or transport oil unless a response plan has been submitted and approved, and the facility is being operated in compliance with the plan. Owners and operators of abandoned facilities must maintain a current response plan until the facility is physically removed or dismantled and the Regional Supervisor provides written notice that a response plan is no longer required.

(d) Notwithstanding the provisions of paragraph (c) of this section, a facility may continue to be used to handle, store, or transport oil for 2 years after the date of submission of a response plan, pending approval of the plan. In order to continue to operate a facility without an approved plan, the facility owner or operator must certify in writing to the Regional Supervisor that he has ensured by contract the availability of private personnel and equipment necessary to respond, to the maximum extent practicable, to a worst case discharge. A copy of the contract(s) must accompany the certification.

(e) Owners or operators with spill-response plans currently approved by MMS must submit the information to comply with this part when submitting the first required annual update after [the effective date of the final rule]. The Regional Supervisor may extend this deadline up to 90 days upon request.

(f) Nothing in this section shall relieve the owner or operator from taking all appropriate actions necessary to immediately abate, contain, and remove any oil or hazardous substance spill.

§ 254.2 Definitions.

For the purposes of this part:

Adverse weather conditions means weather conditions 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.

Area Contingency Plan means the Area Contingency Plan prepared and published under section 311(j) of the Federal Water Pollution Control Act (FWPCA), as amended by the Oil Pollution Act of 1990 (OPA).

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.

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 deepwater 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.

Hazardous substance means any substance designated pursuant to section 1321(b)(2)(A) of the FWPCA as amended and listed at 40 CFR 116.4.

Maximum extent practicable means the limits of available technology, as well as the practical limits of personnel, to respond to a worst case discharge in adverse weather.

Mobile Offshore Drilling Unit (MODU) means a vessel capable of engaging in drilling operations for the exploration or exploitation of subsea resources of oil, gas, or minerals. An MODU is classified as a facility when engaged in drilling or downhole operations.

National Contingency Plan means the National Oil and Hazardous Substances Pollution Contingency Plan prepared and published under section 311(d) of the FWPCA, as amended by OPA, (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).

Oil means hydrocarbons produced at the wellhead in liquid form (includes distillates or condensate associated with produced natural gas), as well as 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.

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 the individual, partnership, firm, or corporation having ownership, control, or management of operations on the leased or permitted area where the facility is located or the holder of a pipeline right-of-way or a right of use and easement granted under applicable State law or the OCS Lands Act, as amended, for the area in which the facility is located.

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 deepwater 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 a person identified in the response plan who has the responsibility and authority to initiate spill cleanup operations, obligate funds to carry out response activities, and act as liaison with the pre-designated Federal On-Scene Coordinator. The qualified individual is a member of the spill management team.

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

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

Spill response operating team means 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 for the coast of Texas and the Gulf coast of Florida, where the State waters extend seaward a distance of 3 leagues). Exceptions to this definition may be negotiated between Federal agencies for the purpose of efficient use of Federal regulatory resources. Affected owners or operators will be notified in writing of any such exceptions.

§ 254.3 General requirements.

(a) When compliance by an owner or operator is required, such compliance

may be achieved by a facility owner, a Federal or State lessee or permittee, by an operator on behalf of a lessee or permittee, by a pipeline right-of-way holder, or by a holder of a right of use and easement.

(b) An owner or operator submitting a response plan under this part must develop a plan that is consistent with the National Contingency Plan and the appropriate Area Contingency Plan(s). Information contained in either the national plan or the appropriate area plan may be referenced for inclusion in the response plan.

(c) The response plan may be for a single lease or facility, or for a group or groups of leases or facilities of an owner or operator, including affiliates which are located in the same Region (Regional Response Plan). The plan shall cover MODU's engaged in drilling and other downhole activities on an included lease.

(1) Regional response plans must contain all the elements required of a response plan written for a facility as described in § 254.5 or § 254.14 of this part.

(2) Regional response plans may group facilities or pipelines for the purpose of calculating response times, quantities of response equipment, and developing worst case spill scenarios, as approved by the Regional Supervisor.

