

production. The representative sample shall consist of primary containers of product or unit packages of product. If any coliform organisms are detected, followup testing must be conducted to determine whether any of the coliform organisms are *E. coli*.

\* \* \* \* \*

## PART 165—BEVERAGES

4. The authority citation for 21 CFR part 165 continues to read as follows:

**Authority:** 21 U.S.C. 321, 341, 343, 343–1, 348, 349, 371, 379e.

5. Section 165.110 is amended by revising paragraphs (b)(2), (c)(1), and (d) to read as follows:

### § 165.110 Bottled water.

\* \* \* \* \*

(b) \* \* \*

(2) *Microbiological quality.*

(i) Bottled water shall, when a sample consisting of analytical units of equal volume is examined by the methods described in paragraph (b)(2)(ii) of this section, meet the following standards of microbiological quality:

(A) *Total coliform.*

(1) *Multiple-tube fermentation (MTF) method.* Not more than one of the analytical units in the sample shall have a most probable number (MPN) of 2.2 or more coliform organisms per 100 milliliters and no analytical unit shall have an MPN of 9.2 or more coliform organisms per 100 milliliters; or

(2) *Membrane filter (MF) method.* Not more than one of the analytical units in the sample shall have 4.0 or more coliform organisms per 100 milliliters and the arithmetic mean of the coliform density of the sample shall not exceed one coliform organism per 100 milliliters.

(B) *E. coli.* No *E. coli* shall be detected. If *E. coli* is present, then the bottled water will be deemed adulterated under paragraph (d) of this section.

(ii) Analyses conducted to determine compliance with paragraphs (b)(2)(i)(A) and (b)(2)(i)(B) of this section and § 129.35(a)(3)(i) of this chapter shall be made in accordance with the multiple-tube fermentation (MTF) or the membrane filter (MF) method described in the applicable sections of “Standard Methods for the Examination of Water and Wastewater,” 20th Ed. (1998), American Public Health Association. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy from the American Public Health Association, 800 I St. NW., Washington, DC 20001. You may inspect a copy at

the Center for Food Safety and Applied Nutrition’s Library, 5100 Paint Branch Pkwy., College Park, MD 20740, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

\* \* \* \* \*

(c) \* \* \*

(1) “Contains Excessive Bacteria” if the bottled water fails to meet the requirements of paragraph (b)(2)(i)(A) of this section.

\* \* \* \* \*

(d) *Adulteration.* Bottled water containing a substance at a level considered injurious to health under section 402(a)(1) of the act, or that consists in whole or in part of any filthy, putrid, or decomposed substance, or that is otherwise unfit for food under section 402(a)(3) of the act is deemed to be adulterated, regardless of whether or not the water bears a label statement of substandard quality prescribed by paragraph (c) of this section. If *E. coli* is present in bottled water, then the bottled water will be deemed adulterated under section 402(a)(3) of the act.

Dated: September 10, 2008.

**Jeffrey Shuren,**

*Associate Commissioner for Policy and Planning.*

[FR Doc. E8–21619 Filed 9–16–08; 8:45 am]

BILLING CODE 4160–01–S

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

RIN 1545–BB67

[REG–157711–02]

#### Unified Rule for Loss on Subsidiary Stock

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Partial withdrawal of notice of proposed rulemaking.

**SUMMARY:** This document withdraws proposed regulations relating to the application of section 362(e)(2) to intercompany transactions and to certain modifications to the investment adjustment rules.

#### FOR FURTHER INFORMATION CONTACT:

Marcie P. Barese, (202) 622–7790 (not a toll-free number).

## SUPPLEMENTARY INFORMATION:

### Background and Explanation of Provisions

On January 23, 2007, the IRS and Treasury Department published a notice of proposed rulemaking in the **Federal Register** (72 FR 2964) under § 1.1502–36 (Unified Loss Rule). The proposed regulations provided rules under § 1.1502–13(e)(4) that would suspend the application of section 362(e)(2) in the case of intercompany transactions. The proposed regulations also provided rules under § 1.1502–32(c)(1)(ii) relating to the treatment of items attributable to property transferred in an intercompany section 362(e)(2) transaction.

