

**DEPARTMENT OF THE INTERIOR****Minerals Management Service****30 CFR Parts 250 and 282**

RIN 1010-AC47

**Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Plans and Information****AGENCY:** Minerals Management Service (MMS), Interior.**ACTION:** Final Rule.

**SUMMARY:** This rule reorganizes and updates the requirements and processes for submitting various plans and information for MMS review and approval before a lessee or an operator may explore, develop, or produce oil and gas and sulphur in the Outer Continental Shelf (OCS).

**EFFECTIVE DATE:** This rule becomes effective September 29, 2005.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:** The current regulations at 30 CFR part 250, subpart B, were structured into five broad sections: General Requirements, Preliminary Activities, Well Location and Spacing, Exploration Plan, and Development and Production Plan. This rule reorganizes and clarifies the requirements pertaining to Exploration Plans (EP), Development and Production Plans (DPP), and Development Operations Coordination Documents (DOCD). It also adds sections to describe Deepwater Operations Plans (DWOP) and Conservation Information Documents (CID). The rule provides more descriptive headings under which a large number of separate sections state the current requirements clearly and concisely and in a more logical order to:

- Clarify and update the review process;
- Provide a concise list of the contents of EP, DPP, and DOCD (plan) submissions; and
- Detail the accompanying information that lessees and operators must submit to support their plans.

**Notice to Lessees and Operators (NTL) for the Gulf of Mexico OCS Region (GOMR)**

MMS is also issuing a companion NTL for the GOMR. This NTL further interprets the requirements in the rule regarding the information a lessee or operator must submit for MMS determinations, analyses, and approvals of EPs and DOCDs as they would apply

specifically to leases and units in the GOMR. It also explains how the GOMR is invoking 30 CFR 250.201(c) with respect to limiting submission of information that is not needed in particular cases.

**Background**

The Outer Continental Shelf Lands Act (OCSLA) requires that before conducting activities on a lease that has been awarded, lessees must file and MMS must approve EPs or DPPs describing their proposed activities. The OCSLA, at 43 U.S.C. 1351(a)(1), provides that DPPs aren't required in the GOM. 43 U.S.C. 1351(l) then provides that the Secretary may require the provisions of section 1351 to apply to leases in areas adjacent to the State of Florida. Current rules at 30 CFR 250.204(d) require DPPs for leases except those in the Western GOM. This is continued in § 250.201(a)(2) of this final rule. Section 250.105 defines the Western GOM as all areas of the GOM except those adjacent to the State of Florida. However, because of the need to review and track development activities in the Western GOM, DOCDs are required for leases in the Western GOM.

According to the OCSLA, in reviewing EPs and DPPs, MMS must ensure that the proposed activities will not:

- (1) Cause serious or undue harm or damage to (a) life, (b) property, (c) any other mineral deposits (in leased or unleased areas), (d) the national security or defense, or (e) the marine, coastal, or human environment;
- (2) Unreasonably interfere with other uses of the area;
- (3) Interfere with or endanger operations on other leases;
- (4) Result in pollution;
- (5) Create hazardous or unsafe conditions; or
- (6) Disturb any site, structure, or object of historical or archaeological significance.

Under the OCSLA, MMS must also ensure that the proposed activities will comply with other applicable Federal laws and regulations, including the Clean Air Act (CAA), Endangered Species Act (ESA), Marine Mammal Protection Act, National Historic Preservation Act, Coastal Zone Management Act (CZMA), and Clean Water Act. The regulations at 30 CFR part 250 subpart B are intended to enable MMS to carry out these responsibilities under the OCSLA.

MMS issues NTLs to explain and clarify its regulations. MMS rescinds NTLs that have served their short-term purpose and now regularly reviews the

long-term NTLs—both regional and national—to keep them up-to-date and to ensure their accuracy and applicability.

MMS must also comply with the National Environmental Policy Act (NEPA), its implementing regulations issued by the Council on Environmental Quality (CEQ) at 40 CFR parts 1500 through 1508, and policies of the Department of the Interior (DOI). According to NEPA requirements, MMS must prepare an Environmental Assessment (EA) in connection with its review of plans for activities on the OCS. The contents of these plans must be sufficient to support a sound analysis of potential environmental impacts that may result from the proposed activity. The appropriate MMS Region prepares these analyses for every plan received.

However, the NEPA regulations (40 CFR 1508.4) do allow agencies to exclude categories of actions from the preparation of an EA or an Environmental Impact Statement (EIS) when agency procedures have demonstrated that these actions—individually or cumulatively—do not have a significant impact on the environment.

MMS follows the procedures outlined in the DOI's Departmental Manual (516 DM 15) to categorically exclude ("CATEX") routine OCS lease or unit plans in the Western and Central GOM Planning Areas unless certain exceptions are present. Some exceptions pertain to the nature of the proposed activity, and others to the nature of potential environmental impacts that may result from the activity. When MMS processes plans using a Categorical Exclusion Review (CER), the agency reviews the proposed activity and the potential environmental impacts at the proposed site. These do not require MMS to prepare an EA, and MMS may limit the information that the lessee/operator is required to submit unless the information is required for compliance with other Federal laws. MMS prepares an EA in its review of plans that meets the criteria of the specified exceptions to the CATEX criteria. As required by NEPA, if the EA concludes that significant impacts will result from the proposed activity, MMS will prepare an EIS.

Whether MMS reviews plans through the CER or EA process, the agency requires that environmental impacts be avoided or diminished to an acceptable level through plan amendments or conditions that MMS imposes in the plan approval. See proposed rule published on May 17, 2002 (67 FR 35372).

### Changes to Subpart B Regulations

Subpart B incorporates many of the detailed procedures and processes that were addressed in Letters to Lessees (LTLs) and NTLs. Although the rule may appear to contain many changes from the text of the former 30 CFR part 250, subpart B, including expanded lists of data and information to be submitted, the rewritten regulations basically reflect current requirements and ongoing practices as conveyed to lessees and operators via NTLs and LTLs.

There are, however, some new or expanded areas. The following is a list of the major changes in this rule:

(1) Definitions—§ 250.200: Definitions are added to explain certain terms used in the rule.

(2) Conservation—§§ 250.203 and 250.204: The rule adds language to further clarify and emphasize conservation practices. This language will ensure the proper development of economically producible reservoirs according to sound conservation, engineering, and economic practices. The rule adds clarifying language to protect the full interest of the Federal government along State and foreign boundaries.

(3) Electronic Filing—§ 250.206(b): The regulations allow for electronic filing of EPs, DOCDs, DPPs, and their accompanying information to expedite their review.

(4) Ancillary Activities—§§ 250.207 to 250.210: Under the current regulations activities conducted without the approval of an application or permit, in order to obtain information to ensure proper exploration or development of a lease or unit, are “preliminary” activities. These activities are conducted before submitting an EP, DPP, or DOCD. The term “preliminary” activities is not used in this revised rule. Instead, the term “ancillary” activities is added, and the rule covers ancillary activities that could be conducted after, as well as before, an EP, DPP, or DOCD is submitted to MMS. The terms “development geological and geophysical activities” and “geological and geophysical explorations” are added to clarify certain types of ancillary activities.

(5) Written Notice—§ 250.208: The rule contains requirements for conducting on-lease geological and geophysical (G&G) explorations or development geological and geophysical activities that are ancillary activities. Lessees and operators must give MMS a written notice before beginning any such ancillary activities, including those conducted after an OCS plan is approved. This is not a new

requirement; various NTLs describe this notice. The notice enables MMS to better ensure safe use and environmental protection of the OCS with respect to these G&G activities. Notification makes MMS aware of significant sets of valuable data that could and will be incorporated into MMS analyses and MMS-funded studies.

(6) Other Requirements Related to Notice of Certain Ancillary Activities—§§ 250.208(c) and 250.209: Along with the notice requirement, lessees and operators may be required to prepare and submit a report, retain certain data and information, and notify other users of the OCS before conducting ancillary activities.

(7) Detailing Accompanying Information—§§ 250.212 and 250.242: The rule details what information must accompany EPs, DPPs, and DOCDs. MMS makes its decision to approve, require modification of, or disapprove OCS plans based on its evaluation of the accompanying information, as well as the plan contents. If MMS determines that a plan has inadequate accompanying information, or if it omits accompanying information, then MMS will not deem the plan submitted.

The rule clarifies that the adequacy review will not begin until MMS receives both the OCS plan and its accompanying information. The objective is efficiency—so that lessees and operators provide MMS with all required information for OCSLA, NEPA, CZMA, and other purposes at the beginning of the process. These regulations and the accompanying NTL notify industry “up front” of the information needed for expeditious review of an OCS plan, thereby reducing the need for additional filings and costly delays. This benefits industry and MMS long-term, particularly in those cases when an EA is required.

(8) Detailing Cooling Water Intake Information—§§ 250.217 and 250.248: The rule contains new requirements for EPs, DPPs, and DOCDs, which briefly summarize information on cooling water intake structures, and mitigation measures for reducing adverse environmental impacts and biofouling of intake structures.

(9) Environmental Impact Analysis (EIA)—§§ 250.227 and 250.261: Environmental “reports” were formerly required for CZMA and NEPA purposes, and to determine compliance with other Federal laws. The rule replaces these environmental reports with a reference to applicable regulations at 15 CFR part 930 for required CZMA information and an EIA for use in our NEPA analysis. The EIA information will aid, but not

replace, MMS’s NEPA evaluation, which is based both on the plan contents and accompanying information.

(10) Change in Timeframes for Deemed-submitted Review—§§ 250.231 and 250.266: The rule increases the time MMS can take to determine if a plan is deemed submitted from 10 to 15 working days for EPs, and from 20 to 25 working days for DPPs and DOCDs. The OCSLA requires MMS to make a decision on EPs within 30 days after they are submitted, and on DPPs and DOCDs within 60 days after they are submitted (unless an EIS is prepared). MMS needs adequate time before the decision-making period starts to determine that the plan and accompanying information fulfill requirements and are sufficiently accurate. Providing additional time at the beginning of the process is more efficient, and can avoid multiple delays later in the review process.

(11) Development Operations Coordination Document (DOCD)—§ 250.241: The rule treats DPPs and DOCDs the same way. DOCDs are submitted for the Western GOM only. The current regulations state that any information submitted in DOCDs under the provisions at 30 CFR 250.204(d)(1) and (d)(2) “shall be considered a Development and Production Plan for the purpose of references in any law, regulation, lease provision, agreement, or other document referring to the preparation or submission of a plan.” Therefore, MMS deals with them together.

(12) Deepwater Operations Plans (DWOP)—§§ 250.286 to 295: The sections of the final rule regarding the DWOP have been rewritten from the proposed rule for clarity. The final rule specifies more particularly than the proposed § 250.288 what a lessee may not do without approval of the respective parts of a DWOP.

The purpose of the DWOP is to ensure that MMS has sufficient information to review any development project that uses non-conventional production or completion technology (in most cases, floating or subsea production systems), from a total system approach. MMS evaluates the system to determine whether the project will be properly developed, particularly from the standpoint of operational safety and environmental protection issues.

A lessee must submit a DWOP if the lessee is going to use non-conventional production or completion technology, regardless of water depth. (The final rule adds a definition of the term “non-conventional production or completion technology” in the definitions section.)

Even though these provisions are not limited to deep water operations, the plan is called a Deepwater Operations Plan because the use of subsea development technology and floating platforms occurs primarily on the deep water leases.

The final rule's provisions supersede NTL 2000–N06. Therefore, NTL 2000–N06 is hereby rescinded when the regulations take effect on September 29, 2005. The preamble to the proposed rule stated that MMS would issue a new NTL to replace NTL No. 2000–N06. However, MMS now believes that there is no present need to issue a new NTL, and that the final rule's provisions adequately cover the information MMS needs. Experience with, and knowledge gained from, DWOPs submitted under the NTL and its predecessor NTL over the last several years has shown that the degree of detail required under NTL 2000–N06 is not needed at this point.

Under NTL 2000–N06, a DWOP was submitted in the three parts, a Conceptual Part, a Preliminary Part, and a Final Part. The real substance of the DWOP is in what was called the Preliminary Part under the NTL and the proposed rule, and is now the DWOP under the final rule. The Preliminary Part under the NTL, which the proposed rule would have continued, had proved to be unworkable and had not served any real purpose because there were no real changes in planned operations from the Preliminary Part in the first 90 days after production begins. Therefore, the final rule has simplified the process to two parts instead of three, a Conceptual Plan and a DWOP. The information required for the Preliminary Part under the proposed rule is required for what is called the DWOP in the final rule.

It is appropriate to explain the relationship of the DWOP to a DOCD. A DOCD must be approved and pass consistency review under section 307(c)(3) of the Coastal Zone Management Act (CZMA), 16 U.S.C. 1456(c)(3), before the lessee may install a production platform. In addition to an approved DOCD, the lessee must obtain approval of an Application for Permit to Drill (APD) before the lessee may drill a production well. While the Conceptual Plan is likely to be (but is not necessarily) submitted before a DOCD is approved, approval of the Conceptual Plan often occurs after approval of a DOCD. (The DOCD will specify that the lessee will use a floating facility, but in most cases the DOCD likely will not address in detail the same matters that the DWOP addresses.) The lessee may obtain approval of a DOCD, pass CZMA consistency review, obtain approval of an APD, and even

drill the well, without approval of the Conceptual Plan as long as the lessee does not complete the well or install the tree before MMS approves the Conceptual Plan.

Similarly, the DWOP must be submitted after the lessee has substantially completed safety system design and before procurement or fabrication of the safety and operational systems (other than the tree), production platforms, pipelines, etc., but the lessee may obtain approval of the DOCD, pass CZMA consistency review, and, if it wishes to do so, procure or manufacture the safety and operational systems, install the platform, drill the well, and (if the Conceptual Plan has been approved) complete the well and install the tree before MMS approves the DWOP, as long as the lessee does not begin production before approval of the DWOP. In most cases, MMS anticipates that both the Conceptual Plan and the DWOP will be approved before wells are drilled.

MMS is requiring lessees to submit the Conceptual Plan of the DWOP to the Regional Director after the lessee has decided on the general concept(s) for development and before beginning engineering design of the well safety control system or subsea production systems. MMS will not approve a straight hydraulic well control system if the host platform is more than ten miles away from the well. At distances greater than 10 miles, a straight hydraulic system will not shut a well in fast enough in the event of an emergency or other contingency requiring a shut-in. If the host platform is more than 10 miles away from the well, MMS generally will require an electro-hydraulic well control system. In addition, if a lessee is planning to use new or non-conventional technology from the point of completion onward (including subsea systems), it should explain what it intends to do in the Conceptual Plan.

The proposed rule (at § 250.295) contained timeframes within which MMS would decide to approve or disapprove the various parts of the DWOP. (The proposed rule did not specify what the consequences would be if MMS missed an approval deadline.) Upon further consideration, the agency has determined that it would not be appropriate to bind itself to the timeframes in the proposed rule, and has therefore removed these provisions in the final rule.

Finally, there are a few differences in the content requirements for the DWOP under the final rule and the Preliminary Part under the proposed rule. (Section 250.292 of the proposed rule specified what the Preliminary Part must contain,

and § 250.292 of the final rule specifies what is now called the DWOP must contain.) First, paragraph (j) is refined because MMS has determined that it does not need a flow chart for the entire facility. It needs a description of the system up to the separation equipment.

Second, paragraph (1) in the proposed rule is not needed because MMS' notification to the lessee of approval of the DWOP will include a reminder that the lessee must obtain approval of production test allocation processes, flaring, and the Conservation Information Document before production may begin.

Third, paragraph (o) in the proposed rule was in the original NTL when the DWOP process was in its beginning stages. MMS does not now need a hazard analysis from a third party firm because MMS is much more familiar with deep water processes and hazards.

Fourth, paragraphs (n) and (o) in the final rule pertain to any new technology that affects the hydrocarbon recovery system and any alternate compliance procedures or departures for which the lessee anticipates requesting approval. MMS needs this type of information to properly evaluate the lessee's planned system.

(13) Conservation Information Documents (CID)—§§ 250.296 to 299: The rule contains new sections pertaining to CIDs. NTL 2000–N05 currently outlines the procedures for these documents. The revised rule incorporates the NTL procedures. Therefore, NTL 2000–N05 is hereby rescinded when the regulations take effect on September 29, 2005.

#### Discussion and Analysis of Comments to Proposed Rule

MMS received comments on the proposed rule and the draft NTL for the GOMR from the State of Florida (Florida), Ms. Cynthia Peeler (individual commenter), Mr. Peter Velez of Shell Exploration and Production Company (SEPCo), and a set of comprehensive comments from the oil and gas industry prepared by the American Petroleum Institute and Offshore Operators Committee (OOC). Mr. Velez' comments were general in nature and although MMS did not prepare specific responses to his comments, they were given due consideration and incorporated wherever possible. SEPCo also participated in and adopted the comments prepared by OOC. All comments were posted on the MMS Internet homepage. A summary of the comments received on the proposed rule and MMS' responses to the comments, follows.

### Section 250.200 Definitions

*Comment:* OOC notes that it is confusing to have terms defined in this section and also in 30 CFR 250.105. It recommends that all definitions not directly related to plans be located in § 250.105. The terms that would remain in this section would be Amendment, Modification, Resubmitted OCS Plan, Revised OCS Plan, [and] Supplemental OCS Plan.

*Response:* MMS adopted the recommended changes, except that the definition of "New or unusual technology" remains in § 250.200. A definition for "Non-conventional production or completion technology" has been added to the final rule under § 250.200.

*Comment:* Florida comments on the definition of "Ancillary activities" to add [(1)] "but which are still required to be consistent with the coastal management programs of affected States."

*Response:* No change. Ancillary activities do not require a Federal license or permit or other form of approval or permission (see 15 CFR 930.51(a)) and, therefore, are not subject to CZMA consistency requirements. However, should MMS, after review of the notification made under § 250.209, determine that an OCS plan is required; the plan will be subject to all plan review requirements.

Also, MMS deleted paragraph (2) in the proposed definition of "ancillary activities" which provided that ancillary activities need not be covered by an approved EP, DPP, or DOCD. Under certain circumstances an ancillary activity is required to be covered by an OCS plan. A change was also made to add the words "data and" before the word "information" in paragraph (1).

*Comment:* OOC comments that it is not clear whether the definition of "Development geophysical activities" excludes shallow hazards studies. It recommends that the definition be reworded to the following: "Development geophysical activities means those geophysical and related data-gathering activities on your lease or unit that take place following discovery of oil, gas, or sulphur in paying quantities that detect or imply the presence of oil, gas or sulphur in commercial quantities."

*Response:* MMS added the recommended language but retained the authority to require notice of shallow hazard surveys and other ancillary activities under § 250.208(b)(1) on a case-by-case basis.

*Comment:* OOC recommends that the definition of "New or unusual

technology" be clarified so that extensions of existing technology which do not meet the proposed rule's criterion of "(1) Function in a manner that potentially causes different impacts to the environment than the equipment or procedures did in the past," should not be considered as "New or unusual technology." OOC recommends that the definition be reworded to the following: "New or unusual technology means equipment or procedures that: (1) Have not been used previously or extensively in an MMS OCS Region; (2) Have not been used previously under the anticipated operating conditions; or (3) Have operating characteristics that are outside the performance parameters established by this part; and (4) Function in a manner that potentially causes different impacts to the environment than the equipment or procedures did in the past." It is OOC's understanding that at least in the GOMR, MMS maintains an internal list of technology that is to be considered "new or unusual." While OOC recognizes that this list is periodically updated as technology moves out of the "new or unusual" category and may not cover everything that could be considered new or unusual, it would be helpful to industry for MMS to make this list available by posting it on the Web site.

*Response:* MMS agrees that a clarification is necessary and has deleted item (1) from the proposed definition of "New or unusual technology" and renumbered the remaining items in the definition. MMS maintains a list and determines whether the technology could cause different impacts, and plans to post the non-proprietary portions of the list.