(3) Additional requirements for regional response plans may be specified by the Regional Supervisor.

(d) The plan must provide for response to an oil spill and a spill of other hazardous substances present at the facility.

(e) Owners or operators of pipeline facilities located seaward of the coast line which transport oil or transport condensate that has been separated from a gas prior to injection into a pipeline must prepare spill-response plans in accordance with this part.

(1) The plan shall conform to the provisions of § 254.5 of this part for pipelines located in the OCS and § 254.14 for pipelines located in State waters.

(2) *Reserved.*

(f) The contents required for each section and subsection of the plan are set forth in 30 CFR 254.5 and 254.14, as appropriate.

(g) Owners or operators of facilities submitting response plans to MMS for approval must submit the number of copies of the plan required by the regional office to the appropriate address provided in § 254.4.

§ 254.4 Submitting information.

Information submitted under this section should be sent to the

appropriate MMS regional office at the address in this section:

(a) Send documentation 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 documentation 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 documentation for facilities in the Pacific Ocean (except seaward of the coast line of Alaska) to: Minerals Management Service, Regional Supervisor, Field Operations, Pacific OCS Region, 770 Paseo Camarillo, Camarillo, CA 93010-6064.

§ 254.5 Response plans for Outer Continental Shelf (OCS) facilities.

Owners or operators of OCS facilities must develop, submit, and maintain a spill-response plan that demonstrates an ability to respond quickly and effectively whenever oil or hazardous substances are discharged as a result of their activities. The response plan must be prepared in accordance with the following:

(a) A response plan must be divided into the sections listed in this paragraph. It must also have some easily found marker identifying each section listed in this paragraph. Alternative formats and contents are allowed if the owner or operator can demonstrate to the Regional Supervisor that they provide for equal or greater levels of preparedness.

- (1) Introduction and plan contents.
- (2) Emergency response action plan.
- (3) Spill scenarios.
- (4) Training and drills.
- (5) Plan review and update procedures.

- (6) Appendices:
 - (i) Equipment inventories.
 - (ii) Contractual agreements.
 - (iii) Dispersant use plan.
 - (iv) In situ burning plan.

(b) For both initial and subsequent submissions, a response plan that does not follow the format specified in paragraph (a) of this section must be supplemented with a cross-reference table to identify the location of the applicable sections.

(c) (1) The introduction and plan contents section must provide:

- (i) A map showing the location of each facility covered by the plan and a description of each facility;
- (ii) A table of contents;

(iii) A record of changes to record information on plan updates; and

(iv) A cross-reference table, if needed.

(2) The emergency response action plan section must include:

(i) Designation, by name or position, of a trained spill management team available on a 24-hour basis. The team must include, as a minimum, a trained qualified individual and alternate who is charged with the responsibility and is delegated authority for directing and coordinating response operations. A description of the responsibilities and authorities of each member of the spill management team shall be set forth with specificity.

(ii) Designation, by name or position, of a spill response operating team comprised of trained personnel available on a 24-hour basis and able to respond within a reasonable minimum specified time.

(iii) A planned location for a spill response operations center and provisions for primary and alternate communications systems for directing the coordinated overall response operations. Telephone and facsimile numbers should be provided and, if appropriate, the primary and secondary radio frequencies that will be used.

(iv) Procedures for the early detection of a spill and a discussion of prioritized procedures that facility personnel must use to mitigate or prevent a discharge or threat of a discharge of oil or a hazardous substance including emergency situations such as an explosion or fire.

(v) Notification procedures, including a current list of names, telephone numbers (including facsimile numbers if applicable), and addresses of the following: the qualified individual and alternate who are to receive notification of a spill; other spill response management team members; the OSRO's that the plan cites; the Federal, State, and local regulatory agencies that should be consulted to obtain site specific environmental information; and the Federal, State, and local regulatory agencies that are to be notified when a spill of oil or a hazardous substance occurs or is discovered. Response personnel; appropriate Federal, State, and local officials; and the Regional Supervisor must be notified of spills within the timeframes specified in § 254.12 of this part. The plan must provide for the use of the oil spill/hazardous substance reporting forms included in the Area Contingency Plan.

