

TABLE (b)—PRODUCTION SAFETY SYSTEMS—Continued

- High-low pressure sensors
- High-low level sensors
- Combustible gas detectors
- Pressure relief devices
- Flow line check valves
- Surface safety valves
- Shutdown valves
- Fire (flame, heat, or smoke) detectors
- Auxiliary devices (3-way block & bleed valves, time relays, 3-way snap acting valves, etc.)
- Surface-controlled subsurface safety valves &/or surface-control equipment
- Subsurface-controlled subsurface safety valves
- 4. Instructions on inspecting, testing & maintaining surface & subsurface devices & surface control systems for subsurface safety valves
- 5. Instructions in at least one safety device that illustrates the primary operation principle in each class for safety devices:
 - Basic operations principles
 - Limits affecting application
 - Problems causing equipment malfunction & how to correct these problems
 - A test for proper actuation point & operation
 - Adjustments or calibrations
 - Recording inspection results & malfunctions
 - Special techniques for installing safety devices
- 6. Instructions on the basic principle & logic of the emergency support system:
 - Combustible & toxic gas detection system
 - Liquid containment system
 - Fire loop System
 - Other fire detection systems
 - Emergency shutdown system
 - Subsurface safety valves

§ 250.230 If MMS tests employees at my worksite, what must I do?

- (a) You must allow MMS to test employees at your worksite.
- (b) You must identify your employees by:
 - (1) Current job classification;
 - (2) Name of the operator;
 - (3) Name of the most recent basic or advanced course taken by your employees for their current job; and
 - (4) Name of the training organization.
- (c) You must correct any deficiencies found by MMS. Steps for correcting deficiencies may include:
 - (1) Isolating problems by doing more testing; and
 - (2) Reassigning employees or conducting training (MMS will not identify the employees it tests).

§ 250.231 If MMS test trainees at a training organization's facility, what must occur?

- (a) Training organizations must allow MMS to test trainees.
- (b) The trainee must pass the MMS-conducted test or a retest in order for MMS to consider that the trainee completed the training.

§ 250.232 Why might MMS conduct its own tests?

MMS needs to identify the effectiveness of a training program that provides for safe and clean operations.

§ 250.233 Can a training organization lose its accreditation?

Yes, an accredited organization can lose its accreditation. MMS may revoke or suspend an organization's

accreditation for noncompliance with regulations or conditions of its accredited program, or assess civil penalties under subpart N of this part.

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Minerals Management Service**30 CFR Part 250****RIN 1010-AC19****Unitization**

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: This rule amends the unitization regulations by removing the two model unit agreements—one for exploration, development, and production units and the other for development and production units. The model agreements will be available from the Regional Supervisor. The rule is written in “plain English.” We take this action to support the President's initiative to reform Government regulations. Our objective is to shorten the regulation and clarify the wording.

EFFECTIVE DATE: This rule is effective on March 7, 1997.

FOR FURTHER INFORMATION CONTACT: Judith M. Wilson, Engineering and Standards Branch, telephone (703) 787-1600.

SUPPLEMENTARY INFORMATION: The rules on unitization in 30 CFR part 250,

implementing section 5(a)(7) of the Outer Continental Shelf (OCS) Lands Act Amendments of 1978, are intended to prevent waste (defined in § 250.2), conserve natural resources (protection of marine life was incorporated into conservation in 1971; also refers to deterring unnecessary facilities), and/or protect correlative rights. The rules include provisions to:

- Explain the authority and requirements for unitization;
- Provide for compulsory or voluntary unitization;
- Explain requirements for competitive reservoir operations;
- Explain how a lessee may request a determination of whether a reservoir is competitive;
- Explain how to submit a joint development and production plan;
- Explain the process for voluntary unitization;
- Explain the process for compulsory unitization; and
- Explain the role of a model agreement.

This final rule does not intend any substantive changes to the regulations. It shortens existing regulations by removing the model unit agreements. The “plain English” clarifies the existing rule.

There are two model unit agreements—one for exploration, development, and production units and the other for development and production units. The model agreements will be available from the Regional Supervisor. The Regional Supervisor

can still approve variations from the model agreements for good cause. If MMS changes the model unit agreements, MMS will publish the revised model unit agreements in the Federal Register.

Comments

The Federal Register published the proposed rule on June 5, 1996 (61 FR 28525). During the 74-day comment period, MMS received 10 sets of comments on the proposed rule. Six commenters did not agree with using "plain English" and removing the model unit agreements from the *Code of Federal Regulations*. Overall, those who opposed "plain English" are comfortable with the existing language and understand it. One specific comment on the proposed rule language included that it did not clarify that "Pugh" concepts (State law authorizes unitized leases to be segregated) do not apply to the OCS, and it omitted potential hydrocarbon accumulations from the definition of a unit area. Commenters concerned about removal of the model unit agreements expressed a need to operate in a climate of greater certainty. The four remaining comments support the proposed rule change.