*Comment:* OOC notes that in 30 CFR 250.201(c) the term "comprehensive environmental management program" is used. It requests a definition for this term.

*Response:* MMS deleted proposed § 250.201(c)(3) which contained the term. Consequently, no definition is needed.

### Section 250.201(a) Plans and documents.

*Comment:* OOC disagrees that all of the listed plans must be approved before conducting any activities. For example, it may be necessary or desirable to install mooring piles well in advance of installing a floating facility. This activity would normally be a part of a DPP or DOCD and would also be described in a DWOP. Lessees and operators should not be prevented from performing this activity due to the CID not being approved. Rather, the

approval of the DPP or DOCD should state that the wells cannot be produced until the CID is approved.

*Response:* No change. Examples of exploration and development activities that must be covered by a plan are listed in §§ 250.211(a) and 250.241(a), respectively. Mooring piles are considered part of the production platform under § 250.241(a)(3), and, therefore, must be covered by an approved DPP or DOCD before installation. The DPP or DOCD can be approved before CID approval.

*Comment:* OOC notes that in many cases, a well may be drilled as an exploratory well under an Exploration Plan, and if hydrocarbons in paying quantities are discovered, the well will be completed before demobing [demobilizing] the drilling rig off location. This is especially true for subsea wells. Therefore, OOC suggests the following modifications:

"(2) Development and Production Plan (DPP): You must submit a DPP before you conduct any development and production activities on a lease or unit in any OCS area other than the western GOM. A well may be drilled and completed under an Exploration Plan, but not produced until a DPP has been approved;

"(3) Development Operations Coordination Document (DOCD): You must submit a DOCD before you conduct any development and production activities on a lease or unit in the western GOM. A well may be drilled and completed under an Exploration Plan, but not produced until a DOCD has been approved;

"(5) Conservation Information Document (CID): (ii) Wells drilled and completed under an EP meeting the description of (i)(A) or (B) must file a CID within 60 days of completing the drilling and logging operations.

Approved completion operations are allowed to proceed before the approval of the CID. The CID must be approved before production of the well."

*Response:* No change. Completion is considered part of the drilling activities and is therefore, covered under an approved EP. Since EP approval is independent of CID approval, completion operations may proceed before CID submittal or approval.

*Comment:* OOC remarks that under the requirements to have an approved EP, DPP, or DOCD under (6), it is not clear what information would need to be provided in an EP, DPP or DOCD. OOC also states that it is not clear what the difference is between (6)(C) and (6)(D) since under (D) the Regional Supervisor has the right to determine that an EP, DPP, or DOCD is necessary

if the performance standard in § 250.202(e) is not complied with.

*Response:* No change. The information requirements for OCS plans (including those proposing G&G explorations and development G&G activities) are listed in subpart B. Under paragraph 6(C) (now 6 (iii) in a table), MMS might determine that certain types or classes of G&G explorations or development G&G activities might have a significant adverse effect and by NTL would require that such types or classes be included in an OCS plan. Under paragraph 6(D) (now 6 (iv) in a table), MMS, after receiving notice, might determine that a particular G&G exploration or development G&G activity needs to be covered by an OCS plan.

*Comment:* OOC also notes that currently under the provisions of NTL 2000–N05, Conservation Information is submitted as a part of supplemental EPs or initial or supplemental DOCDs. It agrees that approval of supplemental EPs or DOCDs should not be dependent on the approval of CIDs.

*Response:* MMS agrees that a change was needed. CIDs are no longer submitted as part of an Initial or Supplemental DOCD. However, a lessee or operator must submit a CID when it submits an Initial DOCD or Supplemental DOCD for any development of a lease or leases located in water depths greater than 400 meters (1,312 feet). The CID must be approved before production begins.

#### *Section 250.201(c) Limiting information.*

*Comment:* Florida requests clarification of the requirements for limiting information by adding the words “for a similar activity or a similar environment.”

*Response:* MMS added the word “applicable.”

*Comment:* Ms. Peeler requests submission of a ‘comprehensive environmental management strategy’, and that MMS and operators should be working under a comprehensive environmental management plan.

*Response:* No change. This is beyond the scope of subpart B.

*Comment:* Florida requests adding § 250.201(c)(5) in order to not relieve the operator or MMS of the responsibility to transmit necessary data.

*Response:* No change. The rule should not impose requirements on the agency. MMS is fully aware of its responsibility to ensure that we do not eliminate information from a plan that is required by a State and that the required State information is received before MMS

deems a plan submitted. MMS is also aware of its responsibility to send necessary data and information to the affected States.

#### *Section 250.201(d) Referencing.*

*Comment:* OOC fully supports referencing information and data previously submitted or otherwise readily available to MMS. However, in practice, OOC finds that many times MMS requires duplicative information to be submitted. It presumes this is for the reviewers’ convenience so the reviewer does not have to locate material in other plans and in MMS files. The OOC encourages MMS to utilize previously submitted information whenever possible.

*Comment:* Florida requests that additional language be added to the rule regarding referenced material.

*Response:* No change. MMS is required to provide “complete” copies of plans and accompanying information, including CZMA necessary data and information, to reviewing agencies and to the public. If documents are referenced from previous submittals, MMS will make those documents or their location (library, website, etc.) available to the agencies/public upon request.

#### *Section 250.203 Where can wells be located under an EP, DPP or DOCD?*

*Comment:* OOC recommends that (b) be changed to “Recovering optimum reserves;” stating that economics should always be considered in the recovery of hydrocarbons.

*Response:* No change. The use of the word “reserves” by OOC implies that the reservoir has been penetrated by a well. However, there are cases when lessees and operators submit EPs, DPPs, and DOCDs where it is obvious that there is lease line stacking by a number of wells targeting resources (*i.e.*, no prior well penetration) common with adjacent leases. This potentially presents a drainage problem that MMS tries to rectify before the wells are drilled. MMS agrees with OOC that “economics” should always be considered in the recovery of hydrocarbons. However, MMS cannot make a decision that resources (based solely on seismic data) are economic and tell a company where a well should be drilled. Further, MMS cannot, and does not, require a company to drill or produce a well that is not economic.

*Comment:* OOC remarks that it is unclear how this matches up with the requirements for and approval of the CID for development plans. If MMS is reviewing this information under the DPP or DOCD and then again under the

CID, it appears that MMS is doing duplicative work.

*Response:* No change. The CID is only for deep water. These are factors MMS will consider, not information that the operator must submit.

*Comment:* OOC asks for an explanation of the difference between (c) [number of wells that can be economically drilled for proper reservoir management] and (i) [drilling of unnecessary wells].

*Response:* No change. The following example is offered as an explanation of the difference between paragraphs (c) and (i): The Regional Supervisor’s analysis shows that a reservoir could support a maximum of three wells. Two wells are producing on Lease A, and one well is producing on Lease B. All of the wells are producing from the same reservoir. In essence, this is the proper “number of wells that can be economically drilled for proper reservoir management” (paragraph (c)).

However, the operator of Lease B proposes to economically drill another well solely to counter possible drainage by Lease A. The drilling of this well would not increase the ultimate recovery or contribute additional hydrocarbon reserves. Even though the well is economic, it was established that the reservoir can only support a maximum of three wells. Therefore, the drilling of this fourth well would be unnecessary. In deciding whether to approve a proposed well location the Regional Supervisor will consider factors including the “drilling of unnecessary wells” (paragraph (i)).

#### *Section 250.206(a) Number of copies.*

*Comment:* OOC comments that since the number of copies may change from time to time, and may be different for various plans, it may be more appropriate to put the details in an NTL. In the GOMR, for example, NTL No. 2002-G08 (now NTL No. 2003-G17), clarifies that not all plans require 8 public information copies.

*Response:* No change. The Office of Management and Budget (OMB) requires that agencies justify for OMB approval if the agency requires more than an original and two copies of any response. It is appropriate that the maximum number of copies be specified through rulemaking.

#### *Section 250.206(b) Mailing addresses.*

*Comment:* OOC comments that since MMS addresses may change from time to time, it may be less burdensome to provide this information in a NTL and alleviate the necessity for a rulemaking effort to change an address.

*Response:* MMS agrees and has deleted the addresses.

**Section 250.206(c) Electronic submission.**

*Comment:* OOC comments that the regulation should not include a provision requiring electronic submittals when no details of the requirements have been provided for comment. This should be the subject of a subsequent rulemaking if electronic submittals are required.

*Response:* MMS agrees and made appropriate changes.

*Comment:* OOC supports the options for voluntary electronic submittals that have been provided in NTL No. 2002 G-08 and supports including this information in the regulation.

*Response:* An administrative and procedural NTL will be issued shortly after the effective date of the rule. It will contain guidance on electronic submittals according to Section 250.190(a)(3).

*Comment:* OOC is concerned over the details on how electronic submittals are handled by MMS. How will the confidential information be handled and be secured? How will the information be made available to the various MMS reviewers? Will the information be released in an electronic format to other federal agencies and state agencies?

*Response:* MMS will continue to protect confidential and proprietary information according to the Freedom of Information Act (FOIA) and its implementing regulations.

*Comment:* Florida recommends adding "Electronic submission to affected States will require consultation with the Regional Supervisor and concurrence of an affected State."

*Response:* MMS does not agree. MMS will consult with affected States (and already has with Texas and Louisiana) to work out details of the electronic submission process. This is a procedural matter to be worked out between government agencies, not a matter of concern to a plan submitter, and does not belong in the rule.

**Section 250.207(a) Geological and geophysical explorations and development geological and geophysical activities.**

MMS has deleted the phrase, "except those that must be covered by an EP, DPP, or DOCD under 30 CFR 250.201(a)(6), or 250.209" to show that a geological or geophysical exploration or a development geological or geophysical activity remains an ancillary activity even when it is required to be covered by an OCS plan. This change resulted from an internal

MMS review of the proposed regulation, not from an outside comment.

**Section 250.208 If I conduct ancillary activities, what notices must I provide?**

*Comment:* OOC assumes that the notices required for those activities that are conducted on individual leases are similar to the ones covered under 30 CFR part 251 for unleased areas or areas leased to third parties.

*Response:* This is a correct assumption.

*Comment:* Florida requested addition of the word "specific" before "type(s) of operations" in (a)(2).

*Response:* MMS agrees and added the word "specific."

*Comment:* OOC assumes that this notice requirement does not apply to shallow hazard surveys or any of the other ancillary activities (other than geological and geophysical explorations and development geological and geophysical activities) identified in § 250.207(a). Based on the language in § 250.208(b)(1), OOC assumes that MMS cannot require notices for the other listed ancillary activities in § 250.207 without a change in regulation. If this is not correct, then OOC strongly objects to a 30-day notice period for the other listed ancillary activities. This would be extremely burdensome and slow down reserve development.

*Response:* This is not a correct assumption; see response to next comment. MMS is retaining the authority under § 250.208(b)(1) to require notice for any other ancillary activity, including shallow hazard surveys. If such a notice is required, MMS will review the notice to determine if the ancillary activity complies with certain performance standards in accordance with § 250.209. If MMS concludes that the activity does not comply with those standards, MMS will require the lessee or operator to submit an OCS plan. In that case, the ancillary activity cannot be conducted until MMS approves the OCS plan. In addition, MMS changed § 250.208(b)(1) to provide for a 15-day notice period if a notice for another listed ancillary activity (i.e., those described in § 250.207(b) and (c)) is required.

*Comment:* OOC states that the requirement in § 250.208(b)(1) is very broad and confusing. What other activities could be considered ancillary activities?

*Response:* The other types of ancillary activities are stated in § 250.207(b) and (c). The notice period is 15 days.

*Comment:* OOC states that § 250.208(b)(2) is an overly broad requirement and lacks sufficient detail for it to appropriately comment. Under

what circumstances would this be done? Who would they be required to notify? How would it be done? What would be the timeframe for the notice? They believe that this requirement should be deleted from the regulation and be covered under a separate rulemaking if notice is to be required.

*Response:* No change. Depending upon the nature of the ancillary activity (e.g., the use of explosives), it may be appropriate for the lessee or operator to notify other users of the area such as a military facility or other lessees, operators or G&G permittees. If this provision is invoked, guidance on the procedures for these notices will be provided either on a case-by-case basis or in a revised NTL.

*Comment:* Regarding § 250.208(b)(2), Florida requests a discussion of the method of notification.

*Response:* No change. If necessary, this type of guidance will be provided either on a case-by-case basis or in a revised NTL.

**Section 250.210(a) Reporting.**

*Comment:* OOC asks when MMS will require that a report be submitted. How much time would the operator have until the report was due? What would be the required analysis? What would be data or information derived from the ancillary activities? Would it be held confidential? This requirement is overly broad without enough detail to properly comment. OOC recommends that MMS remove this from the proposed regulation and cover it in a subsequent rulemaking when sufficient information is available for comment.

*Response:* No change. MMS believes that sufficient information was available in the proposed rule and current NTLs for an adequate review of this section and, consequently, did not remove it for consideration under subsequent rulemaking. Guidance regarding when reports on ancillary activities will be required and due, and their contents, will continue to be addressed in various NTLs. Information from reports of G&G explorations and development G&G activities enables MMS to prepare for lease sales and conduct fair market value determinations. Information from other ancillary activities enables MMS to adequately review EPs, DPPs, and DOCDs. When applicable, data and information submitted to MMS will be held confidential in accordance with § 250.196(b). MMS added this confidentiality statement in a new paragraph (c) in § 250.210.

*Section 250.210(b) Data or information retention.*

*Comment:* OOC does not believe that it is appropriate for MMS to require operators to retain copies of all information derived from ancillary activities. Many times, there may be studies that are used for purposes other than exploring or developing a lease that a lessee or operator should not have to retain. OOC does not object to retaining the raw data and making it available to MMS.

*Response:* MMS limited the requirement to retain information to that obtained during G&G explorations and development G&G activities. MMS may need this information to evaluate leases and plan for lease sales at any time during the life of the lease or unit. Even though the rule does not require the retention of data and information from other ancillary activities, MMS suggests that lessees and operators consider retaining data and information because the lessee or operator may need to include that data and information in supplemental or revised EPs, DPPs, and DOCDs (e.g., high resolution seismic lines under §§ 250.214(g) and 250.244(g)).

*Section 250.211(a) Description, objectives, and schedule.*

*Comment:* For overall clarity, OOC recommends that the seismic activity language be moved from this section to § 250.207(a).

*Response:* MMS agrees. MMS has deleted the reference to seismic activities in the MMS Alaska and Pacific OCS Regions since the process to handle these activities is sufficiently delineated in §§ 250.207 through 250.210.

*Comment:* OOC recommends including well completion (not production) as an example of an exploratory activity.

*Response:* No change. A well completion is an extension of the exploration drilling activity and does not need to be covered as a separate activity under an EP.

*Section 250.211(b) Location.*

*Comment:* OOC believes there is no purpose in showing the water depth of the bottom hole location and, therefore, that information should not be required.

*Response:* MMS made the recommended change. MMS agrees that the bottom hole location is not needed on the location map.

*Comment:* OOC asks whether bathymetry information be provided in a table instead of a map.

*Response:* No change. A location plat is required for MMS evaluation and State consistency review.

*Section 250.211(c) Drilling unit.*

*Comment:* OOC believes that it is overly burdensome and serves no meaningful purpose to provide the required information for fuels, oil, and lubricants that are stored on the facility in very small quantities. It recommends that the rule be limited to fuels, oil and lubricants that are stored in quantities greater than 25 barrels.

*Response:* For the GOMR, due to the large number of very similar plans that are routinely submitted, MMS agrees that listing smaller volumes of stored fuels, oil, and lubricants is overly burdensome. The volume thresholds are stated in the interpretive guidance in the accompanying GOMR NTL, not in this part of the rule.

*Comment:* OOC notes that in many cases at the time an EP is filed, the specific rig or rigs to be utilized has or have not been contracted. Therefore, only generic information that pertains to the type of rig to be utilized is provided. OOC also notes that the specific rig and equipment particulars are identified in the APD for the well to be drilled. OOC believes that this is the appropriate application to provide this information.

*Response:* No change. If the specific rig has not been contracted, the maximum in the class should be provided. MMS requires this information to assess environmental impacts and for State coastal zone consistency review.

*Comment:* OOC suggests that if an MMS regional office needs specific information on rigs operating within the region, MMS should collect the information one time and maintain a file for the rig. If a rig is brought into the MMS region, the file could be updated.

*Response:* No change. However, MMS encourages industry to establish a regional rig file that a lessee or operator could access on the Internet and reference under § 250.201(d).

*Section 250.213(b) Drilling fluids.*

*Comment:* OOC notes that in many cases, several different mud systems with different chemical composition and components will be utilized during the course of a well. At the time that the EP is filed, the specific mud program for each well may not have been developed. OOC recommends that this section be changed to the following: “(b) Drilling fluids. A table showing the projected amounts for each of the types (i.e., water based, oil based, synthetic based) of drilling fluids you may use to drill your proposed exploration wells.”

*Response:* MMS agrees and has provided clarification.

*Comment:* OOC requests an explanation of the term “rates of usage.”

*Response:* For clarification, MMS changed the term “rates of usage” to “discharge rate.”

*Section 250.213(c) Chemical products.*

*Comment:* OOC comments that following the issuance of NTL No. 2000–G21, a study was conducted on chemical products usage in the GOM in lieu of this information being submitted in each plan. Therefore, it recommends that the GOM be exempt from this requirement.

*Response:* No change to the rule. The rule applies to all Regions and the commenter is requesting this change only in the GOMR. The accompanying NTL does make the change requested with respect to the GOMR.

*Comment:* OOC comments to the NTL point out that the NTL requires “Oils Characteristics” and there is no corresponding reference in the rule for EPs. OOC also notes that detailed information is unknown at the EP stage.

*Response:* MMS agrees with OOC. Since no reference to Oils Characteristics for EPs is in the rule, the provision in the MMS GOMR NTL to provide such information for EPs has been deleted.

*Section 250.213(d) New or unusual technology.*

*Comment:* OOC comments that in many cases, the use of new or unusual technology includes the use of proprietary information. Therefore, it recommends that the following statement be added to the regulation: “In the public information copies of your EP, you may exclude any proprietary information from this description. In that case, include a brief discussion of the general subject matter of the omitted information. If you will not use any new or unusual technology to carry out your proposed activities, include a statement so indicating.”

*Response:* MMS agrees and has adopted the language.

*Section 250.213(e) Bonds, oil spill financial responsibility, and well control statements.*

*Comment:* OOC recommends that MMS allow lessees or operators to delay furnishing bonds and evidence of oil spill financial responsibility until after the EP has been approved, but before the proposed activities are approved or permitted. Therefore, OOC recommends adding the following statement to (1): “In lieu of providing bonds and making this statement, you may request, in writing, to delay furnishing the required bond coverage until after your EP or DOCD is approved but before your proposed activities are approved or



permitted. Refer to 30 CFR 256.53(a)(1)(ii)."

*Response:* MMS adopted OOC's recommended change and provided a reference to 30 CFR 256 subpart I.

*Section 250.213(g) Blowout scenario.*

*Comment:* Florida recommends adding the word "maximum" to qualify "timeframe."

*Response:* MMS reworded for clarity and added "maximum duration."

*Section 250.214(g) High-resolution seismic lines.*

*Comment:* OOC questions the necessity of providing two intersecting seismic lines.

*Response:* MMS agrees that only the closest line is needed and made the appropriate change.

*Comment:* OOC recommends adding the following statement: "You are not required to provide this information if the surface location of your proposed well has been approved in a previously submitted EP, DPP, or DOCD."

*Response:* MMS agrees with OOC and adopted the proposed language.

*Section 250.214(j) Geochemical information.*

*Comment:* OOC recommends that the GOM should be specifically excluded from this requirement.

*Response:* No change to the rule. The rule applies to all Regions and the commenter is requesting this change only in the GOMR. The accompanying NTL does make the change requested with respect to the GOMR.

*Section 250.214(k) Future G&G activities.*

*Comment:* OOC recommends that the GOM should be specifically excluded from this requirement.