(vi) Identification of response equipment, personnel, materials, support vessels, and procedures the operator will employ in response to any type of oil discharge, including

continuous oil discharges (including a worst case scenario as defined in 30 CFR 254.6), and spills of short duration and limited maximum volume (e.g., tank overflows, hose failures). The plan must identify the location of all response equipment as well as the amount of time required to respond to a spill at the facility. Response equipment, vessels, and strategies identified in the plan must be suitable, within the limits of current technology, for the range of environmental conditions anticipated during operation of the facility, and identified personnel must be capable of operating response equipment.

(A) Owners and operators must utilize standardized, defined terms when describing the capabilities of response equipment and the environmental conditions anticipated. An example of acceptable terms would be those defined in American Society for Testing of Materials (ASTM) publication F 625, "Standard Practice for Describing Environmental Conditions Relevant to Spill Control Systems for Use on Water," and ASTM F 818, "Standard Definitions of Terms Relating to Spill Response Barriers."

(B) The total distance of the facility from the response equipment storage area must be used to compute response times, as well as the time to secure auxiliary equipment such as workboats.

(C) The effective daily recovery capacity of the equipment identified in the plan must be computed and identified and be sufficient to respond to the worst case spill scenario to the maximum extent practicable. Effective daily recovery capacities shall be computed using the methods described in § 254.7 of this part.

(D) Vessels or vessel types used to deploy response equipment must be capable of operating and safely deploying equipment in the environmental conditions in which the equipment will be used.

(vii) Provisions for storage, transfer, and disposal of recovered oil, oil contaminated material, and other hazardous wastes.

(viii) A listing of the types and characteristics of the oil and hazardous substances produced, handled, or stored at the facility.

(3) The spill scenarios section must include:

(i) Oil-spill trajectory analyses that are specific to the area of operations shall be referenced and summarized. Owners and operators must, as a minimum, use a trajectory analysis to determine the maximum distance from the facility that oil could move in 48 hours, based on a worst case discharge and credible

adverse winds and currents over a range of seasons and weather conditions. Facilities located in OCS areas for which MMS prepared a lease sale Environmental Impact Statement (EIS) may, upon approval of the Regional Supervisor, reference and summarize the 3-day conditional probabilities for a hypothetical spill site in the EIS.

(ii) Provisions for monitoring and predicting spill movement.

(iii) A listing of areas of special economic or environmental importance potentially impacted by a spill and strategies to be used for their protection. As a minimum, the list must include those areas of special economic and environmental importance listed in the appropriate Area Contingency Plan.

(A) A plan for protecting and minimizing the risk and damage to fish and wildlife resources that may be jeopardized by a spill. The plan shall include maps depicting protection strategies for areas identified as having special economic or environmental importance.

(B) *Reserved.*

(4) The training and drills section must include:

(i) Training requirements for personnel in accordance with § 254.8 of this part.

(A) The response plan must identify the training provided to each individual having responsibility under the plan. The plan must designate a location where course completion certificates or attendance records for this training will be kept. All training certificates and attendance records must be made available to any authorized MMS representative upon request.

(B) *Reserved.*

(ii) Requirements for drills in accordance with § 254.9 of this part.

(5) The plan review and update procedures section must include the policies the lessee or operator will use to meet the requirements of § 254.13 of this part.

(6) Appendices must include:

(i) Equipment inventories.

(A) An inventory of spill-response equipment, materials, and supplies which are available locally and regionally.

(B) Provisions for the inspection and maintenance of spill-response equipment in accordance with § 254.10 of this part.

(ii) Contractual agreements.

(A) A copy of any written contractual agreements with any OSRO's or spill management team members not employees of the operator that are cited in the plan. The agreements must identify and include provisions for ensuring the availability of specified

personnel and equipment within the response times specified under § 254.5(c)(2)(vi).

(B) Proof of active membership in any oil spill removal cooperative that is identified in the plan. If not provided elsewhere in the plan, this section must also provide documentation showing the personnel, equipment, response times, and services provided by the cooperative.

