

DEPARTMENT OF THE INTERIOR**Bureau of Ocean Energy Management, Regulation and Enforcement****30 CFR Part 250****Office of Natural Resources Revenue****30 CFR Parts 1204, 1206, 1218, 1241, and 1290**

[Docket No. ONRR-2011-0015]

RIN 1012-AA06

Reorganization of Title 30, Code of Federal Regulations

AGENCY: Bureau of Ocean Energy Management, Regulation and Enforcement; Office of Natural Resources Revenue, Interior.

ACTION: Correcting amendment to final rule.

SUMMARY: The Office of Natural Resources Revenue (ONRR) published a rule in the **Federal Register** on October 4, 2010, announcing that the Minerals Revenue Management Program (MRM) of the Bureau of Ocean Energy Management, Regulation, and Enforcement (BOEMRE) (formerly known as the Minerals Management Service (MMS)) was renamed the Office of Natural Resources Revenue by the Secretary of the Interior and was separated from BOEMRE and transferred to the supervision of the Assistant Secretary for Policy, Management and Budget. In the rule, ONRR also announced the reorganization of title 30 of the Code of Federal Regulations (30 CFR) resulting from the division of BOEMRE into two separate agencies. The rule removed certain regulations from chapter II in 30 CFR, which pertains to BOEMRE and recodified them in new chapter XII, which pertains to ONRR. This document corrects the rule published on October 4, 2010.

DATES: This rule is effective on July 1, 2011.

FOR FURTHER INFORMATION CONTACT: For questions on technical issues, contact Amy White, Petroleum Engineer, BOEMRE, Regulations & Standards Branch, 381 Elden Street, MS 4024, Herndon, VA 20171; telephone (703) 787-1665; or e-mail Amy.White@boemre.gov, or Armand Southall, Regulatory Specialist, ONRR, PMB, P.O. Box 25165, MS 61013B, Denver, Colorado 80225-0165; telephone (303) 231-3221; or e-mail Armand.Southall@onrr.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

The rule published in the **Federal Register** on October 4, 2010 (75 FR 61051), omitted a few technical corrections in 30 CFR parts 1204, 1206, and 1218. This document corrects those omissions. As explained below, this document also clarifies BOEMRE's authority to utilize the civil penalty provisions of the Federal Oil and Gas Royalty Management Act of 1982, 30 U.S.C. 1701 *et seq.* (FOGRMA). This rule makes only non-substantive, technical changes to existing regulations which have no effect on the rights, obligations, or interests of affected parties. Because (1) the provisions of this rule pertain solely to the organization and codification of existing rules and related technical corrections and (2) clarifying BOEMRE's FOGRMA civil penalty authority will avoid unnecessary confusion and challenge, the Department for good cause finds that notice and comment on this rule are unnecessary and contrary to the public interest under 5 U.S.C. 553(b)(B). Furthermore, because this document qualifies as a "rule[] of agency organization, procedure, or practice," 5 U.S.C. 553(b)(A), this document, in any event, is exempt from the notice and comment requirements of 5 U.S.C. 553(b).

Because this rule makes no changes to the legal obligations or rights of non-governmental entities, the Department further finds that good cause exists under 5 U.S.C. 553(d)(3) to make this rule effective immediately upon publication in the **Federal Register** rather than 30 days after publication.

The October 4, 2010, **Federal Register** notice stated that the rule was a "direct final rule." It noted that "[t]his direct final rule does not make any substantive changes to the regulations or requirements in 30 CFR. It merely moves ONRR's current regulations to a new chapter XII in 30 CFR and makes technical corrections to position titles, agency names, and acronyms." As a non-substantive rule which simply moved the then-current regulations to a new chapter in the Code of Federal Regulations and made corresponding technical changes to terminology (such as changing the references to agency names), the October 4, 2010, rule qualifies as a "rule[] of agency organization, procedure, or practice[.]" 5 U.S.C. 553(b)(A). It was therefore exempt from the notice and comment provisions of 5 U.S.C. 553(b).

Nevertheless, the agency requested comments on the reorganization of the rules. The comments received pointed out a few technical errors in the October

4, 2010, rule which are corrected in this rule.

II. Comments on the October 4, 2010, Rule

The Department received comments on the rule from one member of the petroleum industry. These comments are analyzed and discussed below.

A. Specific Comments on 30 CFR Part 1206—Product Valuation, Subpart C—Federal Oil and Subpart D—Federal Gas

1. § 1206.108 Does ONRR protect information I provide?

2. §§ 1206.152(l) Valuation standards—unprocessed gas and 1206.153(l) Valuation standards—processed gas.

Public comments: The petroleum industry member commented that the regulations for the royalty valuation of oil, unprocessed gas, and processed gas production should be modified to ensure that the submitter's information held by both agencies continues to have the same level of protection from disclosure to third parties.

Department of the Interior (DOI) Response:

The ONRR, not BOEMRE, collects documents and information for royalty valuation purposes under section 103 of FOGRMA, 30 U.S.C. 1713, and its implementing regulations. Because ONRR, not BOEMRE, is responsible for keeping the documents it collects under that authority confidential to the extent permitted by law, there is no need to either add BOEMRE to ONRR regulations or amend BOEMRE regulations.

B. Specific Comments on 30 CFR Part 1218—Collection of Monies and Provision for Geothermal Credits and Incentives, Subpart D—Oil, Gas and Sulfur, Offshore

1. § 1218.152 Fishermen's Contingency Fund.

Public comments: The petroleum industry member commented that the regulations must be modified to reflect the differing responsibilities for the two new agencies and the limits of ONRR's functions, and a corresponding change would need to be included in BOEMRE regulations remaining in chapter II.