*Response:* No change to the rule. The rule applies to all Regions and the commenter is requesting this change only in the GOMR. The accompanying NTL does make the change requested with respect to the GOMR.

*Section 250.215(a) Concentration.*

*Comment:* OOC recommends that this should be required only when the area has been classified as H<sub>2</sub>S present. Otherwise you will not know the concentration.

*Response:* No change. The rule requires only an estimate, not a known concentration.

*Section 250.216 What biological, physical, and socioeconomic information must accompany the EP?*

*Comment:* Florida recommends deleting "if you obtain" and replace with "you must obtain."

*Response:* No change. MMS does not require this type of information to be collected. However, if the lessee or operator independently collects it during the development of the EP, then it must accompany the EP.

*Section 250.216(b) Physical environment reports.*

*Comment:* OOC notes that in the GOM, limited site-specific meteorological data (temperature, wind, etc.) may be collected, but not necessarily in any formal, organized, or scientific fashion and should not have to be submitted. Therefore, it recommends that this requirement be eliminated for the GOM. Similarly, OOC notes that limited physical oceanographic information may be collected, but not necessarily in any formal, organized, or scientific fashion. This data should not have to be submitted. Therefore, OOC recommends that this requirement be eliminated for the GOM.

*Response:* No change to the rule. The rule applies to all Regions and the commenter is requesting this change only in the GOMR. The accompanying NTL does make the change requested with respect to the GOMR. According to the NTL, this information is not required to accompany EPs in the GOMR. However, in the Eastern Planning Area of the GOMR, a discussion of air and water quality in and adjacent to the proposed activities is required. For clarity, MMS replaced "archaeological information" with "archaeological reports if required under § 250.194."

*Section 250.216(c) Socioeconomic study reports.*

*Comment:* OOC requests that this requirement not apply to the GOM.

*Response:* No change to the rule. The rule applies to all Regions and the commenter is requesting this change only in the GOMR. The accompanying NTL does make the change requested with respect to the GOMR. According to the NTL, this information is not generally required to accompany EPs in the GOMR. However, if the proposed activities have socioeconomic implications for the State of Florida, certain information is required.

*Section 250.217(a) Projected wastes.*

*Comment:* OOC notes that providing the quantity of a waste either annually or monthly may be difficult to estimate. An appropriate unit of measure should be utilized which could include on a per well or per person basis. The chemical product wastes should be limited to "treating" chemicals (not

include housekeeping, etc. chemical wastes.)

*Response:* MMS agrees to delete "annual or monthly." MMS made no change with regard to projected waste "MMS may want to require information regarding other projected wastes. MMS requires the information for NEPA and CZMA purposes."

*Section 250.217(e) Projected cooling water intake.*

*Comment:* OOC requests that this requirement be removed from the regulation. This is premature since the Environmental Protection Agency has not adopted final regulations pertaining to cooling water intake structures used for exploratory activities.

*Response:* MMS included information collection requirements for cooling water intake structures to more fully comply with the NEPA, its implementing regulations issued by the CEQ at 40 CFR parts 1500 through 1508, and policies of DOI and MMS. According to NEPA requirements, MMS must prepare an EA in connection with its review of plans for activities on the OCS. The contents of plans must be sufficient to support a sound analysis of potential environmental impacts that may result from the proposed activity. As required by NEPA, if the EA concludes that significant impacts will result from the proposed activity, MMS will prepare an EIS.

MMS does not agree with the commenter that this action is premature; MMS's responsibilities under NEPA are independent of the Environmental Protection Agency (EPA) Clean Water Act (CWA) § 316(b) rulemaking on cooling water intake structures. As previously stated, MMS is required by NEPA to assess potential environmental impacts that may result from the proposed activity.

See <http://www.epa.gov/waterscience/316b/index.html> for more information on EPA's CWA § 316(b) rulemakings.

*Section 250.218(a) Projected emissions.*

*Comment:* Ms. Peeler states that MMS should require planning documents to address greenhouse gases and establish a monitoring system to assure greenhouse gas emission levels are not exceeded.

*Response:* No change. The Clean Air Act (CAA) does not address greenhouse gas emissions. Neither MMS nor the Environmental Protection Agency (EPA) presently has the authority to require limits on greenhouse gas emissions from specific projects.



*Comment:* Ms. Peeler requests establishing an emission/discharge trading program.

*Response:* No change. Emission offsets are covered under § 250.303(i).

*Comment:* OOC notes that emission factors (EF) for PM<sub>10</sub> and PM<sub>2.5</sub> based upon natural gas fired units measured by conventional EPA methods are probably high by a factor of 10–50 based upon recent DOE/API studies. Current MMS–138 and MMS–139 forms use an EF of 7.6 lbs of PM (Total) per 10<sup>6</sup> scf. (AP–42, Table 1.4-2, July 1998). It is assumed that all the PM is less than 1.0 microns in diameter. Why speciate PM when EF are of such poor quality?

*Response:* Since the Breton Offshore Activities Data System (BOADS) study and EPA's AP–42 document use 7.6 pounds per million cubic feet (MMCF), MMS will maintain this value. MMS will revise the emission factors once official updated values are available.

**Section 250.218(b) Emission reduction measures.**

*Comment:* Ms. Peeler makes reference to 43 U.S.C. 1347(b) and best available and safest technology (BAST).

*Response:* No change. Sections 250.107(c) and (d) implement this requirement.

**Section 250.219(a) Oil spill response planning.**

*Comment:* With respect to paragraph (a)(2)(iii), since Oil Spill Removal Organizations (OSROs) are included in the regional Oil Spill Response Plan (OSRP), OOC asks why they have to be named in each EP. With respect to paragraph (a)(2)(iv), OOC inquires regarding the purpose of providing a comparison between the site specific worst case discharge and that in the regional OSRP.

*Response:* No change. The information required under paragraph (a)(2)(iii) is necessary for all States to use in their CZMA consistency reviews. MMS uses the information required under paragraph (a)(2)(iv) as a streamlined means to ensure compliance with requirements of the Oil Pollution Act of 1990 (OPA 90).

**Section 250.221(a) Monitoring systems.**

*Comment:* OOC assumes that this does not include wind, temperature, etc. that are commonly monitored on an informal basis.

*Response:* No change. A monitoring plan might include this type of information.

**Section 250.221(b) Flower Garden Banks National Marine Sanctuary.**

*Comment:* For clarity and completeness, OOC recommends that this language be moved to § 250.219(c).

*Response:* No change. This is not spill information, it is monitoring information.

*Comment:* OOC requests modification to “a description of your provisions for monitoring the impacts of an oil spill on the environmentally sensitive resources at the Flower Garden Banks National Marine Sanctuary.”

*Response:* MMS agrees and has reworded for clarity.

**Section 250.223 What mitigation measures information must accompany the EP?**

*Comment:* OOC notes that the language used seems to indicate that such measures will be utilized. They suggest the following language: “If you propose to use any measures beyond those required by the regulations in this part to minimize or mitigate environmental impacts from your proposed exploration activities, provide a description of the measures you will use in your EP.”

*Response:* MMS agrees and used the recommended language.

**Section 250.224(a) General.**

*Comment:* OOC requests clarification of the term “offshore vehicle.”

*Response:* An offshore vehicle is a vehicle that is capable of being driven on ice. See definition.

**Section 250.224(b) Air emissions.**

*Comment:* For clarity and completeness, OOC recommends that this requirement be moved to the air emission section in § 250.218.

*Response:* No change. The regulations are organized in a manner that addresses air emissions based on source. There is no single section that includes all air information requirements.

**Section 250.224(c) Drilling fluids and chemical products transportation.**

*Comment:* OOC would like this requirement to be specifically eliminated for the Western and Central GOM.

*Response:* No change to the rule. The rule applies to all Regions and the commenter is requesting this change only in the GOMR. The accompanying NTL does make the change requested with respect to the GOMR. According to the NTL, this information is not required to accompany EPs in the Western and Central Planning Areas of the GOMR.

**Section 250.224(d) Solid and liquid wastes transportation.**

*Comment:* OOC asks for the purpose of giving the reason for transportation, because these are already classified as wastes.

*Response:* MMS agrees and deleted “the reason for transportation.”

*Comment:* OOC asks whether the destination being requested is the shore base or the “final” disposal, reuse, or recycling location. OOC suggests that the destination being requested be considered the shore base. In many instances, the “final” destination is not known, particularly for trash that is placed in a common bin at the shore base.

*Response:* No change. The final destination is the place where the operator transfers the waste to an entity that will receive, reuse, recycle, or dispose of the waste.

*Comment:* OOC notes that the composition and quantities are estimates only and based on typical estimates from similar drilling operations. Also, the destination of the waste is based on pre-planning only and may change during the actual activities conducted under the EP.

*Response:* MMS concurs that these are estimates.

*Comment:* OOC states that given that this information is based on typical wastes and disposal for similar operations, it fails to see the necessity of providing the information in each plan. Of equal or more value could be a waste management study across industry for various activities.

*Response:* If such an industry-wide waste management study is completed, it may be referenced under § 250.201(d).

**Section 250.224(e) Vicinity map.**

*Comment:* OOC suggests adding the word “primary” before “routes.” In many cases, an alternate route may be taken depending on environmental conditions, visiting multiple platforms, etc.

*Response:* MMS agrees and made the appropriate change.

**Section 250.225(a) General.**

*Comment:* Florida requests additional language regarding onshore facilities.

*Response:* MMS agrees and added additional language as follows: Describe any State or Federal permits or approvals (dredging, filling, etc.) that would be required for constructing or expanding them.

**Section 250.225(b) Air emissions.**

*Comment:* OOC requests that EPs in areas westward of 87°30'W longitude in

the GOM be specifically excluded from this requirement.

*Response:* No change to the rule. The rule applies to all Regions and the commenter is requesting this change only in the GOMR. The accompanying NTL does make the change requested with respect to the GOMR. According to the NTL, this information is not required to accompany any EPs in the GOMR.

**Section 250.225(c) Unusual solid and liquid wastes.**

*Comment:* Florida requests a definition of "unusual wastes."

*Response:* Unusual wastes are those wastes not specifically addressed in the relevant National Pollutant Discharge Elimination System (NPDES) permit.

*Comment:* OOC requests that EPs in the GOM be specifically excluded from this requirement.

*Response:* No change to the rule. The rule applies to all Regions and the commenter is requesting this change only in the GOMR. The accompanying NTL does make the change requested with respect to the GOMR. According to the NTL, this information is not required to accompany any EPs in the GOMR.

**Section 250.225(d) Waste disposal.**

*Comment:* For clarity and completeness, OOC suggests that this requirement be included with § 250.224(d) since much of this information appears to be duplicative of that required in § 250.224(d).

*Response:* No change. The regulation is organized in a manner that addresses wastes based on source. There is no one section that includes all waste information requirements.

**Section 250.226 What CZMA certification must accompany the EP?**

*Comment:* OOC could not locate 15 CFR 930.76(d) and requested the correct citation.

*Response:* No change. This citation is correct.

**Section 250.227(a) General requirements.**

*Comment:* OOC requests an explanation of how the requirements listed in § 250.227(b) assist the Regional Supervisor in complying with NEPA and other relevant Federal laws.

*Response:* No change. The Environmental Impact Analysis (EIA) assists MMS in each and every EP submittal to determine, based on the project-specific impact analysis provided by the lessee or operator for his project, if there is an exception to the DOI's listing of categorical

exclusions. The lessee or operator is in the best position to determine the environmental effects of its proposed activity based on whether the operation is routine or non-routine. The lessee or operator must be able to evaluate the nature and extent of any environmental implications of its proposed exploration activities.

**Section 250.227(b) Resources, conditions, and activities.**

*Comment:* In (4), OOC asks for a definition of "critical habitat."

*Response:* MMS reworded the rule to clarify. The definition for "critical habitat" is: (i) The specific areas within the geographical area currently occupied by a species, at the time it is listed in accordance with section 4 of the Endangered Species Act, on which are found those physical or biological features (I) essential to the conservation of the species, and (II) which may require special management considerations or protection, and (ii) specific areas outside the geographical area occupied by a species at the time it is listed upon a determination by the Secretary that such areas are essential for the conservation of the species. (See 64 FR 31871.)

*Comment:* OOC requests that the GOM be specifically excluded from the requirement in (7).

*Response:* No change to the rule. The rule applies to all Regions and the commenter is requesting this change only in the GOMR. The accompanying NTL does make the change requested with respect to the GOMR. According to the NTL, this information is not typically required to accompany any EPs in the GOMR.

**Section 250.227(c) Environmental impacts.**

*Comment:* OOC requests that the reference to cooling water intake structures be removed since EPA has not issued final regulations for these structures.

*Response:* Not adopted. See response to § 250.217(e).

**Section 250.228(a) Exempted information description (public information copies only).**

*Comment:* An OOC comment on the NTL questions the need for this information.

*Response:* No change. The information is necessary to provide a general overview of what has been excluded from the public information copy for those reviewers who cannot get access to proprietary data.

**Section 250.228(b) Bibliography.**

*Comment:* An OOC comment on the NTL questions the need for this information, stating that MMS has this information already.

*Response:* No change. This provision does not require a list of all plans, reports, etc. It requires only a list of those that have been referenced in the EP.

**Section 250.231(a) Determine whether deemed submitted.**

*Comment:* OOC asks for the basis for increasing the timeframe from 10 days to 15 days. It requests that EPs be deemed submitted within 10 days.

*Response:* No change. The additional working days are necessary because of increased review time as described in the preamble to the proposed rule (67 FR 35373).

*Comment:* OOC requests an explanation of the term "sufficiently accurate" in (1).

*Response:* Sufficiently accurate means in a manner that is enough to meet the needs of a situation or proposed end.

*Comment:* OOC requests that when the plan has been "deemed submitted," the contact person be notified by fax, letter, or e-mail.

*Response:* MMS made the recommended change.

**Section 250.231(b) Identify problems and deficiencies.**

*Comment:* OOC asks when and how the Regional Supervisor will notify you that your plan has a deficiency. It suggests that the notification occur within the timeframe established in § 250.231(a). OOC requests that the notification be made to the contact person by fax, letter, or e-mail.

*Response:* MMS made the recommended change to provide a time frame for response. The method of notification will continue to be by phone, fax, letter, or e-mail.

**Section 250.232(a) State and CZMA consistency reviews.**

*Comment:* In lieu of "receipted" mail, OOC requests that the public information copy be sent by "overnight" mail. It believes that the cost differential between receipted mail and overnight mail is not significant. If MMS believes the cost is prohibitive, then MMS may request the operator to provide a completed air bill at the expense of the lessee or operator. Sending the public information copy by overnight mail will significantly speed up the CZMA process. Alternatively, if the operator provides a complete public information copy in an electronic format, it could be e-mailed.

*Response:* MMS made changes to allow alternative methods.

**Section 250.232(d) Amendments.**

MMS made changes as a result of its internal review of the proposed regulation, to clarify that some major amendments proposed by the lessee or operator may require a deemed submitted review.

**Section 250.235(a) Amend your EP.**

*Comment:* OOC notes that if MMS has approved the EP, then the plan would need to be revised, not amended.

*Response:* No change. EPs already approved are addressed under § 250.281(d)(3).

**Section 250.241(b) Location.**

*Comment:* OOC believes there is no purpose in showing the water depth of the bottom hole location, and this information should therefore not be required.

*Response:* MMS agrees and has made the recommended change.

*Comment:* OOC asks for the purpose of showing this information on a bathymetry map. Showing the information in a table should be sufficient and a map should not be required.

*Response:* No change. A location plat is required for MMS evaluation and State CZMA consistency review.

**Section 250.241(c) Drilling unit.**

*Comment:* OOC believes that it is overly burdensome and serves no meaningful purpose to provide this information for fuels, oil, and lubricants that are stored on the facility in very small quantity. It recommends that this be limited to fuels, oil, and lubricants that are stored in quantities greater than 25 barrels.

*Response:* No change. The Pacific and Alaska OCS Regions have no established minimum volume. However, in the companion NTL, the GOMR has established a minimum volume of 25 bbls for all purposes.

*Comment:* OOC notes that in many cases at the time an EP [DPP or DOCD] is filed, the specific rig or rigs to be utilized have not been contracted. Therefore, only generic information that pertains to the type of rig to be utilized is provided. The APD for the well to be drilled identifies the specific rig and equipment particulars. OOC believes that the APD is the appropriate application to provide this information.

*Response:* No change. If the specific drilling rig has not been contracted, the maximum for the class of rig should be provided. MMS needs the information to assess environmental impacts.

*Comment:* OOC suggests that if an MMS regional office needs specific information on rigs operating within the region, the regional office should collect the information one time and maintain a file for the rig. If a rig is brought into the MMS region, the file could be updated.

*Response:* No change. However, MMS encourages the industry to establish a regional rig file that a lessee or operator could access on the Internet and reference under § 250.201(d).

**Section 250.241(d) Production facilities.**

*Comment:* Florida requests definition of "other facilities."

*Response:* No change. "Other" refers to any production facility not listed.

**Section 250.243(b) Drilling fluids.**

*Comment:* OOC notes that in many cases, several different mud systems with different chemical composition and components will be utilized during the course of drilling a well. At the time the DPP or DOCD is filed, the specific mud program for each well may not have been developed. They recommend that this section be changed to the following: "(b) Drilling fluids. A table showing the projected amounts for each of the types (i.e., water based, oil based, synthetic based) of drilling fluids you may use to drill your proposed exploration (sic) wells."

*Response:* MMS agrees and made the necessary clarification.

*Comment:* OOC requests an explanation of the term "rates of usage."

*Response:* MMS changed the term "rates of usage" to the term "discharge rate."

**Section 250.243(c) Production.**

*Comment:* OOC asks why MMS needs the average production rate. How is it utilized? The reservoirs may have different lives. They suggest that it should be the life of the project.

*Response:* This average production rate is used to determine if the proposed production in the DPP or DOCD is a candidate for royalty in kind (RIK). MMS deleted the requirement for submitting a production decline curve in paragraph (c)(1).

**Section 250.243(d) Chemical products.**

*Comment:* OOC notes that following the issuance of NTL No. 2000-G21, a study was conducted on chemical products usage in the GOM in lieu of this information being submitted in each plan. Therefore, the GOM should be specifically exempt from this requirement.

*Response:* No change to the rule. The rule applies to all Regions, and the

commenter is requesting this change only in the GOMR. The accompanying NTL does make the change requested with respect to the GOMR.

**Section 250.243(e) New or unusual technology.**

*Comment:* OOC notes that in many cases, the use of new or unusual technology includes the use of proprietary information. Therefore, it recommends that the following statement be added to the regulation: "In the public information copies of your DPP or DOCD, you may exclude any proprietary information from this description. In that case, include a brief discussion of the general subject matter of the omitted information. If you will not use any new or unusual technology to carry out your proposed activities, include a statement so indicating."

*Response:* MMS agrees and made the recommended change.

**Section 250.243(f) Bonds, oil spill financial responsibility, and well control statements.**

*Comment:* OOC recommends delaying the requirements to furnish bonds and evidence of oil spill financial responsibility until after the DPP or DOCD has been approved, but before the proposed activities are approved or permitted. Therefore, it recommends adding the following statement to (1): "In lieu of providing bonds and making this statement, you may request, in writing, to delay furnishing the required bond coverage until after your EP, DPP, or DOCD is approved but before your proposed activities are approved or permitted. Refer to 30 CFR 256.53(a)(1)(ii)."

*Response:* MMS adopted OOC's recommended change and provided a reference to 30 CFR part 256 subpart I.

**Section 250.243(g) Suspensions of production or operations.**

*Comment:* OOC requests that this be limited to a SOP or SOO that has been granted. You may not be able to anticipate that you will need an SOP or SOO at the time the DOCD is filed.

*Response:* No change. If you do not anticipate the need for a suspension at the time you file a DOCD, indicate that none are anticipated.

**Section 250.243(h) Blowout scenario.**

*Comment:* Florida recommends adding "maximum timeframe."