(iii) Dispersant use plan. A dispersant use plan including an inventory and a location of the dispersants which might be proposed for use, a summary of toxicity data for each dispersant, a description of the types of oil on which each dispersant is effective, a description and location of application equipment, application procedures, and an outline of the procedures owners and operators must follow in obtaining approval for dispersant use. The dispersant use plan must be consistent with the dispersant use schedule of the National Contingency Plan and the appropriate Area Contingency Plan.

(iv) In situ burning plan. Provisions for ignition of an oil spill and the guidelines for making the decision to ignite. Guidelines must consider circumstances in which in situ burning may be appropriate, safety of personnel and property, well control, availability of fire retardant boom, and environmental effects. The plan must identify an operator's representative who has the authority to authorize ignition.

(v) Other information identified by the Regional Supervisor as needed or necessary for review and compliance.

§ 254.6 Worst case discharge.

The plan must contain a detailed scenario of a worst case discharge from the facility in adverse weather conditions, including a discharge resulting from a fire or explosion. The calculations used and the assumptions made in determining the worst case discharge must be included in the plan. A spill-response plan must describe and quantify a worst case discharge as follows:

(a) For an oil production platform facility, the plan will describe the worst case discharge as a summation of the following.

(1) The maximum capacity of all oil storage tanks and flow lines on the facility.

(2) The volume of oil calculated to leak from oil pipelines connected to the facility considering shutdown response time and the effect of hydrostatic pressure.

(3) The amount of oil possible from an uncontrolled blowout of the highest

capacity well on the platform for a period of 30 days. The calculation of the discharge volume must include an analysis of reservoir characteristics, casing/production tubing sizes, and historical production and reservoir pressure data.

(b) For exploratory drilling operations, the response plan must describe the worst case discharge as follows:

(1) The amount of oil possible from an uncontrolled blowout over a period of 30 days. The calculation of the discharge volume must include any known reservoir characteristics. If reservoir characteristics are unknown, the plan must use analog reservoirs from the area and give an explanation for the selection of the reservoir(s) used.

(2) Reserved.

(c) For a pipeline facility, the response plan must describe the worst case discharge as follows:

(1) The volume of oil equal to the pipeline system release detection time in hours, plus the shutdown response time in hours (may be based on an automatic shutdown system), multiplied by the highest hourly oil flow rate over the preceding 12-month period, plus the total volume of oil contained within the largest segregated segment of the pipe, as identified for a particular area.

(2) Reserved.

(d) For paragraph (a), (b), and (c) of this section, the plan must take into account and address adverse weather conditions for the operating area, including wave heights, currents, and weather-related visibility, as well as ice and temperature-related problems, when appropriate. The plan must cite mechanical equipment in the response inventory only when the equipment is effective in the adverse weather conditions described.

(e) For paragraph (a), (b), and (c) of this section, owners or operators may provide estimates of a worst case discharge by a group of facilities in the same geographic area, provided the example submitted represents the worst case scenario for that area.

(f) Owners or operators of facilities proposing to store, handle, transfer, process or transport oil not falling into the categories listed in paragraphs (a), (b), or (c) of this section must contact the Regional Supervisor for instructions on the calculation of a worst case discharge.

§ 254.7 Determining response equipment capacities.

(a) The plan must identify the calculated effective daily recovery capacity for the oil recovery devices listed. The effective daily recovery

capacity must be calculated using 20 percent of the manufacturer's rated throughput capacity over a 24-hour period. This 20 percent efficiency factor will take into account limitations of the recovery operations due to available daylight, sea state, temperature, viscosity, and emulsification of the oil being recovered.

(b) Owners or operators wishing to use a different efficiency factor for specific oil recovery devices must submit evidence to substantiate another efficiency factor. Adequate evidence includes verified performance data measured during actual spills or test data gathered according to the provisions of § 254.11 (b) and (c) of this part.

§ 254.8 Training.