DOI Response: Under 50 CFR 296.3(b)(2), ONRR, representing the Secretary of the Interior, not BOEMRE, has the authority to issue assessments and collect payments for, and deposit payments into, the Fishermen's Contingency Fund. Therefore, the Department will not revise § 1218.152.

2. § 1218.154 Effect of suspensions on royalty and rental.

Public comments: The petroleum industry member commented that the

references in this section to the “Regional Supervisor” are to a BOEMRE official, not an ONRR official, and therefore should be properly identified.

DOI Response: The Department agrees that under the suspension rules at 30 CFR 250.173(a), the “Regional Supervisor” is a BOEMRE official. Therefore, for clarification purposes, the Department will add “BOEMRE” to the title of “Regional Supervisor” in § 1218.154.

C. Specific Comments on 30 CFR Part 219—Distribution and Disbursement of Royalties, Rentals, and Bonuses, Subpart D—Oil and Gas, Offshore

1. § 219.416 How will the qualified OCS revenues be allocated to coastal political subdivisions within the Gulf producing States?

2. § 219.418 When will funds be disbursed to Gulf producing States and eligible coastal political subdivisions?

Public comments: The petroleum industry member commented that §§ 219.416 and 219.418 of the existing subpart D in 30 CFR part 219 refer to revenue disbursement functions that should be ONRR’s responsibility. Also, the petroleum industry member commented that, if the disbursement function will be the responsibility of ONRR, then this subpart must be amended to reflect the different responsibilities of BOEMRE and ONRR with regard to calculation and then disbursement of qualified OCS revenues to coastal states.

DOI Response: The Department agrees that, for clarification purposes, the BOEMRE rules at 30 CFR 219.416 and 219.418 should distinguish between BOEMRE’s and ONRR’s responsibilities. At this time, BOEMRE is preparing proposed revisions to its regulations in 30 CFR part 219 and will address the commenter’s concern in that separate rulemaking effort.

D. Specific Comments on 30 CFR Part 1220—Accounting Procedures for Determining Net Profit Share Payment for Outer Continental Shelf Oil and Gas Leases

Public comments: The petroleum industry member commented that determination of how a net profit share will be calculated should be the responsibility of the leasing agency, BOEMRE, as opposed to the revenue collection agency, ONRR. Also, the petroleum industry member commented that the auditing function could be transferred to ONRR, and the rules should be clear as to how responsibility for audit functions will be divided.

DOI Response: Under the Outer Continental Shelf Lands Act of 1953

(OCSLA), 43 U.S.C. 1331 *et seq.*, FOGRMA section 101(a) and (b), 30 U.S.C. 1711(a) and (b), and Departmental delegations, including applicable Secretarial Orders, ONRR, representing the Secretary of the Interior, not BOEMRE, has the authority to determine the calculation and audit of the lessee’s net profit share payments. Therefore, the Department will not revise 30 CFR part 1220.

E. Specific Comments on 30 CFR Part 1241—Penalties

Public comments: The petroleum industry member commented that some of the activities for which “knowing or willful” penalties may be assessed under these regulations are BOEMRE functions that are not the responsibility of ONRR.

DOI Response: FOGRMA section 109, 30 U.S.C. 1719, contains some civil penalty provisions, which pertain exclusively to royalty (and therefore come within ONRR’s delegation of authority), others which pertain exclusively to leasing and operations (and therefore come within BOEMRE’s delegation of authority), and still others which pertain to both (and therefore come within the delegations of authority for both ONRR and BOEMRE). The October 4, 2010, rule inadvertently transferred all of the implementing civil penalty regulations from 30 CFR chapter II to chapter XII. This transfer could cause confusion regarding BOEMRE’s ability to exercise authority possessed by its predecessor component within the former MMS, which BOEMRE currently possesses by delegation from the Secretary of the Interior.

This rule corrects this situation by restoring to 30 CFR chapter II the civil penalty regulations, currently found in 30 CFR chapter XII part 1241, which pertain to offshore leasing and operations violations. The penalty provisions that pertain to both royalty and leasing and operations violations will be restored to BOEMRE rules, but also remain in ONRR rules. Thus, the provisions at 30 CFR 1241.50 through 1241.56, 1241.60(a)(2) and (b)(1), 1241.61 through 1241.70, 1241.71(b), and 1241.72 through 1241.80 will be essentially duplicated in the BOEMRE rules as 30 CFR 250.1450 through 250.1480, with appropriate technical changes such as changing the reference to ONRR in several section headings to BOEMRE and removing the reference to Indian leases in new § 250.1451(a). The provisions that pertain exclusively to leasing and operations violations will be removed from ONRR rules and put into BOEMRE rules. Thus, the current 30 CFR 1241.60(a)(3), (b)(2), and (b)(3) will

be removed from ONRR rules and recodified as 30 CFR 250.1460(a)(2), (b)(2), and (b)(3), respectively. The current 30 CFR 1241.60(a)(1), which deals exclusively with royalties and is solely within ONRR’s delegated enforcement authority, will remain in the ONRR rules and will have no counterpart in the BOEMRE rules. Like 30 CFR 1241.60(a)(1), 30 CFR 1241.71(a) is inapplicable to BOEMRE because violations of offshore leasing or operations orders or regulations do not result in underlying underpayments or unpaid debts (excepting civil penalties), which could incur interest. Therefore, 30 CFR 1241.71(a) will not have a counterpart carried over into BOEMRE regulations. Finally, conforming changes have been made to 30 CFR 250.1455(b)(2) and 250.1463(b)(2) to reflect the fact that the bonding and financial solvency requirements of 30 CFR part 1243, subparts B and C, have been duplicated in the same subpart, subpart N of part 250, as the civil penalty regulations.