After consideration of the comments received responding to the notice of proposed rulemaking, the IRS and Treasury Department have concluded that the proposed rules would not be promulgated and, instead, that final regulations would make section 362(e)(2) generally inapplicable to intercompany transactions. Accordingly, §§ 1.1502–13(e)(4) and 1.1502–32(c)(1)(ii) of the proposed regulations are hereby withdrawn.

### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

### Partial Withdrawal of Proposed Regulations

Accordingly, under the authority of 26 U.S.C. 7805, proposed §§ 1.1502–13(e)(4) and 1.1502–32(c)(1)(ii) published in the **Federal Register** on January 23, 2007 are withdrawn.

**Linda E. Stiff,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. E8–21005 Filed 9–9–08; 4:15 pm]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE INTERIOR

### Minerals Management Service

#### 30 CFR Part 250

[Docket ID: MMS–2008–OMM–0023]

RIN 1010–AD50

#### Technical Changes to Production Measurement and Training Requirements

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

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would revise the production measurement regulations to establish meter proving,

meter verification/calibration, and well test requirements after hurricanes and other events beyond the control of the lessee. This rulemaking would eliminate some reporting burden on industry, and it would eliminate the need for MMS to grant waivers to the reporting requirements in certain situations. The proposed rule would also add new definitions providing clarity in the training regulations, which should lead to improved training of Outer Continental Shelf workers.

**DATES:** Submit comments by November 17, 2008. The MMS may not fully consider comments received after this date. Submit comments to the Office of Management and Budget on the information collection burden in this rule by October 17, 2008. This does not affect the deadline for the public to comment to MMS on the proposed regulations.

**ADDRESSES:** You may submit comments on the rulemaking by any of the following methods. Please use the Regulation Identifier Number (RIN) 1010-AD50 as an identifier in your message. See also Public Availability of Comments under Procedural Matters.

- *Use the Federal eRulemaking Portal:* <http://www.regulations.gov>. Under the tab "More Search Options," click Advanced Docket Search, then select "Minerals Management Service" from the agency drop-down menu, then click "submit." In the Docket ID column, select MMS-2008-OMM-0023 to submit public comments and to view supporting and related materials available for this rulemaking. Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's "User Tips" link. The MMS will post all comments received in response to this proposed rulemaking on the Portal.

- *Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; Attention: Regulations and Standards Branch (RSB); 381 Elden Street, MS-4024; Herndon, Virginia 20170-4817.* Please reference "Technical Changes to Production Measurement and Training Requirements, 1010-AD50" in your comments and include your name and return address.

- *Send comments on the information collection in this rule to:* Interior Desk Officer 1010-AD50, Office of Management and Budget; 202-395-6566 (fax); e-mail: [oira\\_docket@omb.eop.gov](mailto:oira_docket@omb.eop.gov). Please also send a copy to MMS at the address above.

**FOR FURTHER INFORMATION CONTACT:** Richard Ensele, Regulations and Standards Branch, at (703) 787-1583.

**SUPPLEMENTARY INFORMATION:** This proposed rule revises two subparts in 30 CFR part 250: Subpart L, Oil and Gas Production Measurement, Surface Commingling, and Security; and Subpart O, Well Control and Production Safety Training. The revisions to subpart L are minor, and should result in savings to lessees and to MMS. The revisions to subpart O are also minor, and are meant to clarify existing requirements. The following is a brief description of the revisions:

#### **Revisions to Subpart L—Oil and Gas Production Measurement, Surface Commingling, and Security**

The current regulations in subpart L require lessees to provide:

- Monthly meter provings of all liquid hydrocarbon royalty meters to determine the meter factor;
- Monthly provings of liquid allocation meters if they measure 50 or more barrels per day, per meter, and quarterly if they measure less than 50 barrels per day, per meter;
- Monthly calibration of all gas meters; and
- Bimonthly (every two months) well tests for allocation purposes.