Response to Comments

We appreciate the comments we received on the proposed rule. While there was some opposition to using "plain English," MMS supports the President's initiative, and we will continue to improve our regulations with "plain English." "Plain English" allows us to express legal requirements clearly and accurately and communicate information to a wide audience.

We incorporated many of the specific editorial comments in an effort to further clarify the rule. Regarding the "Pugh" concept, the 1982 Department of the Interior (DOI) Solicitor's Opinion M-36927, concludes that the Secretary of the Interior does not have the legal authority to require segregation of unitized portions of leases from the remainder of leases. We clarified the language in the final rule to maintain that portions of leases, as well as whole leases, may be included in units.

It continues to be our policy that we may approve exploratory units before a successful exploratory well is completed when geophysical data reasonably support including a lease in the unit. The unit area is limited to the leases that encompass the productive area of a reservoir, for reservoir units, or to the leases containing all or part of a geologic structure, i.e., a potential hydrocarbon accumulation.

In § 250.191(2)(c), we retain the word "minimum" for the number of leases, or portions of leases, in a unit area. Industry suggested we use the word "appropriate." Our policy is designed to minimize the number of unitized leases necessary for efficient exploration, development, and production.

The model unit agreements will be withdrawn. MMS will publish any "permanent" changes made to those agreements in the Federal Register for public notice and comment.

In this rulemaking, MMS is also correcting a typographical error in 30 CFR part 250. The error occurs in § 250.124(a)(3)(i). This technical amendment amends the sentence in paragraph (i) from "All PSH or PSL" to "All PSH and PSL." This has always been the intent of the requirement.

Executive Order (E.O.) 12866

This rule is not a significant rule requiring the Office of Management and Budget (OMB) review under E.O. 12866.

Regulatory Flexibility Act

Since this amendment has no economic effects, DOI has determined that this rule will have no effect on a substantial number of small entities.

Paperwork Reduction Act

The information collection requirements in 30 CFR Part 250, Subpart M, Unitization, are approved by OMB as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The OMB control number is 1010-0068. The Paperwork Reduction Act of 1995 provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

MMS collects the information under regulations implementing the OCS Lands Act. MMS uses the information to determine if unitized operations will conserve natural resources, prevent waste, and protect correlative rights and Government interests. The information is required to obtain or retain a benefit as specified in the OCS Lands Act. MMS will protect information considered confidential or proprietary under applicable law and under regulations at 30 CFR 250.18 (Data and information to be made available to the public) and 30 CFR part 252 (OCS Oil and Gas Information Program).

MMS estimates the annual reporting burden to be approximately 2,424 hours, an average of 45.7 hours per response. This includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and

reviewing the information collection. MMS received no comments on the information collection aspects of the proposed rule during the public comment period.

You may direct comments on the burden estimate or any other aspect of this collection to the Information Collection Clearance Officer, Mail Stop 2053, Minerals Management Service, 381 Elden Street, Herndon, VA 20170-4817; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Desk Officer for the Department of the Interior (OMB No. 1010-0068), Room 10102, 725 17th Street NW., Washington, D.C. 20503.

Takings Implication Assessment

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

Unfunded Mandates Reform Act of 1995

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

E.O. 12988

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

National Environmental Policy Act

MMS has examined the rulemaking and has determined that this rule does not constitute a major Federal action significantly affecting the quality of the human environment pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)).

List of Subjects in 30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Dated: January 27, 1997.

Sylvia V. Baca,
Assistant Secretary, Land and Minerals
Management.

For the reasons stated in the preamble, the Minerals Management Service amends 30 CFR part 250 as follows:

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

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

Authority: 43 U.S.C. 1334.

Subpart H—Oil and Gas Production Safety Systems

2. In § 250.124, paragraph (a)(3)(i) is revised as follows:

§ 250.124 Production safety-system testing and records.

- (a) * * *
- (3) * * *
- (i) All PSH and PSL,
- * * * * *

Subpart M—Unitization

3. Subpart M is revised to read as follows:

Subpart M—Unitization

Sec.

- 250.190 What is the purpose of this subpart?
- 250.191 What are the requirements for unitization?
- 250.192 What if I have a competitive reservoir on a lease?
- 250.193 How do I apply for voluntary unitization?
- 250.194 How will MMS require unitization?

Subpart M—Unitization

§ 250.190 What is the purpose of this subpart?