This rule also duplicates in BOEMRE regulations certain provisions regarding bonding and demonstration of financial solvency which are currently in ONRR regulations. These provisions are found at 30 CFR part 1243, subparts B and C, and are duplicated, with minor conforming changes, in this rule in 30 CFR 250.1490 through 250.1497. They specify the process by which a party appealing a Notice of Non-Compliance or Notice of Civil Penalty may post a bond or demonstrate financial solvency to stay accrual of civil penalties under 30 CFR 250.1455(b)(2) or 250.1463(b)(2). These provisions also specify the methodology by which BOEMRE will evaluate the sufficiency of a bond amount or demonstration of financial solvency.

These provisions are identical to those found at 30 CFR part 1243, subparts B and C, with one minor exception and several conforming changes. The exception is that the new 30 CFR 250.1496(c)(2)(i) is modified to require that payments be made by Electronic Funds Transfer (EFT). This change is made to conform to 30 CFR 250.126, which requires that fees paid to BOEMRE be made by EFT.

Duplicating these provisions in BOEMRE regulations will clarify that these processes apply to appeals of BOEMRE civil penalty orders issued under FOGRMA. Duplicating these regulations is not a substantive change, but rather carries over to BOEMRE regulations authorities which already exist and are an integral part of the FOGRMA civil penalty system.

This rule does not change the civil penalty authorities assigned to ONRR or BOEMRE. It does not change the procedures by which those authorities are implemented. It merely revises the references in the regulations to conform to those in current Secretarial delegations. It has no effect on the rights, obligations, or interests of affected parties. It affects solely the organization, procedure, and practice of the agencies.

III. Change of Reference to Director, Bureau of Indian Affairs

The appeals regulations in 30 CFR part 1290 provide that appeals of decisions involving reporting and payment obligations for Indian leases are decided by the Deputy Commissioner of Indian Affairs. The position of Deputy Commissioner of Indian Affairs was abolished upon the creation of the position of Director, Bureau of Indian Affairs, on April 21, 2003. The role of deciding appeals has since been performed by the Director, Bureau of Indian Affairs. This rule recognizes this by changing the current reference to the Deputy Commissioner of Indian Affairs to the Director, Bureau of Indian Affairs. Changing this reference simply reflects an internal organizational change effected 8 years ago within the Department.

List of Subjects

30 CFR Part 250

Administrative practice and procedure, Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Investigations, Mineral royalties, Oil and gas exploration, Penalties, Pipelines, Public lands—mineral resources, Public lands—right-of-way, Reporting and recordkeeping requirements, Sulfur.

30 CFR Part 1204

Accounting and auditing relief, Barrels of oil equivalent (BOE), Continental shelf, Federal lease, Marginal property, Mineral royalties, Royalty prepayment, Royalty relief.

30 CFR Part 1206

Coal, Continental shelf, Geothermal energy, Government contracts, Indians—lands, Mineral royalties, Oil and gas exploration, Public lands—mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 1218

Continental shelf, Electronic funds transfers, Geothermal energy, Indians—lands, Mineral royalties, Oil and gas exploration, Public lands—mineral

resources, Reporting and recordkeeping requirements.

30 CFR Part 1241

Administrative practice and procedure, Continental Shelf, Government contracts, Indians—lands, Mineral royalties, Oil and gas exploration, Penalties, Public lands—mineral resources, Sulfur.

30 CFR Part 1290

Administrative practice and procedure.

Dated: June 28, 2011.

David J. Hayes,

Deputy Secretary for Department of the Interior.

Accordingly, 30 CFR parts 250, 1204, 1206, 1218, 1241, and 1290 are corrected by making the following amendments:

CHAPTER II—BUREAU OF OCEAN ENERGY MANAGEMENT, REGULATION, AND ENFORCEMENT, DEPARTMENT OF THE INTERIOR

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

- 1. Revise the authority citation for part 250 to read as follows:

Authority: 30 U.S.C. 1751; 31 U.S.C. 9701; 43 U.S.C. 1334.

Subpart N—Outer Continental Shelf Civil Penalties

- 2. Revise the heading of subpart N to read as set forth above.
- 3. Add the following undesigned center heading before § 250.1400 in the Table of Contents for part 250, to read as follows:

Outer Continental Shelf Lands Act Civil Penalties

- 4. Add the following undesigned center headings and §§ 250.1450 through 250.1456, 250.1460 through 250.1464, 250.1470 through 250.1477, 250.1480, 250.1490 through 250.1491, and 250.1495 through 250.1497 after § 250.1409 in the Table of Contents for part 250 to read as follows:

Federal Oil and Gas Royalty Management Act Civil Penalties Definitions

- 250.1450 What definitions apply to this subpart?

Penalties After a Period To Correct

- 250.1451 What may the Bureau of Ocean Energy Management, Regulation, and Enforcement (BOEMRE) do if I violate a statute, regulation, order, or lease term relating to a Federal oil and gas lease?

- 250.1452 What if I correct the violation?
- 250.1453 What if I do not correct the violation?

- 250.1454 How may I request a hearing on the record on a Notice of Noncompliance?
- 250.1455 Does my request for a hearing on the record affect the penalties?

- 250.1456 May I request a hearing on the record regarding the amount of a civil penalty if I did not request a hearing on the Notice of Noncompliance?