(a) The owner or operator must ensure that the spill response operating team is provided with hands-on training classes at least annually in the deployment and operation of the pollution control equipment to which it is assigned. Members of the spill response operating team and all private response personnel must be trained to meet the Occupational Safety and Health Administration's standards for emergency response operations in 29 CFR 1910.120. Those members of the spill response operating team responsible for supervising the team shall be trained annually in directing the deployment and use of response equipment.

(b) The owner or operator must ensure that the spill response management team, including the qualified individual identified in the plan, is trained annually about the location, intended use, deployment strategies, and the operational and logistical requirements of available response equipment, spill reporting procedures, oil-spill trajectory analysis, predicting spill movement, and other responsibilities they may have for the facilities under their jurisdiction.

§ 254.9 Drills.

(a) Each owner or operator must exercise the entire response plan at least once every 3 years. This requirement may be satisfied by separate exercises for segments of the plan; it is not necessary to exercise the full plan at one time. The drills must simulate conditions in the area of operations, including seasonal weather variations, to the extent practicable.

(1) The MMS will recognize and give credit for any drills conducted under this section that satisfy some component of the required triennial exercise, whether initiated by the owner or

operator or a government regulatory agency.

(2) The drills should cover a range of exercise scenarios over the 3-year period simulating response to small spills, average spills, and the worst case spill scenario.

(b) The plan must provide, as a minimum, for the following types of drills:

(1) An annual unannounced spill management team tabletop exercise. The exercise must test the spill management team's organization, communication, and decisionmaking in managing a response to a spill scenario that is not revealed to team members prior to commencement of the exercise.

(2) A semiannual equipment deployment drill for each facility required by the Regional Supervisor to maintain response equipment at the facility. Each type of equipment maintained at the facility must be deployed at least once each year. Each type need not be deployed at each drill.

(3) An annual notification drill for each facility that is manned on a 24-hour basis. The exercise will test communications between facility personnel and the qualified individual as well as the ability to communicate pertinent information in a timely manner.

(c) Each owner or operator must ensure that the response equipment identified in the plan is exercised in annual deployment drills. Each type of equipment must be exercised during each triennial period. It is not necessary to deploy each piece of equipment. Certification that applicable OSRO's and oil spill removal cooperatives have deployed each type of equipment must be maintained at a location designated in the plan. A response to an actual spill may be substituted for a deployment exercise.

(d) The plan (and the yearly update) must provide a time schedule for drills with a list of any equipment to be deployed. The schedule shall provide sufficient advance notice to allow MMS personnel to witness any of the scheduled drills. Drill conditions, results, and the names of participants in the drill shall be recorded and the records maintained for 3 years at a site designated in the plan and made available to MMS personnel.

(e) The Regional Supervisor may require an increase in the frequency or a change in the location of the drills, equipment to be deployed, or deployment procedures and strategies. The Regional Supervisor may evaluate the results of drills and advise the lessee or operator of any needed changes in

response equipment, procedures, or strategies.

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

§ 254.10 Maintenance and periodic inspection of equipment.

(a) The spill-response equipment listed in the plan must be inspected and maintained, as necessary, to ensure optimal performance.

(b) The plan must provide for inspecting response equipment included in the plan. Inspections must be made at least monthly, and records of the inspections must be maintained for at least 2 years at a site specified in the plan.

§ 254.11 Equipment performance testing.

(a) The MMS may require testing of any spill removal equipment listed in the response plan to ensure that the equipment meets the performance standards stated in the plan. The Regional Supervisor may require testing 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 the Regional Supervisor.

(b) Testing of booms must be conducted in accordance with test criteria approved by MMS. The document "Test Protocol for the Evaluation of Oil-Spill Containment Booms," available from MMS, may be used for guidance. Testing of skimmers must also be conducted in accordance with test criteria approved by MMS. The document "Suggested Test Protocol for the Evaluation of Oil Spill Skimmers for the OCS," available from MMS, may be used for guidance.

(c) All testing is the responsibility of the owner or operator, who is also responsible for the accuracy of the information submitted.

§ 254.12 Notification requirements.

(a) In the event of a spill, the person designated as the qualified individual must immediately notify response personnel as well as appropriate Federal, State, and local officials.