When production resumes following a force majeure event, additional time is often needed to accomplish the above-mentioned regulatory compliance actions. This proposed rule would provide up to 15 days following production start-up to accomplish these tasks in those instances where the interruption was caused by a force majeure event. This would reduce the number of waiver requests immediately following the restoration of production and accordingly result in minor savings to industry.

A force majeure event in this case would be an event beyond the control of the lessee such as war, act of terrorism, crime, or act of nature such as a hurricane, which would prevent the lessee from operating the wells and meters on its Outer Continental Shelf (OCS) facility. The lessee would be required to conduct the actions listed above within 15 days of the meter or well being returned to service.

This proposed revision would eliminate the need for lessees to request the waiver currently required, but only in the case of force majeure events. This would result in minor savings to industry by eliminating paperwork, and it would eliminate the need for MMS to respond to the requests for waivers.

A new definition for the term *force majeure event* would be added to

§ 250.1201. In addition, this proposed rulemaking would revise § 250.1202(d)(3), § 250.1202(k)(3) and (k)(4), § 250.1203(c)(1), and § 250.1204(b)(1) by adding language that would require the lessee to conduct the actions in each subsection within 15 days of resuming production operations after a force majeure event precluded those actions.

#### **Revisions to Subpart O—Well Control and Production Safety Training**

The regulations in subpart O have been in effect since August 2000. Since that time, MMS has conducted over 3,000 interviews with offshore workers, conducted 118 audits of training programs, and administered 6 tests of offshore workers. Initially, the interviews showed that the offshore workers understood their specific jobs from a training point of view. More recent interviews (since mid-2006), which were conducted with a new interview form that posed more probing questions, indicated that the workers had a poorer understanding of MMS regulations and the training requirements.

The audits were conducted by MMS between October 2002 and December 2007 and resulted in the issuance of 71 incidents of noncompliance (INCs). The majority of the INCs were related to the contractor workforce (48 percent) and to recordkeeping and documentation (32 percent). In general, the audits indicated a lack of understanding of the requirements for training of contractor personnel and periodic training of all personnel. To address this lack of understanding, we have added a definition of periodic, which includes a reminder that the lessee is responsible for defining the interval for periodic training. We have also added a definition of contractor so that there is no doubt about which personnel need to be trained.

The MMS administered 6 tests of offshore workers during 2006, 3 production safety tests and 3 well-control tests. The grades ranged from 39 percent to 76 percent correct. The MMS considers 70 percent a passing grade. Of the 6 employees tested, 5 failed this test. The results indicated a lack of understanding of MMS requirements and a lack of understanding of how to perform the calculations needed in their jobs. Both of these problems could be corrected by improved periodic training conducted by the lessee.

In this rulemaking, MMS is proposing four minor changes to subpart O. The proposed rule would revise the definition of *production safety* in § 250.1500, and add definitions for

*periodic* and *contractor* to that section. The fourth change removes § 250.1502. Section 250.1502 was intended to give lessees and operators a transition period for complying with the new regulations. Since this transition period has been completed for more than 5 years, we are removing the section from the regulation.

The MMS is proposing to add language to the definition of production safety to include separation, dehydration, compression, sweetening, and metering operations. There have been indications that some offshore personnel did not include those operations in training for production safety. This new definition makes it very clear that those operations are included in production safety.

The MMS is proposing to add a definition of *periodic*. As discussed previously, there has been a problem with compliance with the periodic training requirements. In the definition, we stress that each lessee must specify the intervals for periodic training of personnel and periodic assessment of training needs.

The MMS is also proposing to add a definition of *contractor* to the regulations so that there is no question as to which contractor personnel must be trained in well-control and production safety.

### Procedural Matters

#### *Regulatory Planning and Review* (Executive Order (E.O.) 12866)

This proposed rule is not a significant rule as determined by the Office of Management and Budget (OMB) and is not subject to review under E.O. 12866.