Penalties Without a Period To Correct

- 250.1460 May I be subject to penalties without prior notice and an opportunity to correct?

- 250.1461 How will BOEMRE inform me of violations without a period to correct?
- 250.1462 How may I request a hearing on the record on a Notice of Noncompliance regarding violations without a period to correct?

- 250.1463 Does my request for a hearing on the record affect the penalties?

- 250.1464 May I request a hearing on the record regarding the amount of a civil penalty if I did not request a hearing on the Notice of Noncompliance?

General Provisions

- 250.1470 How does BOEMRE decide what the amount of the penalty should be?

- 250.1471 Does the penalty affect whether I owe interest?

- 250.1472 How will the Office of Hearings and Appeals conduct the hearing on the record?

- 250.1473 How may I appeal the Administrative Law Judge's decision?

- 250.1474 May I seek judicial review of the decision of the Interior Board of Land Appeals?

- 250.1475 When must I pay the penalty?

- 250.1476 Can BOEMRE reduce my penalty once it is assessed?

- 250.1477 How may BOEMRE collect the penalty?

Criminal Penalties

- 250.1480 May the United States criminally prosecute me for violations under Federal oil and gas leases?

Bonding Requirements

- 250.1490 What standards must my BOEMRE-specified surety instrument meet?

- 250.1491 How will BOEMRE determine the amount of my bond or other surety instrument?

Financial Solvency Requirements

- 250.1495 How do I demonstrate financial solvency?

- 250.1496 How will BOEMRE determine if I am financially solvent?

- 250.1497 When will BOEMRE monitor my financial solvency?

- 5. Add the following undesigned center heading before § 250.1400 in subpart N for part 250, to read as follows:

Outer Continental Shelf Lands Act Civil Penalties

■ 6. Add the following undesignated center headings and §§ 250.1450 through 250.1456, 250.1460 through 250.1464, 250.1470 through 250.1477, 250.1480, 250.1490 through 250.1491, and 250.1495 through 250.1497 after § 250.1409 in subpart N, to read as follows:

Federal Oil and Gas Royalty Management Act Civil Penalties Definitions

§ 250.1450 What definitions apply to this subpart?

The terms used in this subpart have the same meaning as in 30 U.S.C. 1702.

Penalties After a Period To Correct

§ 250.1451 What may the Bureau of Ocean Energy Management, Regulation, and Enforcement (BOEMRE) do if I violate a statute, regulation, order, or lease term relating to a Federal oil and gas lease?

(a) If we believe that you have not followed any requirement of a statute, regulation, order, or lease term for any Federal oil or gas lease, we may send you a Notice of Noncompliance informing you what the violation is and what you need to do to correct it to avoid civil penalties under 30 U.S.C. 1719(a) and (b).

(b) We will serve the Notice of Noncompliance by registered mail or personal service using the most current address on file as maintained by the BOEMRE Leasing Office in your respective Region.

§ 250.1452 What if I correct the violation?

The matter will be closed if you correct all of the violations identified in the Notice of Noncompliance within 20 days after you receive the Notice (or within a longer time period specified in the Notice).

§ 250.1453 What if I do not correct the violation?

(a) We may send you a Notice of Civil Penalty if you do not correct all of the violations identified in the Notice of Noncompliance within 20 days after you receive the Notice of Noncompliance (or within a longer time period specified in that Notice). The Notice of Civil Penalty will tell you how much penalty you must pay. The penalty may be up to \$500 per day, beginning with the date of the Notice of Noncompliance, for each violation identified in the Notice of Noncompliance for as long as you do not correct the violations.

(b) If you do not correct all of the violations identified in the Notice of

Noncompliance within 40 days after you receive the Notice of Noncompliance (or 20 days following the expiration of a longer time period specified in that Notice), we may increase the penalty to up to \$5,000 per day, beginning with the date of the Notice of Noncompliance, for each violation for as long as you do not correct the violations.

§ 250.1454 How may I request a hearing on the record on a Notice of Noncompliance?

You may request a hearing on the record on a Notice of Noncompliance by filing a request within 30 days of the date you received the Notice of Noncompliance with the Hearings Division (Departmental), Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy Street, Arlington, Virginia 22203. You may do this regardless of whether you correct the violations identified in the Notice of Noncompliance.

§ 250.1455 Does my request for a hearing on the record affect the penalties?

(a) If you do not correct the violations identified in the Notice of Noncompliance, the penalties will continue to accrue even if you request a hearing on the record.

(b) You may petition the Hearings Division (Departmental) of the Office of Hearings and Appeals, to stay the accrual of penalties pending the hearing on the record and a decision by the Administrative Law Judge under § 250.1472.

(1) You must file your petition within 45 calendar days of receiving the Notice of Noncompliance.

(2) To stay the accrual of penalties, you must post a bond or other surety instrument, or demonstrate financial solvency, using the standards and requirements as prescribed in 30 CFR 250.1490 through 250.1497, for the principal amount of any unpaid amounts due that are the subject of the Notice of Noncompliance, including interest thereon, plus the amount of any penalties accrued before the date a stay becomes effective.

(3) The Hearings Division will grant or deny the petition under 43 CFR 4.21(b).

§ 250.1456 May I request a hearing on the record regarding the amount of a civil penalty if I did not request a hearing on the Notice of Noncompliance?

(a) You may request a hearing on the record to challenge only the amount of a civil penalty when you receive a Notice of Civil Penalty, if you did not previously request a hearing on the record under § 250.1454. If you did not request a hearing on the record on the

Notice of Noncompliance under § 250.1454, you may not contest your underlying liability for civil penalties.