*Response:* MMS made an equivalent change by adding the words "maximum duration."

*Section 250.244(h) Stratigraphic column.*

*Comment:* OOC recommends that the Western and Central GOM be specifically excluded.

*Response:* No change to the rule. The rule applies to all Regions and the commenter is requesting this change only in the GOMR. The accompanying NTL does make the change requested with respect to the GOMR.

*Section 250.244(i) Time-versus-depth chart.*

*Comment:* OOC recommends that the Western and Central GOM be specifically excluded.

*Response:* No change to the rule. The rule applies to all Regions and the commenter is requesting this change only in the GOMR. The accompanying NTL does make the change requested with respect to the GOMR.

*Section 250.244(j) Geochemical information.*

*Comment:* OOC recommends that the GOM should be specifically excluded.

*Response:* No change to the rule. The rule applies to all Regions and the commenter is requesting this change only in the GOMR. The accompanying NTL does make the change requested with respect to the GOMR.

*Section 250.244(k) Future G&G activities.*

*Comment:* OOC recommends that the GOM should be specifically excluded.

*Response:* No change to the rule. The rule applies to all Regions and the commenter is requesting this change only in the GOMR. The accompanying NTL does make the change requested with respect to the GOMR.

*Section 250.245(a) Concentration.*

*Comment:* OOC recommends that this information should only be required when the area has been classified as H<sub>2</sub>S present. Otherwise you will not know the concentration.

*Response:* No change. The rule requires an estimate, not a known concentration.

*Section 250.245(d) Modeling report.*

*Comment:* OOC believes that the requirement in (3) for specific modeling of how any H<sub>2</sub>S at any concentration, no matter how low, affects an onshore area is too restrictive. This should be limited to cases where the H<sub>2</sub>S concentration is greater than 10 parts per million at an onshore location.

*Response:* MMS replaced the word "area" with the word "location" in paragraph (3) and made the necessary changes.

*Section 250.246 What mineral resource conservation information must accompany the DPP or DOCD.*

*Comment:* OOC recommends that the Central and Western GOM be specifically excluded.

*Response:* MMS does not agree with this statement. This regulation should apply to all GOMR leases when a DPP, DOCD, or any supplemental plan is filed as required under the regulation. Subpart K (specifically § 250.1107) requires a lessee to "timely initiate enhanced oil and gas recovery operations for all competitive and non-competitive reservoirs where such operations would result in an increased ultimate recovery of oil or gas under sound engineering and economic principles." Therefore, lessees and operators should have considered enhanced recovery techniques as early as initial production. Since, by regulation, the submittal and approval of a DPP or DOCD is a requirement before the commencement of production, this is the proper place for this information to be reported.

*Section 250.246(a) Technology and reservoir engineering practices and procedures.*

*Comment:* OOC recommends that this requirement be limited to engineering practices and procedures you propose to use in your DPP or DOCD.

*Response:* MMS made the recommended change by replacing "may" with "will." The information provided for §§ 250.246(a) and 250.246(b) should depend upon the intent of the lessee or operator. If the lessee or operator intends to initiate recovery practices in conjunction with the onset of production, the lessee or operator should be very specific in responding to (a) and (b), since the lessee or operator has already evaluated the most efficient technique and plans to immediately put that particular technique into practice. However, if the lessee or operator does not propose using enhanced recovery practices at the onset of production, a general statement is needed explaining the methods considered and the reasons why they are not going to be used. The change accomplishes this.

*Section 250.246(b) Technology and recovery practices and procedures.*

*Comment:* OOC recommends that this requirement be limited to technology and recovery practices and procedures you propose to use in your DPP or DOCD.

*Response:* See comment for § 250.246(a) above, and MMS' response.

*Section 250.246(c) Reservoir development.*

*Comment:* OOC asks why this information is requested. The DOCD contains the development plan. MMS already has the well logs, etc.

*Response:* No change. The information in the DOCD is compared to the CID for consistency and for additional data not required in the CID (e.g., activity schedules). The proposed well names, estimated field life and reserves, and the structure map with the target sand and designated boreholes are also checked to assure consistency with the CID. However, a CID is submitted only when any portion of a development project is in water depths greater than 400 meters (1,312 feet); therefore, this information must be submitted in the DOCD to assure that all leases are addressed. The Regional Supervisor is authorized to approve well locations and spacing programs necessary for proper reservoir development in leased areas. In approving or disapproving such projects, the Regional Supervisor gives consideration to, among other things, the geology and reservoir characteristics, completion techniques, the number of wells that can be economically drilled, optimum recovery of resources, minimization of environmental risk, the protection of correlative rights, and the drilling of unnecessary wells.

*Section 250.247 What biological, physical, and socioeconomic information must accompany the DPP or DOCD.*

*Comment:* Florida recommends deleting "if you obtain" and replacing with "you must obtain, if available." See comments on EP.

*Response:* No change. See comment for § 250.216.

*Section 250.247(b) Physical environment reports.*

*Comment:* OOC notes that in the GOM, limited site-specific meteorological data (temperature, wind, etc.) may be collected, but not necessarily in any formal, organized, or scientific fashion. This data should not have to be submitted. Therefore, OOC recommends that this requirement be eliminated for the GOM. Similarly, OOC notes that limited physical oceanographic information may be collected, but not necessarily in any formal, organized, or scientific fashion. This data should not have to be submitted. Therefore, OOC recommends that this requirement be eliminated for the GOM.

*Response:* No change to the rule. The rule applies to all Regions and the commenter is requesting this change only in the GOMR. The accompanying NTL does make the change requested with respect to the GOMR. According to the NTL, this information is not required to accompany any DOCs in the GOMR. In the Eastern Planning Area of the GOMR, a discussion of air and water quality in and adjacent to the proposed activities is required. Also for clarity, MMS replaced "archaeological information" with "archaeological reports if required under § 250.194."

*Section 250.247(c) Socioeconomic study reports.*

*Comment:* Florida recommends adding "included related onshore activities."

*Response:* MMS deleted "regarding" and added "related to."

*Section 250.248(a) Projected wastes.*

*Comment:* OOC notes that providing the quantity of a waste either annually or monthly may be difficult to estimate. An appropriate unit of measure should be utilized (which could include on a per well or per person basis).

*Response:* MMS made the recommended change by deleting "annual or monthly."

*Comment:* OOC recommends that the chemical product wastes be limited to "treating" chemicals, not including housekeeping and similar chemical wastes.

*Response:* No change. The information is needed for NEPA and CZMA purposes.

*Comment:* Florida requests discussion of "onshore" plans for disposal.

*Response:* No change. This information is contained in § 250.258(d).

*Section 250.248(b) Projected ocean discharges.*

*Comment:* OOC asks for clarification of the term "discharge method."

*Response:* Discharge methods include shunting through a downpipe, adding to a produced water stream, etc.

*Section 250.248(c) National Pollutant Discharge Elimination System (NPDES) permit.*

*Comment:* OOC recommends that the GOM be specifically excluded from the requirement in (1).

*Response:* No change to the rule. The rule applies to all Regions and the commenter is requesting this change only in the GOMR. The accompanying NTL does make the change requested with respect to the GOMR. According to the NTL, this information is not

required to accompany any DOCs in the GOMR.

*Section 250.248(e) Projected cooling water intake.*

*Comment:* OOC requests that this requirement be removed from the regulation. This is premature since EPA has not adopted final regulations pertaining to cooling water intake structures used for exploratory activities.

*Response:* No change. See response to § 250.217(e) above.

*Section 250.249(a) Projected emissions.*

*Comment:* OOC notes that emission factors (EF) for PM<sub>10</sub> and PM<sub>2.5</sub> based upon natural gas fired units measured by conventional EPA methods are probably high by a factor of 10–50 based upon recent DOE/API studies. Current MMS–138 and MMS–139 use an EF of 7.6 lbs of PM (Total) per 10<sup>6</sup> scf. (EP–42, Table 1.4–2, July 1998). It is assumed that all the PM is less than 1.0 microns in diameter. Why speculate PM when EF are of such poor quality?

*Response:* No change. Since the BOADS study and EPA's 2001 document use 7.6 pounds per MMCF, MMS will maintain this value. MMS will revise the emission factors once official updated values are available.

*Comment:* For (2), OOC asks for a definition of a "facility modification."

*Response:* MMS deleted "For a facility modification" and added clarifying language.

*Comment:* For (4), OOC believes that utilizing the maximum rated capacity of the equipment is unrealistic. The projected emissions should be based on the proposed operational scenario for the proposed activities in the plan. What is considered to be the "maximum throughput?" In many cases, de-bottlenecking can occur to increase the "maximum" throughput.

*Response:* No change. If the lessee or operator presents factors to justify emissions based on amounts less than maximum rated capacity, it can request that MMS grant a departure under § 250.142. An example would be fuel certification reports. Maximum throughput may represent a value less than the maximum capacity and can be used as a basis for the estimate of projected emissions.

*Section 250.250(a) Oil spill response planning.*

*Comment:* In (iii), OOC asks that since the OSROs are included in the regional OSRP, why do they have to be named in each DPP or DOC?

*Response:* No change. It is required by the States for CZMA consistency review.

*Comment:* In (iv), OOC asks for the purpose of providing a comparison between the site-specific worst case discharge and that in the regional OSRP.

*Response:* No change. This information is used by MMS as a streamlined means to ensure OPA 90 compliance. It is also required by the States for CZMA consistency review.

*Section 250.252(a) Monitoring systems.*

*Comment:* OOC assumes that this requirement does not include wind, temperature, etc. that are commonly monitored on an informal basis.

*Response:* No change. A monitoring plan might include this type of information.

*Section 250.252(b) Flower Garden Banks National Marine Sanctuary.*

*Comment:* For clarity and completeness, OOC recommends that this language be moved to § 250.219(c).

*Response:* No change. This is not spill information, it is monitoring information.

*Comment:* OOC asks for modification of "a description of your provisions for monitoring the impacts of an oil spill on the environmentally sensitive resources at the Flower Garden Banks National Marine Sanctuary."

*Response:* MMS reworded this requirement for clarity.

*Section 250.254 What mitigation measures information must accompany the DPP or DOC?*

*Comment:* OOC notes that the language used seems to indicate that such measures will be utilized. They suggest the following language: "If you propose to use any measures beyond those required by the regulations in this part to minimize or mitigate environmental impacts from your proposed exploration (sic) activities, provide a description of the measures you will use in your DPP or DOC."

*Response:* MMS agrees and made the recommended changes.

*Section 250.255 What decommissioning information must accompany the DPP or DOC?*

*Comment:* OOC questions the necessity of providing this information. Subpart Q contains the requirements for decommissioning. The Western and Central GOM should be specifically excluded.

*Response:* No change to the rule. The rule applies to all Regions and the commenter is requesting this change only in the GOMR. The accompanying

NTL does make the change requested with respect to the GOMR.

*Section 250.256 What related facilities and operations information must accompany the DPP or DOCD.*

*Comment:* OOC asks for a definition of “directly related.”

*Response:* A directly related facility or operation is one that is not a proposed activity in the DPP or DOCD, but which is necessary to conduct the activities proposed in the DPP or DOCD. “Directly related” encompasses wells, platforms, pipelines that carry production to either a transmission pipeline tie-in or processing hub, etc.

*Section 250.256(a) OCS facilities and operations.*

*Comment:* For (1), OOC questions the necessity of this information since drilling units are typically not directly related to a specific project.

*Response:* No change. While a drilling unit is in use, it is part of the facility.

*Comment:* For (3), OOC notes that in many cases at the time the DOCD is filed, the operator may not know which specific ROW pipeline will be utilized. If the operator can identify the pipeline and the pipeline is operated by another company, then reference to a pipeline application or general information should be sufficient since the operator may not have the other specific information.

*Response:* No change. The lessee or operator must provide the best available information at the time the DOCD or DPP is filed.

*Comment:* For (4), OOC requests an explanation of the term “other facilities and operations.”

*Response:* No change. This term is used in the OCSLA and represents facilities not covered by § 250.256(a)(1), (2), or (3).

*Section 250.257(b) Air emissions.*

*Comment:* For clarity and completeness, OOC recommends that this requirement be moved to the air emission section in § 250.218.

*Response:* No change. The regulation is organized in a manner that addresses air emissions based on source. There is no one section that includes all air information requirements.

*Comment:* OOC asks for clarification of the term “offshore vehicle.”

*Response:* An offshore vehicle is a vehicle that is capable of being driven on ice. See definition.

*Section 250.257(c) Drilling fluids and chemical products transportation.*

*Comment:* OOC recommends that this requirement be specifically eliminated for the Western and Central GOM.

*Response:* No change to the rule. The rule applies to all Regions and the commenter is requesting this change only in the GOMR. The accompanying NTL does make the change requested with respect to the GOMR.

*Section 250.257(d) Solid and liquid wastes transportation.*

*Comment:* OOC asks for the purpose of giving the reason for transportation—these are already classified as wastes.

*Response:* MMS agrees and deleted “reason for transportation.”

*Comment:* OOC asks whether the destination being requested is the shore base or the “final” disposal, reuse, or recycling location. OOC suggests that it be considered the shore base. In many instances, the “final” destination is not known, particularly for trash that is placed in a common bin at the shore base.

*Response:* No change. The final destination is the place where the lessee or operator transfers the waste to an entity that receives, reuses, recycles, or disposes of the waste.

*Comment:* OOC notes that the composition and quantities are estimates only and based on typical estimates from similar drilling operations. Also, the destination of the waste is based on pre-planning only and may change during the actual activities conducted under the DPP or DOCD.

*Response:* MMS agrees that these are estimates.

*Section 250.257(e) Vicinity map.*

*Comment:* OOC requests adding the word “primary” before “routes.” In many cases, an alternate route may be taken depending on environmental conditions, visiting multiple platforms, etc.

*Response:* MMS made the recommended change.

*Section 250.258(a) General.*

*Comment:* OOC requests that pipeline terminals be eliminated from the example since they typically do not provide supply and service support.

*Response:* MMS made the recommended change. Pipeline terminals are addressed under § 250.256(b)(5).

*Section 250.258(b) Air emissions.*

*Comment:* OOC recommends that DOCDs in areas westward of 87°30' W. longitude in the GOM be specifically excluded from this requirement.

*Response:* No change to the rule. The rule applies to all Regions and the commenter is requesting this change only in the GOMR. The accompanying NTL does make the change requested with respect to the GOMR.

*Section 250.258(c) Unusual solid and liquid wastes.*

*Comment:* OOC recommends that DOCDs in the GOM be specifically excluded from this requirement.

*Response:* No change to the rule. The rule applies to all Regions and the commenter is requesting this change only in the GOMR. The accompanying NTL does make the change requested with respect to the GOMR.

*Section 250.258(d) Waste disposal.*

*Comment:* For clarity and completeness, OOC suggests that this requirement be included with § 250.224(d). Much of this information appears to be duplicative of that required in § 250.224(d).

*Response:* No change. The rule is organized in a manner that addresses wastes based on source. There is no one section that includes all waste information requirements. MMS assumed that OOC meant to refer back to § 250.248(a), not § 250.224(d), which relates to EPs.

*Section 250.261(a) General requirements.*

*Comment:* OOC requests an explanation of how the requirements listed in § 227(b) (sic) assist the Regional Supervisor in complying with NEPA and other relevant Federal laws.

*Response:* No change. The Environmental Impact Analysis (EIA) assists MMS in each DPP and DOCD submittal to determine, based on the project-specific impact analysis provided by the lessee or operator for his project, if there is an exception to the DOI listing of categorical exclusions. The lessee or operator is in the best position to determine the environmental effects of his proposed activities based on whether they are routine or non-routine. The lessee or operator must be able to evaluate the nature and extent of any environmental implications of his proposed development and production activities.

*Section 250.261(b) Resources, conditions, and activities.*

*Comment:* For (4), OOC requests a definition of “critical habitat.”

*Response:* The definition is the same as that found in the Endangered Species Act.

*Comment:* For (7), OOC recommends that the GOM be specifically excluded from this requirement.

*Response:* No change to the rule. The rule applies to all Regions and the commenter is requesting this change only in the GOMR. The accompanying NTL does make the change requested with respect to the GOMR.

*Section 250.261(c) Environmental impacts.*

*Comment:* For (1), OOC recommends that the reference to cooling water intake structures be removed since EPA has not issued final regulations for these structures.

*Response:* No change. See response to § 250.217(e).

*Comment:* For (5), OOC recommends that this requirement be eliminated. They see no value in describing alternatives that they considered and eliminated.

*Response:* No change. Reviewing this information is valuable in completing the NEPA process.

*Section 250.266(a) Determine whether deemed submitted.*

*Comment:* OOC asks the basis for increasing the timeframe from 20 days to 25 days. They request that plans be deemed submitted within 20 days.

*Response:* No change. The additional working days are necessary because of increased review time as described in the preamble to the proposed rule (67 FR 35373).

*Comment:* For (1), OOC requests an explanation of the term “sufficiently accurate.”

*Response:* Sufficiently accurate means in a manner that is enough to meet the needs of a situation or proposed end.

*Comment:* OOC requests that, when the plan has been “deemed submitted”, the contact person be notified by fax, letter, or e-mail.

*Response:* MMS made the recommended change. MMS will notify lessee or operator when the DPP or DOCD is deemed submitted.

*Section 250.266(b) Identify problems and deficiencies.*

*Comment:* OOC asks when and how the Regional Supervisor will notify you that your plan has a deficiency. OOC suggests that the notification occur within the timeframe established in § 250.231(a) [sic]. They request that the notification be made to the contact person by fax, letter, or e-mail.

*Response:* MMS made the recommended change to provide a time frame for response. The method of notification will continue to be by phone, fax, letter, or e-mail.

*Section 250.267(a) State, local government, CZMA consistency, and other reviews.*

*Comment:* OOC recommends that the timeframe be changed to 2 days to match the EP. There should be no differences in sending an EP or DPP or DOCD.

*Response:* MMS made the recommended change.

*Comment:* OOC recommends that in lieu of “receipted” mail, the public information copy be sent by “overnight” mail. They believe that the cost differential between receipted mail and overnight mail is not significant. If MMS believes the cost is prohibitive, then MMS may request the lessee or operator to provide a completed air bill at the lessee or operators’ expense. Sending the public information copy by overnight mail will significantly speed up the CZMA process. Alternatively, if the operator provides a complete public information copy in an electronic format, it could be e-mailed.

*Response:* MMS made changes to allow alternative methods.

*Section 250.267(b) General public.*

*Comment:* OOC recommends that the timeframe be modified to 2 working days.

*Response:* MMS made the recommended change.

*Section 250.267(d) Amendments.*

As a result of its internal review of the proposed regulation, MMS added a sentence to clarify that some major amendments proposed by the operator may require a deemed submitted review.

*Section 250.268(a) Governor.*

*Comment:* OOC requests that MMS consider establishing a timeframe in which the Regional Supervisor must explain in writing to the Governor the reasons for rejecting any of his or her recommendations.

*Response:* No change. The explanation to the Governor of any affected State has no effect on the DPP or DOCD approval process and therefore is not time-critical.

*Section 250.272(a) Amend or resubmit your DPP or DOCD.*

*Comment:* OOC notes that if MMS has approved the DPP or DOCD, then the plan would need to be revised, not amended.

*Response:* No change. A revision applies to an approved plan. At this stage, there is no approved DPP or DOCD to revise.

*Section 250.272(b) Appeal.*

*Comment:* For (2), OOC notes that if MMS has approved the DPP or DOCD, then the plan would need to be revised, not amended.

*Response:* No change. A revision applies to an approved OCS plan. At this stage, there is no approved DPP or DOCD to revise.

*Section 250.280(a) Compliance.*

*Comment:* OOC asks what constitutes a failure to comply. The plans are very detailed and in many cases the very specific information that is requested (such as waste disposal sites, details of discharges, etc.) may not be known in detail at the time the plan is submitted. Also, the information may change from time to time during the life of the proposed action.