(b) The Regional Supervisor must be notified orally within the following time limits:

- (1) Within 12 hours if the spill is one barrel or less, and
- (2) Without delay if the spill is more than one barrel. The qualified individual must confirm reports of spills of more than one barrel in writing.

§ 254.13 Plan revision and resubmission.

(a) Owners or operators must review their spill-response plans at least annually and submit all resulting modifications to the Regional Supervisor. If this review does not result in modifications to the plan, the facility owner or operator must inform the Regional Supervisor in writing that there are no changes.

(b) Owners or operators must submit revisions to their plans for approval at least 15 days before the effective date of the changes. Revisions are required whenever:

- (1) A change occurs in the number of facilities covered by the plan;
- (2) A change occurs in the OSRO designated in the plan or in the assessed capabilities of spill removal;
- (3) A change occurs (in name or position) of the qualified individual or any member of the spill management team;
- (4) A significant change occurs in the worst case discharge estimate, or in the type or quantity of hazardous substances handled at the facility;
- (5) Any changes occur in the listings of economically important or environmentally sensitive areas identified in the Area Contingency Plan(s).

(c) Owners and operators must provide a record of the changes submitted for insertion in the introduction to the plan.

(d) The Regional Supervisor may require that a response plan be resubmitted if the plan has become outdated or if numerous modifications and revisions have made its use unnecessarily difficult.

(e)(1) The Regional Supervisor will periodically review the equipment inventories of OSRO's to ensure that sufficient equipment is available to meet the cumulative needs of the owners and operators who cite these organizations in their spill-response plans as their primary source of spill removal equipment.

(2) The MMS require an owner or operator to revise a plan at any time if the Regional Supervisor notes significant inadequacies during these reviews or during a drill or response to an actual pollution incident.

§ 254.14 Response plans for facilities in State waters located seaward of the coast line.

Owners or operators of facilities in State waters located seawater of the coast line shall comply with paragraphs (a), (b), or (c) of this section.

(a) Modify an OCS spill-response plan submitted pursuant to the requirements of 30 CFR 254.5 and approved by MMS

to include facilities in State waters adjacent to an OCS Region and submit the plan to MMS for approval.

(b) Submit a response plan to the appropriate MMS office identified in § 254.4 for approval. The plan shall contain the information required in § 254.5.

(c) Submit a response plan to MMS for approval that has been developed in accordance with the laws or regulations of the State. The plan must contain all the elements required by the State 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 § 254.6. The plan must provide a copy of any written contractual agreement with any OSRO's or spill management team members not employees of the owner or operator.

(4) Describe the training, equipment testing, periodic unannounced drills, and response actions of personnel at the facility.

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

(6) Provide the following information:

(i) A list of the facilities and leases covered by the plan and a map showing their location.

(ii) Name and address of agency to whom the plan was submitted.

(iii) Date plan was submitted.

(iv) 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.

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

(d) Plans prepared by owners or operators of facilities in State waters, under paragraphs (a), (b), or (c) of this section, shall include a description of the steps taken to prevent spills of oil or hazardous substances or mitigate a substantial threat of such a discharge. The description shall include identification of State, Federal, or industry standards with which the operator is legally required to comply or voluntarily agrees to comply. The Regional Supervisor may prescribe additional equipment or procedures for spill prevention.

(e) Owners or operators of new facilities in State waters must submit the number of copies of the response plan requested by MMS to the appropriate MMS office 60 days before commencing operations.

§ 254.15 Approval of plans.

(a) The Regional Supervisor shall approve a plan that meets the following criteria:

(1) The plan contains the information required in § 254.5 or § 254.14, as appropriate.

(2) The plan identifies a worst case scenario that accurately reflects:

(i) The risks associated with the oil or other hazardous material being produced, stored, or transported;

(ii) Any adverse environmental conditions that can be expected in the area where the oil or hazardous material is being produced, stored, or transported and any area where the oil or hazardous material could migrate following a spill; and

(iii) Any environmentally sensitive or economically important areas that could be damaged by the spill.