(b) You must file your request within 10 days after you receive the Notice of Civil Penalty with the Hearings Division (Departmental), Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy Street, Arlington, Virginia 22203.

Penalties Without a Period To Correct

§ 250.1460 May I be subject to penalties without prior notice and an opportunity to correct?

The Federal Oil and Gas Royalty Management Act sets out several specific violations for which penalties accrue without an opportunity to first correct the violation.

(a) Under 30 U.S.C. 1719(c), you may be subject to penalties of up to \$10,000 per day per violation for each day the violation continues if you:

(1) Fail or refuse to permit lawful entry, inspection, or audit; or

(2) Knowingly or willfully fail or refuse to notify the Secretary, within 5 business days after any well begins production on a lease site or allocated to a lease site, or resumes production in the case of a well which has been off production for more than 90 days, of the date on which production has begun or resumed.

(b) Under 30 U.S.C. 1719(d), you may be subject to civil penalties of up to \$25,000 per day for each day each violation continues if you:

(1) Knowingly or willfully prepare, maintain, or submit false, inaccurate, or misleading reports, notices, affidavits, records, data, or other written information;

(2) Knowingly or willfully take or remove, transport, use or divert any oil or gas from any lease site without having valid legal authority to do so; or

(3) Purchase, accept, sell, transport, or convey to another person, any oil or gas knowing or having reason to know that such oil or gas was stolen or unlawfully removed or diverted.

§ 250.1461 How will BOEMRE inform me of violations without a period to correct?

We will inform you of any violation, without a period to correct, by issuing a Notice of Noncompliance and Civil Penalty explaining the violation, how to correct it, and the penalty assessment. We will serve the Notice of Noncompliance and Civil Penalty by registered mail or personal service using your address of record as specified under subpart H of part 1218.

§ 250.1462 How may I request a hearing on the record on a Notice of Noncompliance regarding violations without a period to correct?

You may request a hearing on the record of a Notice of Noncompliance regarding violations without a period to correct by filing a request within 30 days after you receive the Notice of Noncompliance with the Hearings Division (Departmental), Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy Street, Arlington, Virginia 22203. You may do this regardless of whether you correct the violations identified in the Notice of Noncompliance.

§ 250.1463 Does my request for a hearing on the record affect the penalties?

(a) If you do not correct the violations identified in the Notice of Noncompliance regarding violations without a period to correct, the penalties will continue to accrue even if you request a hearing on the record.

(b) You may ask the Hearings Division (Departmental) to stay the accrual of penalties pending the hearing on the record and a decision by the Administrative Law Judge under § 250.1472.

(1) You must file your petition within 45 calendar days after you receive the Notice of Noncompliance.

(2) To stay the accrual of penalties, you must post a bond or other surety instrument, or demonstrate financial solvency, using the standards and requirements as prescribed in 30 CFR 250.1490 through 250.1497, for the principal amount of any unpaid amounts due that are the subject of the Notice of Noncompliance, including interest thereon, plus the amount of any penalties accrued before the date a stay becomes effective.

(3) The Hearings Division will grant or deny the petition under 43 CFR 4.21(b).

§ 250.1464 May I request a hearing on the record regarding the amount of a civil penalty if I did not request a hearing on the Notice of Noncompliance?

(a) You may request a hearing on the record to challenge only the amount of a civil penalty when you receive a Notice of Civil Penalty regarding violations without a period to correct, if you did not previously request a hearing on the record under § 250.1462. If you did not request a hearing on the record on the Notice of Noncompliance under § 250.1462, you may not contest your underlying liability for civil penalties.

(b) You must file your request within 10 days after you receive Notice of Civil Penalty with the Hearings Division (Departmental), Office of Hearings and

Appeals, U.S. Department of the Interior, 801 North Quincy, Arlington, Virginia 22203.

General Provisions

§ 250.1470 How does BOEMRE decide what the amount of the penalty should be?

We determine the amount of the penalty by considering the severity of the violations, your history of compliance, and if you are a small business.

§ 250.1471 Does the penalty affect whether I owe interest?

If you do not pay the penalty by the date required under § 250.1475(d), BOEMRE will assess you late payment interest on the penalty amount at the same rate interest is assessed under 30 CFR 1218.54.

§ 250.1472 How will the Office of Hearings and Appeals conduct the hearing on the record?

If you request a hearing on the record under §§ 250.1454, 250.1456, 250.1462, or 250.1464, the hearing will be conducted by a Departmental Administrative Law Judge from the Office of Hearings and Appeals. After the hearing, the Administrative Law Judge will issue a decision in accordance with the evidence presented and applicable law.

§ 250.1473 How may I appeal the Administrative Law Judge's decision?

If you are adversely affected by the Administrative Law Judge's decision, you may appeal that decision to the Interior Board of Land Appeals under 43 CFR part 4, subpart E.

§ 250.1474 May I seek judicial review of the decision of the Interior Board of Land Appeals?

Under 30 U.S.C. 1719(j), you may seek judicial review of the decision of the Interior Board of Land Appeals. A suit for judicial review in the District Court will be barred unless filed within 90 days after the final order.

§ 250.1475 When must I pay the penalty?

(a) You must pay the amount of the Notice of Civil Penalty issued under §§ 250.1453 or 250.1461, if you do not request a hearing on the record under §§ 250.1454, 250.1456, 250.1462, or 250.1464.

(b) If you request a hearing on the record under §§ 250.1454, 250.1456, 250.1462, or 250.1464, but you do not appeal the determination of the Administrative Law Judge to the Interior Board of Land Appeals under § 250.1473, you must pay the amount assessed by the Administrative Law Judge.