This subpart explains how Outer Continental Shelf (OCS) leases are unitized. If you are an OCS lessee, use the regulations in this subpart for both competitive reservoir and unitization situations. The purpose of joint development and unitization is to:

- (a) Conserve natural resources;
- (b) Prevent waste; and/or
- (c) Protect correlative rights, including Federal royalty interests.

§ 250.191 What are the requirements for unitization?

(a) *Voluntary unitization.* You and other OCS lessees may ask the Regional Supervisor to approve a request for voluntary unitization. The Regional Supervisor may approve the request for voluntary unitization if unitized operations:

(1) Promote and expedite exploration and development; or

(2) Prevent waste, conserve natural resources, or protect correlative rights, including Federal royalty interests, of a reasonably delineated and productive reservoir.

(b) *Compulsory unitization.* The Regional Supervisor may require you and other lessees to unitize operations if unitized operations are necessary to:

- (1) Prevent waste;
- (2) Conserve natural resources; or
- (3) Protect correlative rights, including Federal royalty interests, of a reasonably delineated and productive reservoir.

(c) *Unit area.* The area that a unit includes is the minimum number of leases that will allow the lessees to minimize the number of platforms, facility installations, and wells necessary for efficient exploration, development, and production of mineral deposits, oil and gas reservoirs, or potential hydrocarbon accumulations. A unit may include whole leases or portions of leases.

(d) *Unit agreement.* You, the other lessees, and the unit operator must enter into a unit agreement. The unit agreement must: allocate benefits to unitized leases, designate a unit operator, and specify the effective date of the unit agreement. The unit agreement must terminate when: the unit no longer produces unitized substances, and the unit operator no longer conducts drilling or well-workover operations (§ 250.13) under the unit agreement, unless the Regional Supervisor orders or approves a suspension of production under § 250.10.

(e) *Unit operating agreement.* The unit operator and the owners of working interests in the unitized leases must enter into a unit operating agreement. The unit operating agreement must describe how all the unit participants will apportion all costs and liabilities incurred maintaining or conducting operations. When a unit involves one or more net-profit-share leases, the unit operating agreement must describe how to attribute costs and credits to the net-profit-share lease(s), and this part of the agreement must be approved by the Regional Supervisor. Otherwise, you must provide a copy of the unit operating agreement to the Regional Supervisor, but the Regional Supervisor does not need to approve the unit operating agreement.

(f) *Extension of a lease covered by unit operations.* If your unit agreement expires or terminates, or the unit area adjusts so that no part of your lease

remains within the unit boundaries, your lease expires unless:

- (1) Its initial term has not expired;
- (2) You conduct drilling, production, or well-reworking operations on your lease consistent with applicable regulations; or

(3) MMS orders or approves a suspension of production or operations for your lease.

(g) *Unit operations.* If your lease, or any part of your lease, is subject to a unit agreement, the entire lease continues for the term provided in the lease, and as long thereafter as any portion of your lease remains part of the unit area, and as long as operations continue the unit in effect.

(1) If you drill, produce or perform well-workover operations on a lease within a unit, each lease, or part of a lease, in the unit will remain active in accordance with the unit agreement. Following a discovery, if your unit ceases drilling activities for a reasonable time period between the delineation of one or more reservoirs and the initiation of actual development drilling or production operations and that time period would extend beyond your lease's primary term or any extension under § 250.13, the unit operator must request and obtain MMS approval of a suspension of production under § 250.10 in order to keep the unit from terminating.

(2) When a lease in a unit agreement is beyond the primary term and the lease or unit is not producing, the lease will expire unless:

- (i) You conduct a continuous drilling or well reworking program designed to develop or restore the lease or unit production; or

(ii) MMS orders or approves a suspension of operations under § 250.10.

§ 250.192 What if I have a competitive reservoir on a lease?

(a) The Regional Supervisor may require you to conduct development and production operations in a competitive reservoir under either a joint Development and Production Plan or a unitization agreement. A competitive reservoir has one or more producing or producible well completions on each of two or more leases, or portions of leases, with different lease operating interests. For purposes of this paragraph, a producible well completion is a well which is capable of production and which is shut in at the well head or at the surface but not necessarily connected to production facilities and from which the operator plans future production.

(b) You may request that the Regional Supervisor make a preliminary determination whether a reservoir is competitive. When you receive the preliminary determination, you have 30 days (or longer if the Regional Supervisor allows additional time) to concur or to submit an objection with supporting evidence if you do not concur. The Regional Supervisor will make a final determination and notify you and the other lessees.

(c) If you conduct drilling or production operations in a reservoir determined competitive by the Regional Supervisor, you and the other affected lessees must submit for approval a joint plan of operations. You must submit the joint plan within 90 days after the Regional Supervisor makes a final determination that the reservoir is competitive. The joint plan must provide for the development and/or production of the reservoir. You may submit supplemental plans for the Regional Supervisor's approval.