(1) This proposed rule would not have an annual effect of \$100 million or more on the economy. It would not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The revisions to the production measurement regulations would only have a very small positive effect on industry in the event of a hurricane or other incident beyond the control of the lessee. The revised and new definitions in the training regulations could cause some lessees and operators to revise their training plans. The MMS estimates that 50 of the potential 130 lessees and/or operators have already modified their training plans and will not be affected by the proposed changes to the definitions in subpart O. The remaining 80 operators would have to modify their training plans. Of those 80 operators, MMS estimates that 56 are small businesses,

and that 24 are large companies. The majority of small operators have an off-the-shelf type training plan. The MMS estimates that a modification to this type of plan would cost about \$500. The large companies would most likely revise their training plans in-house at a slightly lower cost than revising an off-the-shelf plan. For the purpose of estimating the total cost to industry, MMS will use the higher estimate. The total cost for revising training plans to industry would be \$500 multiplied by 80 operators, which would equal \$40,000. The cost to retrain the employees from the 80 companies would be about \$200 per person. This is based on the price of a typical 3-day production operations safety course costing \$600 per person (i.e., \$200 per person per day). Adding 1 day to the course would be necessary to cover the operations mentioned in the revised definition of production operations. The MMS estimates that 4 employees per company would need the additional day of training, so the additional cost would be \$200, multiplied by 4 employees per company, multiplied by 80 companies, which would equal \$64,000. The total cost to industry from the subpart O changes would be \$40,000 plus \$64,000, which would equal \$104,000. Therefore, this proposed rule would not have a significant economic effect on industry.

(2) This proposed rule would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This proposed rule would not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This proposed rule would not raise novel legal or policy issues.

#### *Regulatory Flexibility Act*

The Department of the Interior certifies that this proposed rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The production measurement changes proposed in the rule would affect lessees and operators of leases in the OCS. This could include about 130 active Federal oil and gas lessees. Small lessees that operate under this rule fall under the Small Business Administration's (SBA) North American Industry Classification System (NAICS) codes 211111, Crude Petroleum and Natural Gas Extraction, and 213111, Drilling Oil and Gas Wells. For these NAICS code classifications, a small company is one with fewer than 500 employees. Based on these criteria, an estimated 70 percent of these companies

are considered small. This proposed rule, therefore, would affect a substantial number of small entities.

The proposed changes to subpart L would not have a significant economic effect on a substantial number of small entities because the effects would only occur if a facility is rendered out-of-service because of a hurricane or other event out of the control of the lessee. The overall effects would be very minor, but positive since the proposed rule temporarily relieves the lessee of specific reporting requirements related to metering and well tests.

The revised and new definitions in the training regulations in subpart O could cause some lessees and operators to revise their training plans. The MMS estimates that 80 operators would have to modify their training plans due to the proposed changes to the definition of production operations. Of the 80 operators, MMS estimates that 56 are small businesses. This is a substantial number of small operators. The majority of small operators have off-the-shelf type training plans. The MMS estimates that a modification to this type of plan would cost about \$500. The total cost to the small operators would be \$500 multiplied by 56 operators, which would equal \$28,000. The cost to retrain the employees from the 56 companies would be about \$200 per person. This is based on the price of a typical 3-day production operations safety course costing \$600 per person. Adding one day to the course would be necessary to cover the operations mentioned in the revised definition of production operations. The MMS estimates that 4 employees per company would need the additional day of training, so the additional cost would be \$200, multiplied by 4 employees per company, multiplied by 56 companies, which would equal \$44,800. The total cost to small businesses due to the changes in the subpart O regulations would be \$28,000 plus \$44,800, which would equal \$72,800. Therefore, this proposed rule would not have a significant economic effect on a substantial number of small entities.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the actions of MMS, call 1-888-734-3247. You may comment to the Small Business Administration without fear of

retaliation. Disciplinary action for retaliation by an MMS employee may include suspension or termination from employment with the DOI.