(c) If you appeal the determination of the Administrative Law Judge to the Interior Board of Land Appeals, you must pay the amount assessed in the IBLA decision.

(d) You must pay the penalty assessed within 40 days after:

(1) You received the Notice of Civil Penalty, if you did not request a hearing on the record under either §§ 250.1454, 250.1456, 250.1462, or 250.1464;

(2) You received an Administrative Law Judge's decision under § 250.1472, if you obtained a stay of the accrual of penalties pending the hearing on the record under § 250.1455(b) or § 250.1463(b) and did not appeal the Administrative Law Judge's determination to the IBLA under § 250.1473;

(3) You received an IBLA decision under § 250.1473 if the IBLA continued the stay of accrual of penalties pending its decision and you did not seek judicial review of the IBLA's decision; or

(4) A final non-appealable judgment of a court of competent jurisdiction is entered, if you sought judicial review of the IBLA's decision and the Department or the appropriate court suspended compliance with the IBLA's decision pending the adjudication of the case.

(e) If you do not pay, that amount is subject to collection under the provisions of § 250.1477.

§ 250.1476 Can BOEMRE reduce my penalty once it is assessed?

Under 30 U.S.C. 1719(g), the Director or his or her delegate may compromise or reduce civil penalties assessed under this part.

§ 250.1477 How may BOEMRE collect the penalty?

(a) BOEMRE may use all available means to collect the penalty including, but not limited to:

(1) Requiring the lease surety, for amounts owed by lessees, to pay the penalty;

(2) Deducting the amount of the penalty from any sums the United States owes to you; and

(3) Using judicial process to compel your payment under 30 U.S.C. 1719(k).

(b) If the Department uses judicial process, or if you seek judicial review under § 250.1474 and the court upholds assessment of a penalty, the court shall have jurisdiction to award the amount assessed plus interest assessed from the date of the expiration of the 90-day period referred to in § 250.1474. The amount of any penalty, as finally determined, may be deducted from any sum owing to you by the United States.

Criminal Penalties

§ 250.1480 May the United States criminally prosecute me for violations under Federal oil and gas leases?

If you commit an act for which a civil penalty is provided at 30 U.S.C. 1719(d) and § 250.1460(b), the United States may pursue criminal penalties as provided at 30 U.S.C. 1720, in addition to any authority for prosecution under other statutes.

Bonding Requirements

§ 250.1490 What standards must my BOEMRE-specified surety instrument meet?

(a) A BOEMRE-specified surety instrument must be in a form specified in BOEMRE instructions. BOEMRE will give you written information and standard forms for BOEMRE-specified surety instrument requirements.

(b) BOEMRE will use a bank-rating service to determine whether a financial institution has an acceptable rating to provide a surety instrument adequate to indemnify the lessor from loss or damage.

(1) Administrative appeal bonds must be issued by a qualified surety company which the Department of the Treasury has approved.

(2) Irrevocable letters of credit or certificates of deposit must be from a financial institution acceptable to BOEMRE with a minimum 1-year period of coverage subject to automatic renewal up to 5 years.

§ 250.1491 How will BOEMRE determine the amount of my bond or other surety instrument?

(a) The BOEMRE bond-approving officer may approve your surety if he or she determines that the amount is adequate to guarantee payment. The amount of your surety may vary depending on the form of the surety and how long the surety is effective.

(1) The amount of the BOEMRE-specified surety instrument must include the principal amount owed under the Notice of Noncompliance or Notice of Civil Penalty plus any accrued interest we determine is owed plus projected interest for a 1-year period.

(2) Treasury book-entry bond or note amounts must be equal to at least 120 percent of the required surety amount.

(b) If your appeal is not decided within 1 year from the filing date, you must increase the surety amount to cover additional estimated interest for another 1-year period. You must continue to do this annually on the date your appeal was filed. We will determine the additional estimated interest and notify you of the amount so you can amend your surety instrument.

(c) You may submit a single surety instrument that covers multiple appeals. You may change the instrument to add new amounts under appeal or remove amounts that have been adjudicated in your favor or that you have paid, if you:

(1) Amend the single surety instrument annually on the date you filed your first appeal; and

(2) Submit a separate surety instrument for new amounts under appeal until you amend the instrument to cover the new appeals.

Financial Solvency Requirements

§ 250.1495 How do I demonstrate financial solvency?

(a) To demonstrate financial solvency under this part, you must submit an audited consolidated balance sheet, and, if requested by the BOEMRE bond-approving officer, up to 3 years of tax returns to BOEMRE using the U.S. Postal Service, private delivery, courier, or overnight delivery at:

(1) For Alaska OCS: Jeffrey Walker, RS/FO, BOEMRE Alaska OCS Region, 3801 Centerpoint Drive, Suite 500, Anchorage, AK 99503-5823, jeffrey.walker@boemre.gov, (907) 334-5300.

(2) For Gulf of Mexico and Atlantic OCS: Joshua Joyce, Regional FARM Program Coordinator, BOEMRE Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard New Orleans, LA 70123-2394, joshua.joyce@boemre.gov, (504) 736-2779

(3) For Pacific OCS: Jaron Ming, Lead Leasing Specialist, BOEMRE Pacific OCS Region, 770 Paseo Camarillo, 2nd Floor, Camarillo, CA 93010, jaron.ming@boemre.gov, (805) 389-7514

(b) You must submit an audited consolidated balance sheet annually, and, if requested, additional annual tax returns on the date BOEMRE first determined that you demonstrated financial solvency as long as you have active appeals, or whenever BOEMRE requests.