*Response:* No change. “Failed to comply” means that a lessee or operator is conducting operations under a plan, but one or more of the changed conditions listed in § 250.283(a) has/ have occurred and the lessee or operator has not revised the plan. The term also applies when the lessee or operator has not adhered to specified plan approval conditions.

*Section 250.282 Do I have to conduct post-approval monitoring.*

*Comment:* Ms. Peeler states that the rule does not require monitoring.

*Response:* No change. Contrary to the commenter’s interpretation of the regulations, Section 250.282 requires monitoring.

*Comment:* Ms. Peeler requests that MMS require cumulative environmental reports on each permitted activity.

*Response:* No change. MMS ensures through various reports that permitted activities were conducted as approved in the plan.

*Comment:* OOC recommends that if monitoring is required, it should be stated in the approval letter.

*Response:* No change. If monitoring is required that is not otherwise required by regulation or lease stipulation, it will be in the approval letter.

*Comment:* OOC asks about what kind of monitoring could be required.

*Response:* No change. The type of monitoring will be determined case-by-case based on the need to determine the effectiveness of mitigation, but not to conduct environmental studies.

*Comment:* OOC asks how long the data has to be retained.

*Response:* Retention time will be specified in the approval letter.

*Comment:* OOC asks what information will be held confidential.

*Response:* No change. MMS will hold confidential any information that meets the criteria of 43 CFR 2.13(c) and the Freedom of Information Act (FOIA).

*Section 250.282(b) Monitoring reports.*

*Comment:* OOC notes that the current regulation requires only that the data be submitted. To require the operator to analyze the information and submit the analysis to MMS goes well beyond the current regulation.



*Response:* No change. MMS agrees that this paragraph may require information beyond that of the current regulations. The proposed rule allowed for the opportunity to comment on this increase. OOC did not recommend any specific changes to the proposed language.

*Section 250.283(a) Revised OCS plans.*

*Comment:* For (1), OOC asks what changing the type of production facility means.

*Response:* The rule now contains examples to provide clarification regarding what is meant by type of drilling rig and production facility.

*Comment:* For (3), OOC asks what changing the type of production means. How much does the production rate or storage capacity have to increase before it is considered significant?

*Response:* No change. The type of production refers to oil, gas, salt, and sulphur. The thresholds will be specified in an NTL.

*Comment:* For (4), OOC recommends a change to "exceeds the exemption limit."

*Response:* No change. The information is necessary to ensure compliance with the Clean Air Act (CAA) requirements.

*Comment:* For (5), OOC asks how much the wastes have to change to be significant.

*Response:* No change. The thresholds will be specified in an NTL.

*Comment:* For (7), OOC recommends that this requirement be limited to using an onshore support base in another State.

*Response:* MMS made the recommended change. MMS deleted "change the onshore support base you are using" and provided clarification.

*Comment:* OOC states that (8) is overly broad.

*Response:* No change. Regulations must be flexible enough to address evolving issues and concerns related to compliance with NEPA, CZMA, and other relevant laws.

*Section 250.284(b) Significant changes in information or conditions.*

*Comment:* OOC states that this requirement is overly broad.

*Response:* No change. MMS cannot anticipate, with complete certainty, the factors that would require a revision, and therefore must retain a certain degree of flexibility.

*Section 250.288 When must I submit a DWOP.*

*Comment:* OOC notes that in many cases subsea production technology has become "standard," and questions the

value of providing a full DWOP for all subsea wells at all water depths.

*Response:* No change. MMS still requires this information because there are too many variables, e.g., water depth, pore pressures, and reservoir characteristics, for MMS to not review each individual subsea technology proposed.

*Comment:* OOC asks for clarification of the term "any activity" in proposed § 250.288. In many cases, pre-engineering and fabrication may be initiated before the final project concept being selected. For example, fabrication of a subsea tree may be initiated before the well being drilled in anticipation that the well will be successful.

*Response:* MMS made clarifications regarding when each part of a DWOP must be submitted. The final rule also clarifies which operations may not be undertaken before the respective parts are approved. MMS deleted the word "activities" and added a sentence in the rule at § 250.290 that states "You may not complete any production well or install the subsea wellhead and well safety control system (often called the tree) before MMS has approved the Conceptual Plan."

*Comment:* OOC recommends that this requirement should be that production is not initiated before the approval of a Deep Water Operations Plan (DWOP).

*Response:* MMS has clarified the requirement that the DWOP be approved by MMS before you begin production. However, MMS is not suggesting that approval routinely will wait until just before the operator/lessee begins production. The DWOP is designed to address industry and MMS concerns by allowing a lessee or operator to know, well in advance of significant spending, that its proposed methods of dealing with situations not specifically addressed in the regulations are acceptable to MMS. This goal might not be accomplished if the lessee or operator makes major expenditures, such as installation of equipment on the seafloor, before the MMS approves the DWOP.

*Comment:* OOC notes that the regulations do not address requirements for revising, updating, or amending a previously submitted and approved DWOP. This was specifically addressed within NTL No. 2000-N06, and OOC recommends that it similarly be addressed within this rulemaking.

*Response:* MMS agrees and such provisions are now included in § 250.295.

*Section 250.289 Why do I need to submit a DWOP.*

MMS deleted "floating" and "systems or subsea equipment" and modified the wording for further clarification, and to conform to changes made as a result of OOC's comment on proposed § 250.288. See § 250.286.

*Section 250.290 What are the three parts of a DWOP.*

*Comment:* OOC comments under paragraph (a) "Conceptual" that it is unrealistic to expect operators to prepare a DWOP before selecting the development concept for the project. In many cases, preliminary engineering design will begin on one or more concepts before the operator actually selects the development concept for the project.

*Response:* MMS made the recommended change. MMS needs only a general discussion or description at this point, and understands that more detailed engineering analysis may be conducted at a later date.

*Comment:* Florida recommends under paragraph (b) "Preliminary" that preliminary DWOPs be sent for CZMA consistency review.

*Response:* No change. There are no reasonably foreseeable impacts to the coastal zone or resources from a DWOP. Nor does a DWOP constitute a license or permit. The impacts and activities would be described in a DPP or DOCD, which are subject to CZMA consistency review.

*Comment:* OOC comments under paragraph (b) "Preliminary" that the system design may not be completed before starting the procurement and fabrication of system elements due to project schedules requiring the procurement and fabrication of some long lead items. Also, the Regional Supervisor should have the ability to waive the requirement for a Preliminary DWOP in any water depth that is similar to projects previously approved or where designs have become "standard" or where regulations for a particular component have been adopted and alternative compliance is not needed.

*Response:* MMS agrees. However, MMS still needs to review major safety components before purchase and installation. MMS deleted "you may submit the Preliminary Part in several sections to suit the project schedule."

MMS made the recommended change. For previously approved subsea systems, the conceptual review and approval time periods may be combined with the DWOP.

MMS made the recommended change. See response below for deletion of final part.

*Comment:* Under paragraph (c) “Final,” OOC comments that submittal within 90 days of first production may be unrealistic. In many cases a well or wells may be brought on line to provide gas for the facility, etc. that may not represent the operating conditions when the facility is fully operating.

*Response:* MMS deleted paragraph (c) “Final” to eliminate multiple submittals to both Region and District offices once production had commenced.

**Section 250.291** *What must the Conceptual Part of a DWOP contain.*

*Comment:* OOC notes that there are no details of what should be included for parts (a), (b) and (c). These details have been provided within NTL No. 2000–N06, and it is recommended that they similarly be placed within the regulation unless MMS intends to retain a NTL providing this level of detail.

*Response:* Some of the details provided within NTL 2000–N06 were placed in the rule. See § 250.289.

**Section 250.296** *When and why must I submit a CID.*

MMS rewrote the entire section to simplify and clarify the rules, as well as lighten the burden on the operator. MMS revised the title to: “When and how must I submit a CID?” MMS now requires you to submit one original and two copies of a CID to the appropriate OCS Region.

**Section 250.296(a)(1).**

*Comment:* OOC asks for the meaning of “activities.” What is the basis for requiring CIDs for development projects that utilize structures other than conventional platforms in water depths greater than 400 meters, and what does the type of structure foundation have to do with MMS’s need to verify the development of economically producible reserves?

*Response:* We agree that the term “activities” was unclear and have deleted it. MMS made changes to the regulations requiring CIDs for all developments in water depths greater than 400 meters (1312 feet), regardless of the type of structure foundation. MMS deleted § 250.296(a)(1); its provisions are now covered under § 250.297(a).

**Section 250.296(a)(2).**

*Comment:* OOC requests an explanation of the meaning of “activities.” The requirement that a CID be submitted and approved for any project using subsea technology is questioned. There are numerous instances where a subsea well is used to develop marginal reserves in as little as

150 feet of water. If there is only one zone to be produced, then a CID is superfluous and a burden on both the operator and MMS. If zones are to be commingled downhole, then the existing commingling approval process is adequate.

*Response:* MMS deleted proposed § 250.296(a)(2). MMS will review only those subsea developments located in water depths greater than 400 meters (1,312 feet), see § 250.296(a).

**Section 250.296(b).**

*Comment:* OOC notes that in many cases, fabrication of a structure will begin as soon as a discovery has been made and a development concept selected. This may be long before the information for a CID is available to submit. To wait until the CID has been approved before proceeding with the project will lead to unreasonable cycle times and adversely affect project economics.

*Response:* We agree with your comment. Fabrication of a structure is unrelated to CIDs. Therefore, operators may begin fabrication of a structure before CID approval. The CID is intended to ensure that all economically producible reservoirs penetrated by existing wells are developed. CIDs are submitted when an Initial or Supplemental DOCD or DPP is submitted. The DOCD/DPP approval will no longer be contingent on CID approval. However, production cannot commence until the operator receives CID approval.

**Section 250.297** *What information must a CID contain.*

*Comment:* OOC notes that in many cases, the development plan will include continued exploration in the area by the drilling of wells for reservoirs that have not been previously penetrated. How does this affect the CID process?

*Response:* MMS addressed OOC’s remaining concerns in revised § 250.297. Reservoirs that have not been penetrated by a well do not affect the CID process. CIDs are intended to ensure that all economically producible reservoirs penetrated by existing wells are developed.

**Section 250.298** *How do I submit a CID.*

*Comment:* OOC comments that this provision suggests that a CID submission is a one-time only occurrence and should be made after a field has been discovered and delineated sufficiently for the operator to select a development concept and sanction the project. Therefore, only

limited wells may have been drilled and limited data obtained. They note that there is no requirement to update CID filings after further drilling has occurred, and they believe this is appropriate. However, this has not been MMS’s practice. In several cases operators have filed CIDs immediately following discovery and concept selection and have been required to file subsequent plans based on continued exploratory and development drilling. If MMS expects filings before significant capital expenditures, then filing the CID with limited information should be acceptable.

*Response:* MMS deleted the entire proposed section. This concern is covered in revised §§ 250.296(a) and (b) and 250.297. CIDs are to be submitted when an Initial or Supplemental DOCD or a DPP is submitted. Revisions to the CID must be submitted when a decision is made not to develop a reservoir whose development was contemplated in the original CID. The CID process is not intended to be an “evergreen process.” Therefore, the existing exploratory and appraisal wells must be addressed in the CID. However, it is incumbent upon the operator to notify MMS of any wells that are drilled after the submittal of the CID and before the operator receives the final CID approval. MMS reserves the right to request additional data from wells reaching total depth during the evaluation period and we may suspend the 150-calendar-day time period.

**Section 250.299** *What decisions will MMS make on the CID.*

*Comment:* OOC recommends that disapproval should be limited to cases where the reservoirs already discovered are not adequately developed. If the CID or a portion of the CID is disapproved, MMS should present detailed support for its decision including economic justification that includes risk assessment consistent with the operators’ established policies. OOC notes that there is no timeframe proposed for MMS to provide its written decision. Since timeframes have been established for decisions on EPs, DPPs, DOCDs, and all three phases of DWOPs, OOC believes this to be a serious oversight on the part of MMS. Since MMS’s intent is to provide a written decision before the expenditure of significant capital, OOC believes MMS should provide its written decision within 90 calendar days of submittal. This is similar to the approval timeframe for the Preliminary DWOP, which is also intended to be approved before the significant expenditure of capital. Failure to establish a review/

approval timeframe has significantly affected project schedules. Permit applicants attempting to adhere to MMS's intent of approval receipt before significant capital expenditure will be unable to establish project timelines with undefined CID approval times. Further, they believe that in many cases MMS could expedite the approval of the CID to a four-week turn-around time if the operator meets with MMS with an oral presentation of the development plan and schedules a follow-up meeting to answer any questions that MMS has following its review.

*Response:* MMS revised this section to provide a decision on the CID within 150 calendar days of receiving it; see § 250.298. The revised section clarifies that MMS may suspend the 150-calendar-day evaluation period if there is missing, inconclusive, or inaccurate data. The regulations further clarify that the evaluation period will be suspended when the operator receives written notification from MMS describing the additional information needed. The evaluation period will resume once MMS receives the requested information.

A 150-calendar-day time period is more realistic than the 90-day period proposed by OOC in that, upon receipt, the CID is placed in queue behind projects that have already been submitted. MMS believes this to be the most equitable approach for all operators. Although an oral presentation may assist in expediting the process due to an exchange of information, an independent evaluation by MMS is necessary. The 150-calendar-day time period will allow MMS to adequately address issues related to project complexity.

#### Discussion and Analysis of Comments to Draft NTL for the GOM OCS Region

Comments received for the Gulf of Mexico OCS Region's NTL and MMS responses follow:

##### *Proposed Activities (§ 250.211 and § 250.241)*

###### *(a) OCS Plan Information form.*

*Comment:* OOC states "provisions should be made to give an anchor radius in lieu of the anchor locations."

*Response:* The OCS Plan Information Form, MMS-137, allows for providing anchor radius if specific anchor locations are not known.

###### *(b) Location.*

*Comment:* OOC requests consistency between APDs and the OCS Plan Information Form, MMS-137.

*Response:* MMS is considering revising the APD form in the near future.

*Comment:* OOC requests showing anchor touchdown points.

*Response:* This information has been added to the OCS Plan Information Form.

*Comment:* OOC questions the need for a map.

*Response:* No change. The location map provides visual enhancement and is required for State CZMA consistency review.

###### *(c) Storage tanks and production vessels.*

Triggers in the proposed NTL have been deleted to ensure proper NEPA compliance. MMS needs a complete description of the impact producing factors (IPF) associated with the project and Environmental Impact Analysis (EIA) for each EP and DOCD.

*Comment:* OOC recommends a threshold of 25 barrels.

*Response:* MMS concurs with this threshold because it represents a typical tote tank volume in the western Gulf of Mexico.

##### *General Information (§ 250.213 and § 250.243)*

###### *(b) Drilling fluids*

*Comment:* Florida requests chemical constituents of drilling fluids.

*Response:* MMS agreed to Florida's request and added the provision to require this information.

*Comment:* OOC requests that drill cuttings and disposal information be omitted.

*Response:* Language regarding cuttings and disposal information has been deleted to be consistent with the rule.

*Comment:* OOC requests deleting loading method.

*Response:* MMS concurs and also deleted offloading method.

###### *(d) Oils characteristics.*

*Comment:* OOC points out that this data may not be available if well tests have not been performed.

*Response:* The only time this information is required is for activities in the Eastern Planning Area, activities near the Flower Gardens Banks National Marine Sanctuary, and for new deepwater surface facilities. It is unlikely that new construction for facilities in these areas would proceed without the lessee or operator first conducting well tests or other evaluations.

##### *Geological and Geophysical Information (§§ 250.214 and 250.244)*

###### *(a) Geological description.*

*Comment:* OOC notes that the GOMR requests the depth of geopressure; however, it is not in the rule or the NTL.

*Response:* MMS will no longer request geopressure depth.

###### *(b) Structure contour maps.*

*Comment:* OOC recommends that approval to use an alternate scale not be necessary.

*Response:* MMS must require a standardized scale. Otherwise, there would be variances in data submitted that could cause unnecessary delays in plan approval.

###### *(e) Shallow hazards report.*

*Comment:* OOC requests blanket approval for side scan sonar and magnetometer waivers in deepwater.

*Response:* MMS does not currently grant blanket waivers, but NTL No. 98-20 is currently under revision, and this will be considered.

###### *(i) Time vs. depth tables.*

*Comment:* OOC requests definition of "no well control" or provision to request this data on a case-by-case basis.

*Response:* "No well control" means there is no well data on the seismic line.

##### *Hydrogen Sulfide (H<sub>2</sub>S) Information (§ 250.215 and § 250.245)*

###### *(d) Modeling report.*

*Comment:* OOC comments that the modeling report requirement differs from the rule.

*Response:* No change. This provision is based on requirements in § 250.490 and is consistent with the rule.

##### *Biological, Physical, and Socioeconomic Information (§ 250.216 and § 250.247)*

MMS has deleted the provision (paragraph (h)) to require a physical oceanographic statement for each plan. MMS gathers sufficient physical oceanographic data via its studies program, and these data are collected using established protocol. However, MMS may require physical oceanographic data on a case-by-case basis.

###### *(b) Topographic features plat.*

*Comment:* OOC recommends that this section apply to anchor placements near topographic features from any anchored drilling rig or anchor installation vessel.

*Response:* Change made as recommended.

###### *(c) Topographic features statement (shunting).*

*Comment:* OOC suggests that this is needed only if you plan to dispose of your drilling fluids and cuttings by shunting.

*Response:* MMS agrees.

###### *(d) Pinnacle trend report (Central Gulf of Mexico Planning Area).*

*Comment:* OOC requests an opportunity to review this NTL.

*Response:* When appropriate, MMS provides review opportunities for NTLs before issuing them.

###### *(f) Remotely-operated vehicle (ROV) monitoring survey plan.*

*Comment:* OOC requests that EP approval letters specifically state that an ROV monitoring survey is required.

*Response:* Approval letters will state that an ROV monitoring survey is required.

#### *Waste and Discharge Information (250.217 and 250.248)*

*Comment:* OOC states that an application for an individual permit may not have been completed at the time the EP is filed. It points out that the requirement should be to either provide the permit at the time the EP is filed or when it is filed with EPA, whichever is later.

*Response:* This information is not needed and has been deleted. However, the tables at §§ 250.213(a) and 243(a) have been changed to include an example of the type of individual permits for which MMS requires filing or approval status of the Federal, State, and local application approvals or permits.

##### *(a) Projected wastes.*

*Comment:* OOC questions the value of the submittal of this redundant information.

*Response:* No change. The information is not redundant and is required for NEPA and CZMA compliance.

##### *(c) Modeling report.*

MMS has changed the language to be consistent with the rule.

#### *Air Emissions Information (250.218 and 250.249)*

##### *(a) Emissions worksheets and screening questions.*

*Comment:* OOC asks if the Complex ID number is the basis for calculating complex total emissions.

*Response:* No, the Complex ID number is not part of the consideration when determining whether facilities are co-located, which is the basis for determining complex emissions.

*Comment:* OOC asks not to submit two sets of emissions data if Complex and Plan emissions are the same.

*Response:* The NTL has been revised to clarify that only one set is required in this case.

*Comment:* OOC states that for an EP, the use of the term "Complex Total Emissions" can lead to questions regarding aggregation. OOC refers to an EPA rule that was delayed over a similar question.

*Response:* MMS clearly defined Complex Total Emissions to avoid confusion.

*Comment:* In the first DOCD screening question, OOC wants 100% of the calculated amount in lieu of 90% to trigger a "yes" answer.

*Response:* No change. The 10% margin of error allows room for mistakes that may put emissions over the exemption level.

##### *(b)(1) Summary information.*

*Comment:* OOC questions the need for summary information if the answer is "No" to all the questions.

*Response:* No change. Answers to the screening questions are needed for the GOMR to determine if the spreadsheets need to be submitted for our review for accuracy. They are not designed to preclude the submission of the summarized information.

##### *(b)(2) Contact(s).*

*Comment:* OOC questions the need for the contact name for the spreadsheets.

*Response:* No change. Supplying the contact will expedite GOMR review.