#### *Small Business Regulatory Enforcement Fairness Act*

The proposed rule is not a major rule under 5 U.S.C. 804(2) of the Small Business Regulatory Enforcement Fairness Act. This proposed rule:

a. Would not have an annual effect on the economy of \$100 million or more. The effects of the subpart L changes are minor, but positive, and would only occur if there were a hurricane or other event beyond the lessee's control that would cause the temporary shut-in of a facility. The effects on small business of the subpart O changes are approximately \$73,000.

b. Would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. As stated above, any effects from the subpart L changes would be positive for the industry and the Federal government, and the effects from the subpart O changes would be minor.

c. Would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. The effects would be a result of temporary relief of reporting requirements and minor changes in training requirements, so there would be no adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

#### *Unfunded Mandates Reform Act*

This proposed rule would not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The proposed rule would not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

#### *Takings Implication Assessment (E.O. 12630)*

Under the criteria in E.O. 12630, this proposed rule does not have significant takings implications. The proposed rule is not a governmental action capable of interference with constitutionally protected property rights. A Takings Implication Assessment is not required.

#### *Federalism (E.O. 13132)*

Under the criteria in E.O. 13132, this proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This proposed rule would not substantially and directly affect the relationship between the Federal and State governments. To the extent that State and local governments have a role in OCS activities, this proposed rule would not affect that role. A Federalism Assessment is not required.

#### *Civil Justice Reform (E.O. 12988)*

This proposed rule complies with the requirements of E.O. 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

#### *Consultation With Indian Tribes (E.O. 13175)*

Under the criteria in E.O. 13175, we have evaluated this proposed rule and determined that it has no potential effects on federally recognized Indian tribes. There are no Indian or tribal lands in the OCS.

#### *Paperwork Reduction Act (PRA)*

This proposed rule contains a collection of information that is being submitted to OMB for review and approval under § 3507(d) of the PRA. As part of our continuing effort to reduce paperwork and respondent burdens, MMS invites the public and other Federal agencies to comment on any aspect of the reporting and recordkeeping burden. If you wish to comment on the information collection aspects of this proposed rule, you may send your comments directly to OMB (see the **ADDRESSES** section of this notice). Please identify your comments with 1010-AD50. Send a copy of your comments to the Regulations and Standards Branch (RSB), Comments; 381 Elden Street, MS-4024; Herndon, Virginia 20170-4817. You may obtain a copy of the supporting statement for the new collection of information by contacting the Bureau's Information Collection Clearance Officer at (202) 208-7744.

The PRA 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. The OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 to 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it by October 17, 2008. This does not affect the deadline for the public to comment to MMS on the proposed regulations.

The title of the collection of information for the rule is "Technical Changes to Production Measurement and Training Requirements."

Respondents include approximately 130 Federal OCS oil and gas lessees and/or operators. Responses to this collection are mandatory. The frequency of reporting is on occasion. The information collection does not include questions of a sensitive nature. The MMS will protect information according to the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR part 2) and 30 CFR 250.197, "Data and information to be made available to the public or for limited inspection."

The collection of information required by the current 30 CFR part 250, subpart L regulations, Oil and Gas Production Measurement, Surface Commingling, and Security, is approved under OMB Control Number 1010-0051, expiration 7/31/10 (8,533 hours). The proposed regulation would not impose any new information collection burdens. However, it does reduce the number of general departure requests for § 250.1204(b)(1). When the rule becomes effective, we will submit to OMB a justification for non-substantive change to make an adjustment decrease to the paperwork burden.

The collection of information required by the current 30 CFR part 250 subpart O regulations, Well Control and Production Safety Training, is approved under OMB Control Number 1010-0128, expiration 8/31/09 (2,106 hours). The proposed rule would require some lessees and/or operators to modify their current training programs due to the proposed changes to the definitions in subpart O. We estimate that this would be a one-time paperwork burden on 24 operators who will modify their programs in-house for a total of 144 burden hours. Those operators who purchase their off-the-shelf training programs will incur costs to modify the programs. This is considered a regulatory cost of doing business and is not a paperwork burden.