(c) If you demonstrate financial solvency in the current calendar year, you are not required to redemonstrate financial solvency for new appeals of orders during that calendar year unless you file for protection under any provision of the U.S. Bankruptcy Code (Title 11 of the United States Code), or BOEMRE notifies you that you must redemonstrate financial solvency.

§ 250.1496 How will BOEMRE determine if I am financially solvent?

(a) The BOEMRE bond-approving officer will determine your financial solvency by examining your total net worth, including, as appropriate, the net worth of your affiliated entities.

(b) If your net worth, minus the amount we would require as surety under 30 CFR 250.1490 and 250.1491 for all orders you have appealed is greater than \$300 million, you are presumptively deemed financially solvent, and we will not require you to post a bond or other surety instrument.

(c) If your net worth, minus the amount we would require as surety under 30 CFR 250.1490 and 250.1491 for all orders you have appealed is less than \$300 million, you must submit the following to BOEMRE by one of the methods in § 250.1495(a):

(1) A written request asking us to consult a business-information, or credit-reporting service or program to determine your financial solvency; and

(2) A nonrefundable \$50 processing fee:

(i) You must pay the processing fee to us following the requirements for making payments found in 30 CFR 250.126. You are required to use Electronic Funds Transfer (EFT) for these payments;

(ii) You must submit the fee with your request under paragraph (c)(1) of this section, and then annually on the date we first determined that you demonstrated financial solvency, as long as you are not able to demonstrate financial solvency under paragraph (a) of this section and you have active appeals.

(d) If you request that we consult a business-information or credit-reporting service or program under paragraph (c) of this section:

(1) We will use criteria similar to that which a potential creditor would use to lend an amount equal to the bond or other surety instrument we would require under 30 CFR 250.1490 and 250.1491;

(2) For us to consider you financially solvent, the business-information or credit-reporting service or program must demonstrate your degree of risk as low to moderate:

(i) If our bond-approving officer determines that the business-information or credit-reporting service or program information demonstrates your financial solvency to our satisfaction, our bond-approving officer will not require you to post a bond or other surety instrument under 30 CFR 250.1490 and 250.1491;

(ii) If our bond-approving officer determines that the business-information or credit-reporting service or program information does not demonstrate your financial solvency to our satisfaction, our bond-approving officer will require you to post a bond or other surety instrument under 30 CFR

250.1490 and 250.1491 or pay the obligation.

§ 250.1497 When will BOEMRE monitor my financial solvency?

(a) If you are presumptively financially solvent under § 250.1496(b), BOEMRE will determine your net worth as described under §§ 250.1496(b) and (c) to evaluate your financial solvency at least annually on the date we first determined that you demonstrated financial solvency as long as you have

active appeals and each time you appeal a new order.

(b) If you ask us to consult a business-information or credit-reporting service or program under § 250.1496(c), we will consult a service or program annually as long as you have active appeals and each time you appeal a new order.

(c) If our bond-approving officer determines that you are no longer financially solvent, you must post a bond or other BOEMRE-specified surety

instrument under §§ 250.1490 and 250.1491.

CHAPTER XII—OFFICE OF NATURAL RESOURCES REVENUE, DEPARTMENT OF THE INTERIOR

PART 1204—ALTERNATIVES FOR MARGINAL PROPERTIES

■ 7. The authority citation for part 1204 continues to read as follows:

Authority: 30 U.S.C. 1726.

■ 8. Amend part 1204 as follows:

AMENDMENT TABLE FOR PART 1204

Amend	By removing the reference to:	And adding in its place:
§ 1204.207(b)	§ 204.208	§ 1204.208.
§ 1204.207(b)	MMS	ONRR.

PART 1206—PRODUCT VALUATION

■ 9. The authority citation for part 1206 continues to read as follows:

AMENDMENT TABLE FOR PART 1206

Amend	By removing the reference to:	And adding in its place:
§ 1206.259(e)(1) (twice)	MMS	ONRR.
§ 1206.259(e)(2)	MMS	ONRR.

PART 1218—COLLECTION OF MONIES AND PROVISION FOR GEOTHERMAL CREDITS AND INCENTIVES [CORRECTION]

■ 11. The authority citation for part 1218 continues to read as follows:

Authority: 25 U.S.C. 396 *et seq.*, 396a *et seq.*, 2101 *et seq.*; 30 U.S.C. 181 *et seq.*, 351 *et seq.*, 1001 *et seq.*, 1701 *et seq.*; 43 U.S.C. 3335; 43 U.S.C. 1301 *et seq.*, 1331 *et seq.*; 1801 *et seq.*

■ 12. Amend part 1218 as follows:

AMENDMENT TABLE FOR PART 1218

Amend	By removing the reference to:	And adding in its place:
§ 1218.154(a)	Regional Supervisor	BOEMRE Regional Supervisor.
§ 1218.154(b)	Regional Supervisor	BOEMRE Regional Supervisor.

PART 1241—PENALTIES

■ 13. The authority citation for part 1241 continues to read as follows:

Authority: 25 U.S.C. 396 *et seq.*, 396a *et seq.*, 2101 *et seq.*; 30 U.S.C. 181 *et seq.*, 351 *et seq.*, 1001 *et seq.*, 1701 *et seq.*; 43 U.S.C. 1301 *et seq.*, 1331 *et seq.*; 1801 *et seq.*

■ 14. Amend § 1241.60 as follows:

■ a. Remove paragraph (a)(3).

■ b. Remove “; or” after the word “audit” and add, in its place, a period in paragraph (a)(2).