##### *(b)(3) Exception.*

*Comment:* OOC requests the definition of the circumstances under which the entire set of worksheets would be required regardless of response to screening questions.

*Response:* No change. Screening and summary data are reviewed by the GOMR. If errors are detected or suspected in the summary or answers to screening questions, complete spreadsheets would likely be required. If the information is needed to address emissions or air quality impacts as part of an environmental assessment prepared under the NEPA, spreadsheets or other air quality information may be required. In addition, air quality information can be required if it is determined necessary under § 250.303(j).

##### *(c)(3)(renumbered (d)(1)) Emission reduction measures.*

*Comment:* OOC questions limiting the use of fuel certification to only existing co-located facilities.

*Response:* MMS does not want to limit the use and has deleted this provision.

*Comment:* OOC questions if providing the amount of reduction is meaningful since this is a theoretical calculated number.

*Response:* Without stack tests, all values are theoretical and calculated, so the amount of reduction is as valid as the other estimated values.

##### *(c)(4)(renumbered (d)(2)) Verification of nondefault emission factors.*

*Comment:* OOC asks if it is necessary to provide information on an actual factor if it is greater than the default value.

*Response:* Since the actual value is more accurate than the average (default) value, no verification of the actual value is required.

#### *Oil Spills Information (250.219 and 250.250)*

##### *(a)(2)(i) Regional OSRP information.*

*Comment:* OOC asks why lessees and operators must repeat this information since it is already in the OSRP.

*Response:* This requirement has been changed to eliminate the list of companies covered.

##### *(a)(2)(iv) Worst-case scenario determination.*

*Comment:* OOC questions the need for a worst-case discharge scenario comparison and suggests that simply making the statements should suffice.

*Response:* No change. This information is necessary for NEPA and CZMA purposes and for MMS to determine if an OCS plan complies with OPA 90.

##### *(c) Modeling report.*

*Comment:* OOC requests the opportunity to comment on the referenced NTL.

*Response:* The reference to an NTL has been deleted. No NTL will be issued.

#### *Related Facilities and Operations Information (250.256)*

##### *(a) Related OCS facilities and operations.*

*Comment:* OOC comments that lessees and operators may not have information on related facilities and final product destination or transportation at the time of filing.

*Response:* If all the information is not available at the time the plan is filed, lessees and operators must provide the best available information.

##### *(b) Transportation system.*

*Comment:* OOC comments that lessees and operators may not have information on related facilities and final product destination or transportation at the time of filing.

*Response:* If all the information is not available at the time the plan is filed, lessees and operators must provide the best available information. MMS revised § 250.256 to reflect this.

##### *(c) Produced liquid hydrocarbons transportation vessels.*

*Comment:* OOC asks for clarification on the average volume to be loaded.

*Response:* A change to the table was made to provide such clarification.

#### *Support Vessel and Aircraft Information (250.224 and 250.257)*

##### *(a) General.*

*Comment:* OOC asks if information regarding the class of support vessels can be furnished if information on the specific vessel is not known.

*Response:* Yes. A change was made to accommodate such occurrences. Also,

triggers for this table have been deleted since the information is needed by the GOMR for proper NEPA compliance and provides a complete description of the impact-producing factors associated with the project and EIA.

(b) *Diesel oil supply vessels.*

*Comment:* OOC comments that diesel oils for fuel and non-fuel uses are not supplied differently.

*Response:* No change. The table does not require such a distinction. If you know that a particular vessel will transfer diesel oil only for purposes other than fuel usage, make sure that vessel is included in the table.

(d) *Solid and liquid wastes transportation.*

*Comment:* OOC asks whether this information needs to be submitted for all waste streams or only for those affected by the new technology.

*Response:* Provide complete information for all waste streams.

*Onshore Support Facilities Information (250.225 and 250.258)*

(b) *Support base construction or expansion.*

*Comment:* OOC questions what constitutes a "major" addition.

*Response:* If the proposed activities will directly result in a base expansion, provide the required information. MMS revised the NTL to make this clarification.

(d) *Waste disposal.*

*Comment:* OOC states that the disposal site may not be known or it may change from time to time.

*Response:* Provide the best available information.

*Comment:* OOC questions if waste being disposed of in Louisiana makes it an affected State.

*Response:* No, unless the waste disposal site is in Louisiana's coastal zone.

*Comment:* OOC asks if the disposal site must be in the coastal zone to make the State of Louisiana an affected State.

*Response:* Yes.

*Coastal Zone Management Act (CZMA) Information (250.226 and 250.260)*

(b) *Other information.*

*Comment:* OOC requests the correct regulatory citation.

*Response:* No change. The correct citation is already provided.

*Environmental Impact Analysis (EIA) (250.227 and 250.261)*

MMS has replaced the proposed EIA Matrix with an improved approach, based on the requirements in the proposed rule and in consideration of all comments received, including those received at the subpart B workshop.

*Comment:* OOC recommends excluding the EIA in revised and supplemental plans.

*Response:* The EIA will only be required for revised plans if the impacts are different from those of the original EIA. The EIA is required for all supplemental plans because the additional activities will likely produce additional impacts.

(c) *Impact analysis.*

*Comment:* OOC questions what happens if MMS disagrees with the operators Impact Producing Factor (IPF) identification.

*Response:* MMS will conduct an independent IPF identification to comply with NEPA. Lessee or operator input can provide invaluable assistance to MMS in this process. If a particularly important or unusual IPF, resource, or impact is not addressed or is not correct, the MMS may require the lessee or operator to provide the proper information. MMS revised the NTL to make this clarification.

(d) (renumbered(e)) *Alternatives.*

*Comment:* OOC comments that this should be eliminated.

*Response:* No change. For DOCs, alternatives are an integral part of the NEPA process that allows an agency to determine that the best alternative is ultimately approved.

(g) (renumbered (i)) *References.*

*Comment:* OOC states that it is impossible to not tier off existing EISs, or EAs, or other NEPA documents.

*Response:* In the EIA, a lessee or operator may summarize and incorporate documents by reference if they contain information that is related to the proposed activities.

*Administrative Information (250.228 and 250.262)*

(a) *Exempted information description (public information copies only).*

*Comment:* OOC asks, "Why is this needed and what will it be used for?"

*Response:* This information is required so that all reviewers and the MMS decision maker sufficiently understand the proposed action and any accompanying information.

(b) *Bibliography.*

*Comment:* OOC questions the requirement that all plans be listed.

*Response:* No change. The MMS Internet website contains a listing of previously submitted plans, but only the plan submitter can know which of the plans on the list are referenced in the plan.

## Procedural Matters

### *Regulatory Planning and Review (Executive Order 12866)*

This rule is not a significant rule under Executive Order 12866. The Office of Management and Budget (OMB) has determined that it is not a significant rule and will not review the rule.

(1) This rule will not have an effect of \$100 million or more on the economy. It will 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 major purpose for the rule is the restructuring of the existing rule and clarifying the regulatory language. The restructuring and plain-language revisions will not result in any economic effects to small or large entities. Some of the technical revisions will have a minor economic effect on lessees and operators with respect to the paperwork requirements. Although we estimate a total annual paperwork burden of 267,880 hours for all entities; this includes an actual increase of only 7,510 hours. Using a standard hourly cost of \$50 to determine the paperwork burden, the increase would be \$375,500. Based on 130 lessees/operators, the average increase is approximately \$2,900 per entity from the current regulations. These costs will not cause an annual effect on the economy of \$100 million or more.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The rule does not affect how lessees or operators interact with other agencies. Nor does this rule affect how MMS will interact with other agencies.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. The rule only addresses the requirements and processes for submitting various plans and documents for MMS review and approval before a lessee or operator may explore, develop, or produce oil and gas in the OCS.

(4) This rule does not raise novel legal or policy issues. The rule involves a new policy—that of requiring a written notice to MMS before a lessee or operator begins certain ancillary activities, but the new policy decision is not "novel." Under our existing regulations at 30 CFR part 251, MMS requires an application for a permit or the filing of a notice before allowing certain types of off-lease G&G activities. The new requirement in the rule would

enable MMS to better ensure safe use and environmental protection of the OCS and be aware of significant sets of valuable data that could and should be incorporated into MMS analyses and MMS-funded studies.

#### *Regulatory Flexibility Act (RFA)*

The DOI certifies that this rule does not have a significant economic effect on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). This rule applies to all lessees and operators that conduct activities on the OCS. Small lessees and operators that conduct activities under this rule would fall under the Small Business Administration's (SBA) North American Industry Classification System Codes 211111, Crude Petroleum and Natural Gas Extraction and 213111, Drilling Oil and Gas Wells. Under these codes, SBA considers all companies with fewer than 500 employees to be a small business. MMS estimates that of the 130 lessees and operators that explore for and produce oil and gas on the OCS, approximately 90 are small businesses (70 percent).

The primary economic effect of the revised subpart B on small businesses is the cost associated with information collection activities. The rule is a plain-language rewrite of 30 CFR part 250, subpart B, and contains virtually the same reporting and recordkeeping requirements and attendant costs as the current regulations. The changes in reporting requirements do not significantly increase the information collection burden on respondents—large or small. MMS estimates an annual increase of 7,510 hours in the paperwork burden from that imposed by the current regulations. Using a standard hourly cost of \$50, this represents a cost burden increase of \$375,500. The following is a breakdown of the paperwork cost burden associated with the new or expanded requirements:

- Respondents may be required to submit a report that summarizes and analyzes information obtained or derived from ancillary activities. MMS estimates the burden would only be to provide MMS copies of the company documentation and report and would be 1 hour or \$50 per report. MMS estimates 20 reports annually, for a cost burden increase of \$1,000.
- MMS estimates the overall average burden of preparing and submitting an OCS plan (EP, DPP, or DOCD) to increase by approximately 20 hours or \$1,000 per plan. MMS estimates 260 EPs and 100 DPPs or DOCDs, for a total of 360 plans or an annual cost burden increase of \$360,000.

- Respondents may be required to submit monitoring plans for approval before beginning work. MMS estimates plan submission to take 1 hour or \$50 per plan. MMS estimates 30 plans annually, for a cost burden increase of \$1,500.

• Respondents may be required to retain copies of all monitoring data obtained or derived from monitoring programs. The burden would only be to make the information available to MMS. MMS estimated a burden of 2 hours or \$100 annually per respondent and the number of respondents to be 130. The estimated annual cost burden increase would be \$13,000.

Adding the increased paperwork cost burden amounts, we have a total of \$375,500. (\$1,000 + \$360,000 + \$1,500 + \$13,000 = \$375,500.) Thus, based on 130 lessees/operators, the average increase is \$2,900, for both large and small entities.

As discussed above, MMS does not believe that this rule will have a significant impact on the lessees or operators who explore for and produce oil and gas on the OCS, including those that are classified as small businesses.

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-REG-FAIR (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 (SBREFA)*

This rule is not a major rule under the SBREFA, (5 U.S.C. 804(2)). This rule:

(a) Does not have an annual effect on the economy of \$100 million or more. As described above, MMS estimates an annual increase of \$2,900 per respondent. These costs will not cause an annual effect on the economy of \$100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The minor increase in cost will not change the way the oil and gas industry conducts business, nor will it affect regional oil and gas prices; therefore, it will not cause major cost

increases for consumers, the oil and gas industry, or any Government agencies.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or ability of United States-based enterprises to compete with foreign-based enterprises. All lessees and operators, regardless of nationality, must comply with the requirements of this rule. The rule will not affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises.

#### *Paperwork Reduction Act (PRA) of 1995*

This rule contains a collection of information that was submitted to OMB for review and approval under Section 3507(d) of the PRA. OMB approved the collection of information for this rule under the title "30 CFR part 250, Subpart B—Plans and Information" (OMB control number 1010-0151). When the rule becomes effective, this collection will supersede the collection for current subpart B requirements under OMB control number 1010-0049. 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 number. Respondents include approximately 130 Federal OCS oil and gas or sulphur lessees and operators. The frequency of response is on occasion. Responses to this collection of information are mandatory. MMS will protect proprietary information according to the FOIA and 30 CFR 250.196, "Data and information to be made available to the public."

MMS analyzes and evaluates the information submitted under subpart B to ensure that planned operations are safe; will not adversely affect the marine, coastal, or human environment and will conserve the resources of the OCS.

The information collection requirements in these final subpart B regulations remain unchanged from the proposed rule, and represent only a few changes from the subpart B regulations currently in effect that this rule will supersede. The following details those changes.

*Section 250.208—Ancillary Activities Notice.* Before beginning certain "ancillary" activities, respondents must notify MMS. Currently respondents notify MMS of certain types of "preliminary" activities. The rule revises the procedures to include notifying MMS of "ancillary activities" both before and after submitting a plan. The rule also incorporates current NTL

procedures that may require respondents to notify other users of the OCS before conducting ancillary activities. However, the burden for these notifications was included under the subpart B information collection approval for regulations currently in place. Therefore, the new regulations will not impose any additional burden (no change).

**Section 250.210(a)—Ancillary Activities Report.** Respondents may be required to submit a report that summarizes and analyzes information obtained or derived from ancillary activities. Although this is a new reporting requirement, lessees and operators conducting ancillary activities prepare their own internal reports to document the results of these activities in the normal course of doing business. MMS estimates that the only burden would be to provide MMS copies of the company documentation and report (1 hour per report over current estimated burden hours).

**Section 250.210(b)—Ancillary Activities Recordkeeping.** The rule incorporates records retention specified in current NTLs for all survey and study information, and for data obtained or

derived from ancillary activities (preliminary activities), including information from previous leaseholders or unit operators. The burden for this recordkeeping activity was approved under the subpart B information collection approval for the regulations currently in effect. Therefore, the new regulations will not impose any additional burden (no change).

**Sections 250.211 through 250.228 and §§ 250.241 through 250.262—Contents of EPs, DPPs, or DOCDs.**

The average paperwork burden for submitting a plan includes furnishing all of the information required in the plan, as well as the supporting detail (*i.e.*, surveys, reports, studies, conservation information, forms used in the GOMR, etc.). The final rule simply incorporates much of the information now detailed in NTLs, and imposes few new changes to the information currently submitted in the plans and accompanying information. The rule will have minimal impact on the overall average burden of submitting a plan (additional 20 hours per plan).

**Section 250.282—Monitoring Recordkeeping.**

Respondents may be required to retain copies of all monitoring data obtained or derived from monitoring programs. As with recordkeeping for ancillary activities, respondents would retain this information in the normal course of business. The only burden would be to make the information available to MMS, if requested (2 hours annually per respondent).

**Section 250.282(a)—Monitoring Plans.** Respondents may be required to submit monitoring plans for approval before beginning work (1 hour per plan).

**Section 250.286 through § 250.299—DWOPs and CIDs.** These requirements are now detailed in NTLs and the rule simply incorporates them into the regulations. The burden for submitting the information was approved under the subpart B 30 CFR 250 §§ 286–299 information collection approval for regulations currently in effect. Therefore, the new regulations will not impose an additional burden (no change).

OMB approved a total of 267,880 hours for this collection; the chart below details the information collection requirements for the rulemaking.

#### BURDEN BREAKDOWN

Citation 30 CFR 250 subpart B	Reporting & recordkeeping requirement	Hour burden per requirement	Average annual number	Annual burden hours
200 through 206 .....	General requirements for plans and information .....	Burden included with specific requirements below.		0
208 .....	Notify MMS and other users of the OCS before conducting ancillary activities.	10 .....	20 notices .....	200
210(a) [New] .....	Submit report summarizing and analyzing data/information obtained or derived from ancillary activities.	1 .....	20 reports .....	20
210(b) .....	Retain ancillary activities data/information .....	2 .....	130 recordkeepers ..	260
211 through 228 [Expanded].	Submit EP and accompanying information (including forms MMS-137, MMS-138, MMS-142 used in GOMR) and provide notifications.	600 .....	260 plans .....	156,000
232(d); 234; 235(a); 281(d)(3); 283; 284; 285.	Submit amended, modified, revised, or supplemental EP, or resubmit disapproved EP.	80 .....	180 changed plans	14,400
241 through 262 [Expanded].	Submit DPP or DOCD and accompanying information (including forms MMS-137, MMS-139, MMS-142 used in GOMR) and provide notifications.	600 .....	100 plans .....	60,000
267(d); 272(a); 273; 283; 284; 285.	Submit amended, modified, revised, or supplemental DPP or DOCD, or resubmit disapproved DPP or DOCD.	82 .....	215 changed plans	17,630
269(b) .....	Submit information on preliminary plans for leases or units in vicinity of proposed development and production activities.	2 .....	10 responses .....	20
281(a) .....	Submit various applications and permits .....	Burden included under appropriate subpart or form (1010-0044; 1010-0059; 1010-0149; 1010-0050).		0
282 [New] .....	Retain monitoring data/information .....	2 .....	130 recordkeepers ..	260
282(a) [New] .....	Submit monitoring plans .....	1 .....	30 plans .....	30
282(b) .....	Submit monitoring reports and data (including form MMS-141 used in the GOMR).	6 .....	30 reports .....	180
286 through 295 .....	Submit DWOP .....	580 .....	17 plans .....	9,860
296 through 299 .....	Submit CID .....	300 .....	30 documents .....	9,000
200 through 299 .....	General departure and alternative compliance requests not specifically covered elsewhere in subpart B regulations.	2 .....	10 requests .....	20
Total Burden ....	.....	.....	1,182 .....	267,880



Please submit any comments concerning these burden estimates to MMS at the following:

- E-mail MMS at [rules.comments@mms.gov](mailto:rules.comments@mms.gov). Use 1010-AC47 in the subject line.
- Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; Attention: Rules Processing Team (RPT); 381 Elden Street, MS-4024; Herndon, Virginia 20170-4817. Please reference "Plans and Information—AC47" in your comments.

#### *Federalism (Executive Order 13132)*

According to Executive Order 13132, this rule does not have federalism implications. This rule does not substantially and directly affect the relationship between the Federal and State governments. The rule applies to lessees and operators that conduct activities on the OCS. This rule does not impose costs on States or localities. Any costs will be the responsibility of the lessees and operators.

#### *Takings Implication Assessment (Executive Order 12630)*

According to Executive Order 12630, this rule does not have significant Takings implications. A Takings Implication Assessment is not required. The rule revises existing regulations. It does not prevent any lessee or operator from performing operations on the OCS, provided they follow the regulations. Thus, MMS did not need to prepare a Takings Implication Assessment according to Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### *Energy Supply, Distribution, or Use (Executive Order 13211)*

We have evaluated the rule in accordance with Executive Order 13211 and have determined that this rule does not have a significant effect on energy supply, distribution, or use because the major purpose for this rule is the restructuring of the rule and clarifying regulatory language. The rule addresses the requirements and processes for submitting various plans and documents for MMS approval before a lessee or operator may explore, develop, or produce oil and gas in the OCS and contains virtually all the same reporting and recordkeeping requirements and attendant costs as the current regulations. There are a few new or expanded areas that have been

incorporated. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

#### *Civil Justice Reform (Executive Order 12988)*

According to Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and does meet the requirements of Sections 3(a) and 3(b)(2) of the Order.

#### *National Environmental Policy Act*

The rule does not constitute a major Federal action significantly affecting the quality of the human environment. An environmental impact statement is not required.

#### *Unfunded Mandates Reform Act (UMRA) of 1995 (Executive Order 12866)*

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The rule does not have any Federal mandates; nor does the rule have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

#### **List of Subjects in 30 CFR Parts 250 and 282**

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, Outer continental shelf, Penalties, Pipelines, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Dated: August 5, 2005.

**Chad Calvert,**

*Acting Assistant Secretary—Land and Minerals Management.*

■ For reasons stated in the preamble, the Minerals Management Service (MMS) amends 30 CFR parts 250 and 282 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:** 43 U.S.C. 1331 *et seq.*

#### **§ 250.102 [Amended]**

■ 2. In § 250.102(b), amend the table as follows:

- a. In paragraph (b)(2), the citation "250.204" is revised to read "250.241 through 250.262".
- b. In paragraph (b)(4), the citation "250.203" is revised to read "250.211 through 250.228".