Citation 30 CFR part 250 subpart O	Reporting & recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
1503(b), (c) .....	Develop training plans. Note: Existing lessees/ respondents already have training plans developed. This number reflects development of plans for any new lessees.	60 .....	2	120
1503(b), (c) .....	NEW: Modify training program (one time burden for in-house operator modifications).	6 .....	24	144
1503(c) .....	Maintain copies of training plan and employee training documentation/record for 5 years. Note: We receive approx. 20,020 records per year. (5 minutes per record x 20,020 employee records/136 companies = 12.26 hours per company).	1/4 hour (plan) ..... 12.26 hours (record)	136	34 1,667 (rounded)
1503(c) .....	Upon request, provide MMS copies of employee training documentation or provide copy of training plan.	5 .....	31	155
1507(b) .....	Employee oral interview conducted by MMS .....	1/6 hr. ....	600	100
1507(c), (d); 1508; 1509	Written testing conducted by MMS or authorized representative.	Exempt under 5 CFR 1320.3(h)(7)		0
1510(b) .....	Revise training plan and submit to MMS .....	6 .....	4	24
250.1500–1510 .....	General departure or alternative compliance requests not specifically covered elsewhere in subpart O.	2 .....	3	6
Total Burden .....			800 Responses	2,250 Hours

The MMS specifically solicits comments on the following questions:

(a) Is the proposed collection of information necessary for MMS to properly perform its functions, and will it be useful?

(b) Are the estimates of the non-hour burden costs of the proposed collection reasonable?

(c) Do you have any suggestions that would enhance the quality, clarity, or usefulness of the information to be collected?

(d) Is there a way to minimize the information collection burden on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology?

In addition, the PRA requires agencies to estimate the total annual reporting and recordkeeping “non-hour cost” burden resulting from the collection of information. We have not identified any, and we solicit your comments on this item. For reporting and recordkeeping only, your response should split the cost estimate into two components:

(a) Total capital and start-up cost component and (b) annual operation, maintenance, and purchase of services component. Your estimates should

consider the costs to generate, maintain, and disclose or provide the information. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and start-up costs include, among other items, computers and software you purchase to prepare for collecting information; monitoring, sampling, drilling, and testing equipment; and record storage facilities. Generally, your estimates should not include equipment or services purchased:

(1) Before October 1, 1995;

(2) To comply with requirements not associated with the information collection;

(3) For reasons other than to provide information or keep records for the Government; or

(4) As part of customary and usual business or private practices.

#### *National Environmental Policy Act*

This proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment. The MMS has analyzed this rule under the criteria of

the National Environmental Policy Act and 516 Departmental Manual (DM) 2.3, and 516 DM 2, Appendix 1.10, and determined that it falls within the categorical exclusion for “regulations \* \* \* that are of an administrative, financial, legal, technical, or procedural nature as it is an administrative, procedural, and/or technical rule.” The MMS completed a Categorical Exclusion Review for this action and concluded that the rulemaking does not involve extraordinary circumstances set forth in 516 DM 2, Appendix 2; therefore, preparation of an environmental impact assessment or environmental impact statement will not be required.

#### *Data Quality Act*

In developing this proposed rule, we did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106–554, app. C § 515, 114 Stat. 2763, 2763A–153–154).

#### *Effects on the Energy Supply (E.O. 13211)*

This proposed rule is not a significant energy action under the definition in E.O. 13211. A Statement of Energy Effects is not required.

### Clarity of This Regulation

We are required by E.O. 12866, E.O. 12988, and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

### Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

### List of Subjects in 30 CFR Part 250

Administrative practice and procedure, Continental shelf, Oil and gas exploration, Public lands—mineral resources, Reporting and recordkeeping requirements.