(d) If you and the other affected lessees cannot reach an agreement on a joint Development and Production Plan within the approved period of time, each lessee must submit a separate plan to the Regional Supervisor. The Regional Supervisor will hold a hearing to resolve differences in the separate plans. If the differences in the separate plans are not resolved at the hearing and the Regional Supervisor determines that unitization is necessary under § 250.191(b), MMS will initiate unitization under § 250.194.

§ 250.193 How do I apply for voluntary unitization?

(a) You must file a request for a voluntary unit with the Regional Supervisor. Your request must include:

- (1) A draft of the proposed unit agreement;
- (2) A proposed initial plan of operation;
- (3) Supporting geological, geophysical, and engineering data; and
- (4) Other information that may be necessary to show that the unitization proposal meets the criteria of § 250.190.

(b) The unit agreement must comply with the requirements of this part. MMS will maintain and provide a model unit agreement for you to follow. If MMS revises the model, MMS will publish the revised model in the Federal Register. If you vary your unit agreement from the model agreement, you must obtain the approval of the Regional Supervisor.

(c) After the Regional Supervisor accepts your unitization proposal, you, the other lessees, and the unit operator must sign and file copies of the unit

agreement, the unit operating agreement, and the initial plan of operation with the Regional Supervisor for approval.

§ 250.194 How will MMS require unitization?

(a) If the Regional Supervisor determines that unitization of operations within a proposed unit area is necessary to prevent waste, conserve natural resources of the OCS, or protect correlative rights, including Federal royalty interests, the Regional Supervisor may require unitization.

(b) If you ask MMS to require unitization, you must file a request with the Regional Supervisor. You must include a proposed unit agreement as described in §§ 250.191(d) and 250.193(b); a proposed unit operating agreement; a proposed initial plan of operation; supporting geological, geophysical, and engineering data; and any other information that may be necessary to show that unitization meets the criteria of § 250.190. The proposed unit agreement must include a counterpart executed by each lessee seeking compulsory unitization. Lessees who seek compulsory unitization must simultaneously serve on the nonconsenting lessees copies of:

- (1) The request;
- (2) The proposed unit agreement with executed counterparts;
- (3) The proposed unit operating agreement; and
- (4) The proposed initial plan of operation.

(c) If the Regional Supervisor initiates compulsory unitization, MMS will serve all lessees of the proposed unit area with a proposed unitization plan and a statement of reasons for the proposed unitization.

(d) The Regional Supervisor will not require unitization until MMS provides all lessees of the proposed unit area written notice and an opportunity for a hearing. If you want MMS to hold a hearing, you must request it within 30 days after you receive written notice from the Regional Supervisor or after you are served with a request for compulsory unitization from another lessee.

(e) MMS will not hold a hearing under this paragraph until at least 30 days after MMS provides written notice of the hearing date to all parties owning interests that would be made subject to the unit agreement. The Regional Supervisor must give all lessees of the proposed unit area an opportunity to submit views orally and in writing and to question both those seeking and those opposing compulsory unitization. Adjudicatory procedures are not

required. The Regional Supervisor will make a decision based upon a record of the hearing, including any written information made a part of the record. The Regional Supervisor will arrange for a court reporter to make a verbatim transcript. The party seeking compulsory unitization must pay for the court reporter and pay for and provide to the Regional Supervisor within 10 days after the hearing three copies of the verbatim transcript.

(f) The Regional Supervisor will issue an order that requires or rejects compulsory unitization. That order must include a statement of reasons for the action taken and identify those parts of the record which form the basis of the decision. Any adversely affected party may appeal the final order of the Regional Supervisor under 30 CFR part 290.

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Parts 255 and 340

Confidentiality of Medical Quality Assurance (QA) Records and Delegation of Authority to Deputy Secretary of Defense; Removal

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This document removes the Department of Defense's Confidentiality of Medical Quality Assurance (QA) Records and the organizational charter on the Delegation of Authority to Deputy Secretary of Defense codified in the CFR. The parts have served the purpose for which they were intended in the CFR and are no longer necessary.

EFFECTIVE DATE: February 5, 1997.

FOR FURTHER INFORMATION CONTACT: L. Bynum or P. Toppings, 703-697-4111.

SUPPLEMENTARY INFORMATION: DoD Directive 6040.37, "Confidentiality of Medical Quality Assurance (QA) Records" was revised by a July 9, 1996 version. DoD Directive 5105.2, "Delegation of Authority to the Deputy Secretary of Defense" was revised by a January 24, 1997 version. Copies of the Directives may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.