(3) The plan provides for equipment, personnel, procedures, training, and drills that will result in the ability to respond in a timely manner to the identified worst case spill and remove the spill to the maximum extent practicable as well as mitigate or prevent a substantial threat of such a discharge.

(4) The plan is consistent with the National Contingency Plan and all relevant Area Contingency Plans.

(5) The plan demonstrates that the responsible party has granted an identified person full authority to implement removal actions.

(b) If the Regional Supervisor determines at any time that a response plan submitted to MMS or a State is inadequate, the Regional Supervisor will specify deficiencies in the plan, and the responsible party must take action to modify the plan.

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Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Ohio Permanent Regulatory Program; Evaluation of Revegetation Success

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: OSM is reopening the public comment period for revised amendments to the Ohio permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Ohio has submitted additional proposed changes to its guidelines for evaluating revegetation success. These guidelines describe the sampling methods and standards which Ohio proposes to use to evaluate revegetation success prior to bond release on areas with different postmining land uses. The amendments are intended to make the Ohio program as effective as the corresponding Federal regulations.

This document sets forth the times and locations that the Ohio program and proposed amendments to that program will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received on or before 4:00 p.m. on February 13, 1995. If requested, a public hearing on the proposed amendments will be held at 1:00 p.m. on February 7, 1995. Requests to present oral testimony at the hearing must be received on or before 4:00 p.m. on January 30, 1995.

ADDRESSES: Written comments and requests to testify at the hearing should be mailed or hand-delivered to Mr. Robert H. Mooney, Acting Director, Columbus Field Office, at the address listed below. Copies of the Ohio program, the proposed amendments, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive, free of charge, one copy of the proposed amendments by contacting OSM's Columbus Field Office.

Office of Surface Mining Reclamation and Enforcement, Columbus Field Office, 4480 Refugee Road, Suite 201, Columbus, Ohio 43232, Telephone: (614) 866-0578

Ohio Department of Natural Resources, Division of Reclamation, 1855 Fountain Square Court, Building H-3, Columbus, Ohio 43224, Telephone: (614) 265-6675

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under

FOR FURTHER INFORMATION CONTACT:

Mr. Robert H. Mooney, Acting Director, Columbus Field Office, (614) 866-0578.

SUPPLEMENTARY INFORMATION:

I. Background

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio program. Information on the general background of the Ohio program submission, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program, can be found in the August 10, 1992, **Federal Register** (47 FR 34688). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 935.11, 935.12, 935.15, and 935.16.

II. Discussion of the Proposed Amendments

On October 21, 1993 (Administrative Record No. OH-1944), the Ohio Department of Natural Resources, Division of Reclamation (Ohio) submitted a final combined version of two previous program amendments, Program Amendments Number 25R and 56R (PA 25R and PA 56R). In this combined submission, Ohio proposed to revise parts of the Ohio Administrative Code (OAC) pertaining to land use and revegetation success standards. Ohio also submitted "Guidelines for Evaluating Revegetation Success" establishing the sampling procedures for measuring vegetative ground cover, forage yield, and tree shrub stocking.

On May 2, 1994 (59 FR 22517), the Acting Assistant Director of OSM announced his decision approving combined PA 25R and 56R with certain exceptions. In that decision, the Assistant Director required Ohio to submit a proposed amendment to modify its "Guidelines for Evaluating Revegetation Success" to require the species diversity, erosion control, and other applicable requirements of OAC 1501:13-9-15(B) and (C) be evaluated at the time of final bond release. The Assistant Director also required that Ohio revise the formula for determining the sample size for evaluating tree and shrub success.

By letter dated July 19, 1994 (Ohio Administrative Record OH-2032), Ohio resubmitted revised "Guidelines for Evaluating Revegetation Success" which were intended to address the Assistant Director's requirements in his May 2, 1994, decision on PA 25R and 56R. OSM announced its receipt of proposed PA 25R and 56R in the **Federal Register** (59 FR 38577) on July 29, 1994. The public comment period ended on August 29, 1994. The public hearing scheduled for August 23, 1994, was not