■ 3. In § 250.105, the following definitions are added alphabetically to read as follows:

#### **§ 250.105 Definitions.**

\* \* \* \* \*

*Ancillary activities* means those activities on your lease or unit that you:

(1) Conduct to obtain data and information to ensure proper exploration or development of your lease or unit; and

(2) Can conduct without MMS approval of an application or permit.

\* \* \* \* \*

*Development geological and geophysical (G&G) activities* means those G&G and related data-gathering activities on your lease or unit that you conduct following discovery of oil, gas, or sulphur in paying quantities to detect or imply the presence of oil, gas, or sulphur in commercial quantities.

\* \* \* \* \*

*Geological and geophysical (G&G) explorations* means those G&G surveys on your lease or unit that use seismic reflection, seismic refraction, magnetic, gravity, gas sniffers, coring, or other systems to detect or imply the presence of oil, gas, or sulphur in commercial quantities.

\* \* \* \* \*

*Prospect* means a geologic feature having the potential for mineral deposits.

\* \* \* \* \*

■ 4. In § 250.199, in paragraph (e), the heading of the first column, and paragraph (e)(2) are revised to read as follows:

#### **§ 250.199 Paperwork Reduction Act statements—information collection.**

\* \* \* \* \*

(e) \* \* \*

30 CFR 250 subpart/title (OMB control number) and related forms	Reasons for collecting information and how used
<p>(2) Subpart B, Plans and Information (1010–0151), including the following forms:</p> <p>MMS–137, OCS Plan Information Form. MMS–138, Gulf of Mexico Air Emissions. Calculations for EPs: MMS–139, Gulf of Mexico Air Emissions. Calculations for DOCDs: MMS–141, ROV Survey Report. MMS–142, Environmental Impact Analysis Worksheet.</p>	<p>To inform MMS, States, and the public of planned exploration, development, and production operations on the OCS. To ensure that operations on the OCS are planned to comply with statutory and regulatory requirements, will be safe and protect the human, marine, and coastal environment, and will result in diligent exploration, development, and production of leases.</p>

■ 5. Subpart B is revised to read as follows:

## Subpart B—Plans and Information

### General Information

#### Sec.

- 250.200 Definitions.
- 250.201 What plans and information must I submit before I conduct any activities on my lease or unit?
- 250.202 What criteria must the Exploration Plan (EP), Development and Production Plan (DPP), or Development Operations Coordination Document (DOCD) meet?
- 250.203 Where can wells be located under an EP, DPP, or DOCD?
- 250.204 How must I protect the rights of the Federal government?
- 250.205 Are there special requirements if my well affects an adjacent property?
- 250.206 How do I submit the EP, DPP, or DOCD?

### Ancillary Activities

- 250.207 What ancillary activities may I conduct?
- 250.208 If I conduct ancillary activities, what notices must I provide?
- 250.209 What is the MMS review process for the notice?
- 250.210 If I conduct ancillary activities, what reporting and data/information retention requirements must I satisfy?

### Contents of Exploration Plans (EP)

- 250.211 What must the EP include?
- 250.212 What information must accompany the EP?
- 250.213 What general information must accompany the EP?
- 250.214 What geological and geophysical (G&G) information must accompany the EP?
- 250.215 What hydrogen sulfide (H<sub>2</sub>S) information must accompany the EP?
- 250.216 What biological, physical, and socioeconomic information must accompany the EP?
- 250.217 What solid and liquid wastes and discharges information and cooling water intake information must accompany the EP?
- 250.218 What air emissions information must accompany the EP?

- 250.219 What oil and hazardous substance spills information must accompany the EP?
- 250.220 If I propose activities in the Alaska OCS Region, what planning information must accompany the EP?
- 250.221 What environmental monitoring information must accompany the EP?
- 250.222 What lease stipulations information must accompany the EP?
- 250.223 What mitigation measures information must accompany the EP?
- 250.224 What information on support vessels, offshore vehicles, and aircraft you will use must accompany the EP?
- 250.225 What information on the onshore support facilities you will use must accompany the EP?
- 250.226 What Coastal Zone Management Act (CZMA) information must accompany the EP?
- 250.227 What environmental impact analysis (EIA) information must accompany the EP?
- 250.228 What administrative information must accompany the EP?

### Review and Decision Process for the EP

- 250.231 After receiving the EP, what will MMS do?
- 250.232 What actions will MMS take after the EP is deemed submitted?
- 250.233 What decisions will MMS make on the EP and within what timeframe?
- 250.234 How do I submit a modified EP or resubmit a disapproved EP, and when will MMS make a decision?
- 250.235 If a State objects to the EP's coastal zone consistency certification, what can I do?

### Contents of Development and Production Plans (DPP) and Development Operations Coordination Documents (DOCD)

- 250.241 What must the DPP or DOCD include?
- 250.242 What information must accompany the DPP or DOCD?
- 250.243 What general information must accompany the DPP or DOCD?
- 250.244 What geological and geophysical (G&G) information must accompany the DPP or DOCD?
- 250.245 What hydrogen sulfide (H<sub>2</sub>S) information must accompany the DPP or DOCD?

- 250.246 What mineral resource conservation information must accompany the DPP or DOCD?
- 250.247 What biological, physical, and socioeconomic information must accompany the DPP or DOCD?
- 250.248 What solid and liquid wastes and discharges information and cooling water intake information must accompany the DPP or DOCD?
- 250.249 What air emissions information must accompany the DPP or DOCD?
- 250.250 What oil and hazardous substance spills information must accompany the DPP or DOCD?
- 250.251 If I propose activities in the Alaska OCS Region, what planning information must accompany the DPP?
- 250.252 What environmental monitoring information must accompany the DPP or DOCD?
- 250.253 What lease stipulations information must accompany the DPP or DOCD?
- 250.254 What mitigation measures information must accompany the DPP or DOCD?
- 250.255 What decommissioning information must accompany the DPP or DOCD?
- 250.256 What related facilities and operations information must accompany the DPP or DOCD?
- 250.257 What information on the support vessels, offshore vehicles, and aircraft you will use must accompany the DPP or DOCD?
- 250.258 What information on the onshore support facilities you will use must accompany the DPP or DOCD?
- 250.259 What sulphur operations information must accompany the DPP or DOCD?
- 250.260 What Coastal Zone Management Act (CZMA) information must accompany the DPP or DOCD?
- 250.261 What environmental impact analysis (EIA) information must accompany the DPP or DOCD?
- 250.262 What administrative information must accompany the DPP or DOCD?

### Review and Decision Process for the DPP or DOCD

- 250.266 After receiving the DPP or DOCD, what will MMS do?

- 250.267 What actions will MMS take after the DPP or DOCD is deemed submitted?
- 250.268 How does MMS respond to recommendations?
- 250.269 How will MMS evaluate the environmental impacts of the DPP or DOCD?
- 250.270 What decisions will MMS make on the DPP or DOCD and within what timeframe?
- 250.271 For what reasons will MMS disapprove the DPP or DOCD?
- 250.272 If a State objects to the DPP's or DOCD's coastal zone consistency certification, what can I do?
- 250.273 How do I submit a modified DPP or DOCD or resubmit a disapproved DPP or DOCD?

#### Post-Approval Requirements for the EP, DPP, and DOCD

- 250.280 How must I conduct activities under the approved EP, DPP, or DOCD?
- 250.281 What must I do to conduct activities under the approved EP, DPP, or DOCD?
- 250.282 Do I have to conduct post-approval monitoring?
- 250.283 When must I revise or supplement the approved EP, DPP, or DOCD?
- 250.284 How will MMS require revisions to the approved EP, DPP, or DOCD?
- 250.285 How do I submit revised and supplemental EPs, DPPs, or DOCDs?

#### Deepwater Operations Plans (DWOP)

- 250.286 What is a DWOP?
- 250.287 For what development projects must I submit a DWOP?
- 250.288 When and how must I submit the Conceptual Plan?
- 250.289 What must the Conceptual Plan contain?
- 250.290 What operations require approval of the Conceptual Plan?
- 250.291 When and how must I submit the DWOP?
- 250.292 What must the DWOP contain?
- 250.293 What operations require approval of the DWOP?
- 250.294 May I combine the Conceptual Plan and the DWOP?
- 250.295 When must I revise my DWOP?

#### Conservation Information Documents (CID)

- 250.296 When and how must I submit a CID or a revision to a CID?
- 250.297 What information must a CID contain?
- 250.298 How long will MMS take to evaluate and make a decision on the CID?
- 250.299 What operations require approval of the CID?

### Subpart B—Plans and Information

#### General Information

##### § 250.200 Definitions.

Acronyms and terms used in this subpart have the following meanings: (a) *Acronyms* used frequently in this subpart are listed alphabetically below: *CID* means Conservation Information Document

*CZMA* means Coastal Zone Management Act

*DOCD* means Development Operations Coordination Document

*DPP* means Development and Production Plan

*DWOP* means Deepwater Operations Plan

*EIA* means Environmental Impact Analysis

*EP* means Exploration Plan

*MMS* means Minerals Management Service

*NPDES* means National Pollutant Discharge Elimination System

*NTL* means Notice to Lessees and Operators

*OCS* means Outer Continental Shelf

(b) *Terms* used in this subpart are listed alphabetically below:

*Amendment* means a change you make to an EP, DPP, or DOCD that is pending before MMS for a decision (see §§ 250.232(d) and 250.267(d)).

*Modification* means a change required by the Regional Supervisor to an EP, DPP, or DOCD (see § 250.233(b)(2) and § 250.270(b)(2)) that is pending before MMS for a decision because the OCS plan is inconsistent with applicable requirements.

*New or unusual technology* means equipment or procedures that:

(1) Have not been used previously or extensively in an MMS OCS Region;

(2) Have not been used previously under the anticipated operating conditions; or

(3) Have operating characteristics that are outside the performance parameters established by this part.

*Non-conventional production or completion technology* includes, but is not limited to, floating production systems, tension leg platforms, spars, floating production, storage, and offloading systems, guyed towers, compliant towers, subsea manifolds, and other subsea production components that rely on a remote site or host facility for utility and well control services.

*Offshore vehicle* means a vehicle that is capable of being driven on ice.

*Resubmitted OCS plan* means an EP, DPP, or DOCD that contains changes you make to an OCS plan that MMS has disapproved (see §§ 250.234(b), 250.272(a), and 250.273(b)).

*Revised OCS plan* means an EP, DPP, or DOCD that proposes changes to an approved OCS plan, such as those in the location of a well or platform, type of drilling unit, or location of the onshore support base (see § 250.283(a)).

*Supplemental OCS plan* means an EP, DPP, or DOCD that proposes the addition to an approved OCS plan of an activity that requires approval of an application or permit (see § 250.283(b)).

##### § 250.201 What plans and information must I submit before I conduct any activities on my lease or unit?

(a) *Plans and documents.* Before you conduct the activities on your lease or unit listed in the following table, you must submit, and MMS must approve, the listed plans and documents. Your plans and documents may cover one or more leases or units.

You must submit a(n) . . .	Before you . . .
(1) Exploration Plan (EP) .....	Conduct any exploration activities on a lease or unit.
(2) Development and Production Plan (DPP) ....	Conduct any development and production activities on a lease or unit in any OCS area other than the Western Gulf of Mexico.
(3) Operations Coordination Document (DOCD) .....	Conduct any development and production activities on a lease or unit in the Western GOM.
(4) Deepwater Operations Plan (DWOP) .....	Conduct post-drilling installation activities in any water depth associated with a development project that will involve the use of a non-conventional production or completion technology.
(5) Conservation Information Document (CID) ...	Commence production from development projects in water depths greater than 1,312 feet (400 meters).
(6) EP, DPP, or DOCD .....	Conduct geological or geophysical (G&G) exploration or a development G&G activity (see definitions under § 250.105) on your lease or unit when: <ul style="list-style-type: none"> <li>(i) It will result in a physical penetration of the seabed greater than 500 feet (152 meters);</li> <li>(ii) It will involve the use of explosives;</li> <li>(iii) The Regional Director determines that it might have a significant adverse effect on the human, marine, or coastal environment; or</li> <li>(iv) The Regional Supervisor, after reviewing a notice under § 250.209, determines that an EP, DPP, or DOCD is necessary.</li> </ul>

(b) *Submitting additional information.* On a case-by-case basis, the Regional Supervisor may require you to submit additional information if the Regional Supervisor determines that it is necessary to evaluate your proposed plan or document.

(c) *Limiting information.* The Regional Director may limit the amount of information or analyses that you otherwise must provide in your proposed plan or document under this subpart when:

- (1) Sufficient applicable information or analysis is readily available to MMS;
- (2) Other coastal or marine resources are not present or affected;
- (3) Other factors such as technological advances affect information needs; or
- (4) Information is not necessary or required for a State to determine consistency with their CZMA Plan.

(d) *Referencing.* In preparing your proposed plan or document, you may reference information and data discussed in other plans or documents you previously submitted or that are otherwise readily available to MMS.

**§ 250.202 What criteria must the Exploration Plan (EP), Development and Production Plan (DPP), or Development Operations Coordination Document (DOCD) meet?**

Your EP, DPP, or DOCD must demonstrate that you have planned and are prepared to conduct the proposed activities in a manner that:

- (a) Conforms to the Outer Continental Shelf Lands Act as amended (Act), applicable implementing regulations, lease provisions and stipulations, and other Federal laws;
- (b) Is safe;
- (c) Conforms to sound conservation practices and protects the rights of the lessor;
- (d) Does not unreasonably interfere with other uses of the OCS, including those involved with national security or defense; and
- (e) Does not cause undue or serious harm or damage to the human, marine, or coastal environment.

**§ 250.203 Where can wells be located under an EP, DPP, or DOCD?**

The Regional Supervisor reviews and approves proposed well location and spacing under an EP, DPP, or DOCD. In deciding whether to approve a proposed well location and spacing, the Regional Supervisor will consider factors including, but not limited to, the following:

- (a) Protecting correlative rights;
- (b) Protecting Federal royalty interests;
- (c) Recovering optimum resources;

(d) Number of wells that can be economically drilled for proper reservoir management;

- (e) Location of drilling units and platforms;
- (f) Extent and thickness of the reservoir;
- (g) Geologic and other reservoir characteristics;
- (h) Minimizing environmental risk;
- (i) Preventing unreasonable interference with other uses of the OCS; and
- (j) Drilling of unnecessary wells.

**§ 250.204 How must I protect the rights of the Federal government?**

(a) To protect the rights of the Federal government, you must either:

(1) Drill and produce the wells that the Regional Supervisor determines are necessary to protect the Federal government from loss due to production on other leases or units or from adjacent lands under the jurisdiction of other entities (e.g., State and foreign governments); or

(2) Pay a sum that the Regional Supervisor determines as adequate to compensate the Federal government for your failure to drill and produce any well.

(b) Payment under paragraph (a)(2) of this section may constitute production in paying quantities for the purpose of extending the lease term.

(c) You must complete and produce any penetrated hydrocarbon-bearing zone that the Regional Supervisor determines is necessary to conform to sound conservation practices.

**§ 250.205 Are there special requirements if my well affects an adjacent property?**

For wells that could intersect or drain an adjacent property, the Regional Supervisor may require special measures to protect the rights of the Federal government and objecting lessees or operators of adjacent leases or units.

**§ 250.206 How do I submit the EP, DPP, or DOCD?**

(a) *Number of copies.* When you submit an EP, DPP, or DOCD to MMS, you must provide:

- (1) Four copies that contain all required information (proprietary copies);
- (2) Eight copies for public distribution (public information copies) that omit information that you assert is exempt from disclosure under the Freedom of Information Act (FOIA) (5 U.S.C. 552) and the implementing regulations (43 CFR part 2); and
- (3) Any additional copies that may be necessary to facilitate review of the EP,

DPP, or DOCD by certain affected States and other reviewing entities.

(b) *Electronic submission.* You may submit part or all of your EP, DPP, or DOCD and its accompanying information electronically. If you prefer to submit your EP, DPP, or DOCD electronically, ask the Regional Supervisor for further guidance.

(c) *Withdrawal after submission.* You may withdraw your proposed EP, DPP, or DOCD at any time for any reason. Notify the appropriate MMS OCS Region if you do.

**Ancillary Activities**

**§ 250.207 What ancillary activities may I conduct?**

Before or after you submit an EP, DPP, or DOCD to MMS, you may elect, the regulations in this part may require, or the Regional Supervisor may direct you to conduct ancillary activities. Ancillary activities include:

(a) Geological and geophysical (G&G) explorations and development G&G activities;

(b) Geological and high-resolution geophysical, geotechnical, archaeological, biological, physical oceanographic, meteorological, socioeconomic, or other surveys; or

(c) Studies that model potential oil and hazardous substance spills, drilling muds and cuttings discharges, projected air emissions, or potential hydrogen sulfide (H<sub>2</sub>S) releases.

**§ 250.208 If I conduct ancillary activities, what notices must I provide?**

At least 30 calendar days before you conduct any G&G exploration or development G&G activity (see § 250.207(a)), you must notify the Regional Supervisor in writing.

(a) When you prepare the notice, you must:

- (1) Sign and date the notice;
- (2) Provide the names of the vessel, its operator, and the person(s) in charge; the specific type(s) of operations you will conduct; and the instrumentation/techniques and vessel navigation system you will use;
- (3) Provide expected start and completion dates and the location of the activity; and
- (4) Describe the potential adverse environmental effects of the proposed activity and any mitigation to eliminate or minimize these effects on the marine, coastal, and human environment.

(b) The Regional Supervisor may require you to:

- (1) Give written notice to MMS at least 15 calendar days before you conduct any other ancillary activity (see § 250.207(b) and (c)) in addition to those listed in § 250.207(a); and

(2) Notify other users of the OCS before you conduct any ancillary activity.

**§ 250.209 What is the MMS review process for the notice?**

The Regional Supervisor will review any notice required under § 250.208(a) and (b)(1) to ensure that your ancillary activity complies with the performance standards listed in § 250.202(a), (b), (d), and (e). The Regional Supervisor may notify you that your ancillary activity does not comply with those standards. In such a case, the Regional Supervisor will require you to submit an EP, DPP, or DOCD and you may not start your ancillary activity until the Regional Supervisor approves the EP, DPP, or DOCD.

**§ 250.210 If I conduct ancillary activities, what reporting and data/information retention requirements must I satisfy?**

(a) *Reporting.* The Regional Supervisor may require you to prepare and submit reports that summarize and analyze data or information obtained or derived from your ancillary activities. When applicable, MMS will protect and disclose the data and information in these reports in accordance with § 250.196(b).

(b) *Data and information retention.* You must retain copies of all original data and information, including navigation data, obtained or derived from your G&G explorations and development G&G activities (see § 250.207(a)), including any such data and information you obtained from previous leaseholders or unit operators. You must submit such data and information to MMS for inspection and possible retention upon request at any time before lease or unit termination. When applicable, MMS will protect and disclose such submitted data and information in accordance with § 250.196(b).

**Contents of Exploration Plans (EP)**

**§ 250.211 What must the EP include?**

Your EP must include the following:

(a) *Description, objectives, and schedule.* A description, discussion of the objectives, and tentative schedule (from start to completion) of the exploration activities that you propose to undertake. Examples of exploration activities include exploration drilling, well test flaring, installing a well protection structure, and temporary well abandonment.

(b) *Location.* A map showing the surface location and water depth of each proposed well and the locations of all associated drilling unit anchors.

(c) *Drilling unit.* A description of the drilling unit and associated equipment you will use to conduct your proposed exploration activities, including a brief description of its important safety and pollution prevention features, and a table indicating the type and the estimated maximum quantity of fuels, oil, and lubricants that will be stored on the facility (see third definition of "facility" under § 250.105).