Dated: August 14, 2008.

**Foster L. Wade,**  
Deputy Assistant Secretary—Land and Minerals Management.

For the reasons stated in the preamble, Minerals Management Service (MMS) proposes to amend 30 CFR part 250 as follows:

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

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

**Authority:** 31 U.S.C. 9701, 43 U.S.C. 1334.

2. Amend § 250.1201 by adding the definition of *Force majeure event* in alphabetical order as follows:

#### § 250.1201 Definitions.

\* \* \* \* \*

*Force majeure event*—an event beyond your control such as war, act of terrorism, crime, or act of nature which prevents you from operating the wells and meters on your OCS facility.

\* \* \* \* \*

3. Amend § 250.1202 by revising paragraphs (d)(3), (k)(3), and (k)(4) as follows:

#### § 250.1202 Liquid hydrocarbon measurement.

\* \* \* \* \*

(d) \* \* \*

(3) Prove each operating royalty meter to determine the meter factor monthly, but the time between meter factor determinations must not exceed 42 days. When a force majeure event precludes the required monthly meter proving, meters must be proved within 15 days after being returned to service;

\* \* \* \* \*

(k) \* \* \*

(3) Prove allocation meters monthly if they measure 50 or more barrels per day per meter. When a force majeure event precludes the required monthly meter proving, meters must be proved within 15 days after being returned to service; or

(4) Prove allocation meters quarterly if they measure less than 50 barrels per day per meter. When a force majeure event precludes the required quarterly meter proving, meters must be proved within 15 days after being returned to service;

\* \* \* \* \*

4. Amend § 250.1203 by revising paragraph (c)(1) as follows:

#### § 250.1203 Gas measurement.

\* \* \* \* \*

(c) \* \* \*

(1) Calibrate meters monthly, but do not exceed 42 days between calibrations. When a force majeure event precludes the required monthly calibration, meters must be calibrated within 15 days after being returned to service;

\* \* \* \* \*

5. Amend § 250.1204 by revising paragraph (b)(1) as follows:

#### § 250.1204 Surface commingling.

\* \* \* \* \*

(b) \* \* \*

(1) Conduct a well test at least once every 2 months unless the Regional Supervisor approves a different frequency. When a force majeure event precludes the required bimonthly (or other frequency approved by the Regional Supervisor) well test, wells

must be tested within 15 days after being returned to service;

\* \* \* \* \*

6. Amend § 250.1500 by adding the definitions *Contractor* and *Periodic* in alphabetical order and by revising the definition of *Production safety* to read as follows:

#### § 250.1500 Definitions.

\* \* \* \* \*

*Contractor* means anyone performing work for the lessee. However, these requirements do not apply to contractors providing domestic services to the lessee or other contractors. Domestic services include janitorial work, food and beverage service, laundry service, housekeeping, and similar activities.

\* \* \* \* \*

*Periodic* means occurring or recurring at regular intervals. Each lessee must specify the intervals for periodic training and periodic assessment of training needs in their training programs.

*Production safety* includes safety in production operations, as well as the installation, repair, testing, maintenance, and operation of surface or subsurface safety devices. Production operations include, but are not limited to, separation, dehydration, compression, sweetening, and metering operations.

\* \* \* \* \*

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## DEPARTMENT OF THE TREASURY

### 31 CFR Part 50

RIN 1505–AB10

### Terrorism Risk Insurance Program; Recoupment Provisions

**AGENCY:** Departmental Offices, Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Department of the Treasury (Treasury) is issuing this proposed rule as part of its implementation of Title I of the Terrorism Risk Insurance Act of 2002 (“TRIA” or “the Act”), as amended by the Terrorism Risk Insurance Extension Act of 2005 (“Extension Act”) and the Terrorism Risk Insurance Program Reauthorization Act of 2007 (“Reauthorization Act”). The Act established a temporary Terrorism Risk Insurance Program (“TRIP” or “Program”) under which the Federal Government would share the risk of insured losses from certified acts of