■ c. Add “or” after “lease;” in paragraph (a)(1).

■ d. Revise paragraph (b) to read as follows:

§ 1241.60 May I be subject to penalties without prior notice and an opportunity to correct?

(b) Under 30 U.S.C. 1719(d), you may be subject to civil penalties of up to \$25,000 per day for each day each violation continues if you knowingly or willfully prepare, maintain, or submit false, inaccurate, or misleading reports,

notices, affidavits, records, data, or other written information.

* * * * *

PART 1290—APPEAL PROCEDURES FOR OFFICE OF NATURAL RESOURCES REVENUE

■ 16. The authority citation for part 1290 is revised to read as follows:

Authority: 5 U.S.C. 301 *et seq.*; 43 U.S.C. 1331.

■ 17. Amend part 1290 as follows:

AMENDMENT TABLE FOR PART 1290

Amend	By removing the reference to:	And adding in its place:
§ 1290.105(g)	Deputy Commissioner of Indian Affairs	Director, Bureau of Indian Affairs.
§ 1290.108	Deputy Commissioner of Indian Affairs	Director, Bureau of Indian Affairs.
§ 1290.110(a)(1)	Deputy Commissioner of Indian Affairs	Director, Bureau of Indian Affairs.

[FR Doc. 2011-16681 Filed 6-30-11; 8:45 am]

BILLING CODE 4310-MR-P**DEPARTMENT OF THE TREASURY****Office of Foreign Assets Control****31 CFR Part 570****Libyan Sanctions Regulations****AGENCY:** Office of Foreign Assets Control, Treasury.**ACTION:** Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control ("OFAC") is issuing regulations with respect to Libya to implement Executive Order 13566 of February 25, 2011. OFAC intends to supplement this part 570 with a more comprehensive set of regulations, which may include additional interpretive and definitional guidance and additional general licenses and statements of licensing policy.

DATES: Effective Date: July 1, 2011.

FOR FURTHER INFORMATION CONTACT:

Assistant Director for Sanctions Compliance & Evaluation, tel.: 202-622-2490, Assistant Director for Licensing, tel.: 202-622-2480, Assistant Director for Policy, tel.: 202-622-4855, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202-622-2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:**Electronic and Facsimile Availability**

This document and additional information concerning OFAC are available from OFAC's Web site (<http://www.treasury.gov/ofac>). Certain general information pertaining to OFAC's sanctions programs also is available via facsimile through a 24-hour fax-on-demand service, tel.: 202-622-0077.

Background

On February 25, 2011, the President, invoking the authority of, *inter alia*, the International Emergency Economic Powers Act (50 U.S.C. 1701-1706) and the National Emergencies Act (50 U.S.C. 1601 *et seq.*), issued Executive Order

13566 (76 FR 11315, March 2, 2011) ("E.O. 13566"), effective at 8 p.m. eastern standard time on February 25, 2011.

The Department of the Treasury's Office of Foreign Assets Control ("OFAC") is issuing the Libyan Sanctions Regulations, 31 CFR part 570 (the "Regulations"), to implement E.O. 13566 pursuant to authorities delegated to the Secretary of the Treasury in E.O. 13566. A copy of E.O. 13566 appears in appendix A to this part.

The Regulations are being published in abbreviated form at this time for the purpose of providing immediate guidance to the public. Effective July 1, 2011, sections 570.506 and 570.508 replace and supersede General License Nos. 3 and 2, respectively, which have been available on, and are now being removed from, OFAC's Web site. General License Nos. 1B, 4, and 5, as well as certain statements of licensing policy, are not being incorporated into the Regulations at this time and remain available on OFAC's Web site at <http://www.treasury.gov/resource-center/sanctions/programs/pages/libya.aspx>. Other general licenses and statements of licensing policy also may be added to OFAC's Web site. OFAC intends to supplement this part 570 with a more comprehensive set of regulations, which may include additional interpretive and definitional guidance and additional general licenses and statements of licensing policy. The appendix to the Regulations will be removed when OFAC supplements this part with a more comprehensive set of regulations.

Public Participation

Because the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 of September 30, 1993, and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601-612) does not apply.

Paperwork Reduction Act

The collections of information related to the Regulations are contained in 31

CFR part 501 (the "Reporting, Procedures and Penalties Regulations"). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505-0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 570

Administrative practice and procedure, Banking, Banks, Blocking of assets, Brokers, Credit, Foreign trade, Investments, Libya, Loans, Securities, Services.

For the reasons set forth in the preamble, the Department of the Treasury's Office of Foreign Assets Control adds part 570 to 31 CFR Chapter V to read as follows:

PART 570—LIBYAN SANCTIONS REGULATIONS**Subpart A—Relation of This Part to Other Laws and Regulations**

Sec.

570.101 Relation of this part to other laws and regulations.

Subpart B—Prohibitions

570.201 Prohibited transactions.
 570.202 Effect of transfers violating the provisions of this part.
 570.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

Subpart C—General Definitions

570.301 Blocked account; blocked property.
 570.302 Effective date.
 570.303 Entity.
 570.304 Government of Libya.
 570.305 [Reserved]
 570.306 Interest.
 570.307 Licenses; general and specific.
 570.308 Person.
 570.309 Property; property interest.
 570.310 Transfer.
 570.311 United States.
 570.312 U.S. financial institution.
 570.313 United States person; U.S. person.

Subpart D—Interpretations

570.401 [Reserved]
 570.402 Effect of amendment.
 570.403 Termination and acquisition of an interest in blocked property.
 570.404 Transactions ordinarily incident to a licensed transaction authorized.