**§ 250.212 What information must accompany the EP?**

The following information must accompany your EP:

- (a) General information required by § 250.213;
- (b) Geological and geophysical (G&G) information required by § 250.214;
- (c) Hydrogen sulfide information required by § 250.215;
- (d) Biological, physical, and socioeconomic information required by § 250.216;
- (e) Solid and liquid wastes and discharges information and cooling water intake information required by § 250.217;
- (f) Air emissions information required by § 250.218;
- (g) Oil and hazardous substance spills information required by § 250.219;
- (h) Alaska planning information required by § 250.220;
- (i) Environmental monitoring information required by § 250.221;
- (j) Lease stipulations information required by § 250.222;
- (k) Mitigation measures information required by § 250.223;
- (l) Support vessels and aircraft information required by § 250.224;
- (m) Onshore support facilities information required by § 250.225;
- (n) Coastal zone management information required by § 250.226;
- (o) Environmental impact analysis information required by § 250.227; and
- (p) Administrative information required by § 250.228.

**§ 250.213 What general information must accompany the EP?**

The following general information must accompany your EP:

- (a) *Applications and permits.* A listing, including filing or approval status, of the Federal, State, and local application approvals or permits you must obtain to conduct your proposed exploration activities.
- (b) *Drilling fluids.* A table showing the projected amount, discharge rate, and chemical constituents for each type (i.e., water-based, oil-based, synthetic-based) of drilling fluid you plan to use to drill your proposed exploration wells.
- (c) *Chemical products.* A table showing the name and brief description,

quantities to be stored, storage method, and rates of usage of the chemical products you will use to conduct your proposed exploration activities. List only those chemical products you will store or use in quantities greater than the amounts defined as Reportable Quantities in 40 CFR part 302, or amounts specified by the Regional Supervisor.

(d) *New or unusual technology.* A description and discussion of any new or unusual technology (see definition under § 250.200) you will use to carry out your proposed exploration activities. In the public information copies of your EP, you may exclude any proprietary information from this description. In that case, include a brief discussion of the general subject matter of the omitted information. If you will not use any new or unusual technology to carry out your proposed exploration activities, include a statement so indicating.

(e) *Bonds, oil spill financial responsibility, and well control statements.* Statements attesting that:

(1) The activities and facilities proposed in your EP are or will be covered by an appropriate bond under 30 CFR part 256, subpart I;

(2) You have demonstrated or will demonstrate oil spill financial responsibility for facilities proposed in your EP according to 30 CFR part 253; and

(3) You have or will have the financial capability to drill a relief well and conduct other emergency well control operations.

(f) *Suspensions of operations.* A brief discussion of any suspensions of operations that you anticipate may be necessary in the course of conducting your activities under the EP.

(g) *Blowout scenario.* A scenario for the potential blowout of the proposed well in your EP that you expect will have the highest volume of liquid hydrocarbons. Include the estimated flow rate, total volume, and maximum duration of the potential blowout. Also, discuss the potential for the well to bridge over, the likelihood for surface intervention to stop the blowout, the availability of a rig to drill a relief well, and rig package constraints. Estimate the time it would take to drill a relief well.

(h) *Contact.* The name, address (e-mail address, if available), and telephone number of the person with whom the Regional Supervisor and any affected State(s) can communicate about your EP.

**§ 250.214 What geological and geophysical (G&G) information must accompany the EP?**

The following G&G information must accompany your EP:

(a) *Geological description.* A geological description of the prospect(s).

(b) *Structure contour maps.* Current structure contour maps (depth-based, expressed in feet subsea) drawn on the top of each prospective hydrocarbon-bearing reservoir showing the locations of proposed wells.

(c) *Two-dimensional (2-D) or three-dimensional (3-D) seismic lines.* Copies of migrated and annotated 2-D or 3-D seismic lines (with depth scale) intersecting at or near your proposed well locations. You are not required to conduct both 2-D and 3-D seismic surveys if you choose to conduct only one type of survey. If you have conducted both types of surveys, the Regional Supervisor may instruct you to submit the results of both surveys. You must interpret and display this information. Because of its volume, provide this information as an enclosure to only one proprietary copy of your EP.

(d) *Geological cross-sections.* Interpreted geological cross-sections showing the location and depth of each proposed well.

(e) *Shallow hazards report.* A shallow hazards report based on information obtained from a high-resolution geophysical survey, or a reference to such report if you have already submitted it to the Regional Supervisor.

(f) *Shallow hazards assessment.* For each proposed well, an assessment of any seafloor and subsurface geological and manmade features and conditions that may adversely affect your proposed drilling operations.

(g) *High-resolution seismic lines.* A copy of the high-resolution survey line closest to each of your proposed well locations. Because of its volume, provide this information as an enclosure to only one proprietary copy of your EP. You are not required to provide this information if the surface location of your proposed well has been approved in a previously submitted EP, DPP, or DOCD.

(h) *Stratigraphic column.* A generalized biostratigraphic/lithostratigraphic column from the surface to the total depth of the prospect.

(i) *Time-versus-depth chart.* A seismic travel time-versus-depth chart based on the appropriate velocity analysis in the area of interpretation and specifying the geodetic datum.

(j) *Geochemical information.* A copy of any geochemical reports you used or generated.

(k) *Future G&G activities.* A brief description of the types of G&G explorations and development G&G activities you may conduct for lease or unit purposes after your EP is approved.

**§ 250.215 What hydrogen sulfide (H<sub>2</sub>S) information must accompany the EP?**

The following H<sub>2</sub>S information, as applicable, must accompany your EP:

(a) *Concentration.* The estimated concentration of any H<sub>2</sub>S you might encounter while you conduct your proposed exploration activities.

(b) *Classification.* Under § 250.490(c), a request that the Regional Supervisor classify the area of your proposed exploration activities as either H<sub>2</sub>S absent, H<sub>2</sub>S present, or H<sub>2</sub>S unknown. Provide sufficient information to justify your request.

(c) *H<sub>2</sub>S Contingency Plan.* If you ask the Regional Supervisor to classify the area of your proposed exploration activities as either H<sub>2</sub>S present or H<sub>2</sub>S unknown, an H<sub>2</sub>S Contingency Plan prepared under § 250.490(f), or a reference to an approved or submitted H<sub>2</sub>S Contingency Plan that covers the proposed exploration activities.

(d) *Modeling report.* If you modeled a potential H<sub>2</sub>S release when developing your EP, modeling report or the modeling results, or a reference to such report or results if you have already submitted it to the Regional Supervisor.

(1) The analysis in the modeling report must be specific to the particular site of your proposed exploration activities, and must consider any nearby human-occupied OCS facilities, shipping lanes, fishery areas, and other points where humans may be subject to potential exposure from an H<sub>2</sub>S release from your proposed exploration activities.

(2) If any H<sub>2</sub>S emissions are projected to affect an onshore location in concentrations greater than 10 parts per million, the modeling analysis must be consistent with the Environmental Protection Agency's (EPA) risk management plan methodologies outlined in 40 CFR part 68.

**§ 250.216 What biological, physical, and socioeconomic information must accompany the EP?**

If you obtain the following information in developing your EP, or if the Regional Supervisor requires you to obtain it, you must include a report, or the information obtained, or a reference to such a report or information if you have already submitted it to the Regional Supervisor, as accompanying information:

(a) *Biological environment reports.* Site-specific information on

chemosynthetic communities, sensitive underwater features, marine sanctuaries, or other areas of biological concern.

(b) *Physical environment reports.* Site-specific meteorological, physical oceanographic, geotechnical reports, or archaeological reports (if required under § 250.194).

(c) *Socioeconomic study reports.* Socioeconomic information regarding your proposed exploration activities.

**§ 250.217 What solid and liquid wastes and discharges information and cooling water intake information must accompany the EP?**

The following solid and liquid wastes and discharges information and cooling water intake information must accompany your EP:

(a) *Projected wastes.* A table providing the name, brief description, projected quantity, and composition of solid and liquid wastes (such as spent drilling fluids, drill cuttings, trash, sanitary and domestic wastes, and chemical product wastes) likely to be generated by your proposed exploration activities. Describe:

(1) The methods you used for determining this information; and

(2) Your plans for treating, storing, and downhole disposal of these wastes at your drilling location(s).

(b) *Projected ocean discharges.* If any of your solid and liquid wastes will be discharged overboard, or are planned discharges from manmade islands:

(1) A table showing the name, projected amount, and rate of discharge for each waste type; and

(2) A description of the discharge method (such as shunting through a downpipe, etc.) you will use.

(c) *National Pollutant Discharge Elimination System (NPDES) permit.* (1)

A discussion of how you will comply with the provisions of the applicable general NPDES permit that covers your proposed exploration activities; or

(2) A copy of your application for an individual NPDES permit. Briefly describe the major discharges and methods you will use for compliance.

(d) *Modeling report.* The modeling report or the modeling results (if you modeled the discharges of your projected solid or liquid wastes when developing your EP), or a reference to such report or results if you have already submitted it to the Regional Supervisor.

(e) *Projected cooling water intake.* A table for each cooling water intake structure likely to be used by your proposed exploration activities that includes a brief description of the cooling water intake structure, daily water intake rate, water intake through

screen velocity, percentage of water intake used for cooling water, mitigation measures for reducing impingement and entrainment of aquatic organisms, and biofouling prevention measures.

**§ 250.218 What air emissions information must accompany the EP?**

The following air emissions information, as applicable, must accompany your EP:

(a) *Projected emissions.* Tables showing the projected emissions of sulphur dioxide (SO<sub>2</sub>), particulate matter in the form of PM<sub>10</sub> and PM<sub>2.5</sub> when applicable, nitrogen oxides (NO<sub>x</sub>), carbon monoxide (CO), and volatile organic compounds (VOC) that will be generated by your proposed exploration activities.

(1) For each source on or associated with the drilling unit (including well test flaring and well protection structure installation), you must list:

- (i) The projected peak hourly emissions;
- (ii) The total annual emissions in tons per year;
- (iii) Emissions over the duration of the proposed exploration activities;
- (iv) The frequency and duration of emissions; and

(v) The total of all emissions listed in paragraphs (a)(1)(i) through (iv) of this section.

(2) You must provide the basis for all calculations, including engine size and rating, and applicable operational information.

(3) You must base the projected emissions on the maximum rated capacity of the equipment on the proposed drilling unit under its physical and operational design.

(4) If the specific drilling unit has not yet been determined, you must use the maximum emission estimates for the type of drilling unit you will use.

(b) *Emission reduction measures.* A description of any proposed emission reduction measures, including the affected source(s), the emission reduction control technologies or procedures, the quantity of reductions to be achieved, and any monitoring system you propose to use to measure emissions.

(c) *Processes, equipment, fuels, and combustibles.* A description of processes, processing equipment, combustion equipment, fuels, and storage units. You must include the characteristics and the frequency, duration, and maximum burn rate of any well test fluids to be burned.

(d) *Distance to shore.* Identification of the distance of your drilling unit from the mean high water mark (mean higher high water mark on the Pacific coast) of the adjacent State.

(e) *Non-exempt drilling units.* A description of how you will comply with § 250.303 when the projected emissions of SO<sub>2</sub>, PM, NO<sub>x</sub>, CO, or VOC, that will be generated by your proposed exploration activities, are greater than the respective emission exemption amounts "E" calculated using the formulas in § 250.303(d). When MMS requires air quality modeling, you must use the guidelines in Appendix W of 40 CFR part 51 with a model approved by the Director. Submit the best available meteorological information and data consistent with the model(s) used.

(f) *Modeling report.* A modeling report or the modeling results (if § 250.303 requires you to use an approved air quality model to model projected air emissions in developing your EP), or a reference to such a report or results if you have already submitted it to the Regional Supervisor.

**§ 250.219 What oil and hazardous substance spills information must accompany the EP?**

The following information regarding potential spills of oil (see definition under 30 CFR 254.6) and hazardous substances (see definition under 40 CFR part 116) as applicable, must accompany your EP:

(a) *Oil spill response planning.* The material required under paragraph (a)(1) or (a)(2) of this section:

(1) An Oil Spill Response Plan (OSRP) for the facilities you will use to conduct your exploration activities prepared according to the requirements of 30 CFR part 254, subpart B; or

(2) Reference to your approved regional OSRP (see 30 CFR 254.3) to include:

- (i) A discussion of your regional OSRP;
- (ii) The location of your primary oil spill equipment base and staging area;
- (iii) The name(s) of your oil spill removal organization(s) for both equipment and personnel;

(iv) The calculated volume of your worst case discharge scenario (see 30 CFR 254.26(a)), and a comparison of the appropriate worst case discharge scenario in your approved regional OSRP with the worst case discharge scenario that could result from your proposed exploration activities; and

(v) A description of the worst case discharge scenario that could result from your proposed exploration activities (see 30 CFR 254.26(b), (c), (d), and (e)).

(b) *Modeling report.* If you model a potential oil or hazardous substance spill in developing your EP, a modeling report or the modeling results, or a

reference to such report or results if you have already submitted it to the Regional Supervisor.

**§ 250.220 If I propose activities in the Alaska OCS Region, what planning information must accompany the EP?**

If you propose exploration activities in the Alaska OCS Region, the following planning information must accompany your EP:

(a) *Emergency plans.* A description of your emergency plans to respond to a blowout, loss or disablement of a drilling unit, and loss of or damage to support craft.

(b) *Critical operations and curtailment procedures.* Critical operations and curtailment procedures for your exploration activities. The procedures must identify ice conditions, weather, and other constraints under which the exploration activities will either be curtailed or not proceed.

**§ 250.221 What environmental monitoring information must accompany the EP?**

The following environmental monitoring information, as applicable, must accompany your EP:

(a) *Monitoring systems.* A description of any existing and planned monitoring systems that are measuring, or will measure, environmental conditions or will provide project-specific data or information on the impacts of your exploration activities.

(b) *Flower Garden Banks National Marine Sanctuary (FGBNMS).* If you propose to conduct exploration activities within the protective zones of the FGBNMS, a description of your provisions for monitoring the impacts of an oil spill on the environmentally sensitive resources at the FGBNMS.

**§ 250.222 What lease stipulations information must accompany the EP?**

A description of the measures you took, or will take, to satisfy the conditions of lease stipulations related to your proposed exploration activities must accompany your EP.

**§ 250.223 What mitigation measures information must accompany the EP?**

If you propose to use any measures, beyond those required by the regulations in this part, to minimize or mitigate environmental impacts from your proposed exploration activities, a description of the measures you will use must accompany your EP.

**§ 250.224 What information on support vessels, offshore vehicles, and aircraft you will use must accompany the EP?**

The following information on the support vessels, offshore vehicles, and aircraft you will use must accompany your EP:



(a) *General*. A description of the crew boats, supply boats, anchor handling vessels, tug boats, barges, ice management vessels, other vessels, offshore vehicles, and aircraft you will use to support your exploration activities. The description of vessels and offshore vehicles must estimate the storage capacity of their fuel tanks and the frequency of their visits to your drilling unit.

(b) *Air emissions*. A table showing the source, composition, frequency, and duration of the air emissions likely to be generated by the support vessels, offshore vehicles, and aircraft you will use that will operate within 25 miles of your drilling unit.

(c) *Drilling fluids and chemical products transportation*. A description of the transportation method and quantities of drilling fluids and chemical products (see § 250.213(b) and (c)) you will transport from the onshore support facilities you will use to your drilling unit.

(d) *Solid and liquid wastes transportation*. A description of the transportation method and a brief description of the composition, quantities, and destination(s) of solid and liquid wastes (see § 250.217(a)) you will transport from your drilling unit.

(e) *Vicinity map*. A map showing the location of your proposed exploration activities relative to the shoreline. The map must depict the primary route(s) the support vessels and aircraft will use when traveling between the onshore support facilities you will use and your drilling unit.

**§ 250.225 What information on the onshore support facilities you will use must accompany the EP?**

The following information on the onshore support facilities you will use must accompany your EP:

(a) *General*. A description of the onshore facilities you will use to provide supply and service support for your proposed exploration activities (e.g., service bases and mud company docks).

(1) Indicate whether the onshore support facilities are existing, to be constructed, or to be expanded.

(2) If the onshore support facilities are, or will be, located in areas not adjacent to the Western GOM, provide a timetable for acquiring lands (including rights-of-way and easements) and constructing or expanding the facilities. Describe any State or Federal permits or approvals (dredging, filling, etc.) that would be required for constructing or expanding them.

(b) *Air emissions*. A description of the source, composition, frequency, and

duration of the air emissions (attributable to your proposed exploration activities) likely to be generated by the onshore support facilities you will use.

(c) *Unusual solid and liquid wastes*. A description of the quantity, composition, and method of disposal of any unusual solid and liquid wastes (attributable to your proposed exploration activities) likely to be generated by the onshore support facilities you will use. Unusual wastes are those wastes not specifically addressed in the relevant National Pollution Discharge Elimination System (NPDES) permit.

(d) *Waste disposal*. A description of the onshore facilities you will use to store and dispose of solid and liquid wastes generated by your proposed exploration activities (see § 250.217) and the types and quantities of such wastes.

**§ 250.226 What Coastal Zone Management Act (CZMA) information must accompany the EP?**

The following CZMA information must accompany your EP:

(a) *Consistency certification*. A copy of your consistency certification under section 307(c)(3)(B) of the CZMA (16 U.S.C. 1456(c)(3)(B)) and 15 CFR 930.76(d) stating that the proposed exploration activities described in detail in this EP comply with (name of State(s)) approved coastal management program(s) and will be conducted in a manner that is consistent with such program(s); and

(b) *Other information*. "Information" as required by 15 CFR 930.76(a) and 15 CFR 930.58(a)(2)) and "Analysis" as required by 15 CFR 930.58(a)(3).

**§ 250.227 What environmental impact analysis (EIA) information must accompany the EP?**

The following EIA information must accompany your EP:

(a) *General requirements*. Your EIA must:

(1) Assess the potential environmental impacts of your proposed exploration activities;

(2) Be project specific; and

(3) Be as detailed as necessary to assist the Regional Supervisor in complying with the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) and other relevant Federal laws.

(b) *Resources, conditions, and activities*. Your EIA must describe those resources, conditions, and activities listed below that could be affected by your proposed exploration activities, or that could affect the construction and

operation of facilities or structures, or the activities proposed in your EP.

(1) Meteorology, oceanography, geology, and shallow geological or manmade hazards;

(2) Air and water quality;

(3) Benthic communities, marine mammals, sea turtles, coastal and marine birds, fish and shellfish, and plant life;

(4) Threatened or endangered species and their critical habitat as defined by the Endangered Species Act of 1973;

(5) Sensitive biological resources or habitats such as essential fish habitat, refuges, preserves, special management areas identified in coastal management programs, sanctuaries, rookeries, and calving grounds;

(6) Archaeological resources;

(7) Socioeconomic resources including employment, existing offshore and coastal infrastructure (including major sources of supplies, services, energy, and water), land use, subsistence resources and harvest practices, recreation, recreational and commercial fishing (including typical fishing seasons, location, and type), minority and lower income groups, and coastal zone management programs;

(8) Coastal and marine uses such as military activities, shipping, and mineral exploration or development; and

(9) Other resources, conditions, and activities identified by the Regional Supervisor.

(c) *Environmental impacts*. Your EIA must:

(1) Analyze the potential direct and indirect impacts (including those from accidents and cooling water intake structures) that your proposed exploration activities will have on the identified resources, conditions, and activities;

(2) Analyze any potential cumulative impacts from other activities to those identified resources, conditions, and activities potentially impacted by your proposed exploration activities;

(3) Describe the type, severity, and duration of these potential impacts and their biological, physical, and other consequences and implications;

(4) Describe potential measures to minimize or mitigate these potential impacts; and

(5) Summarize the information you incorporate by reference.

(d) *Consultation*. Your EIA must include a list of agencies and persons with whom you consulted, or with whom you will be consulting, regarding potential impacts associated with your proposed exploration activities.

(e) *References cited*. Your EIA must include a list of the references that you cite in the EIA.

**§ 250.228 What administrative information must accompany the EP?**

The following administrative information must accompany your EP:

(a) *Exempted information description (public information copies only).* A description of the general subject matter of the proprietary information that is included in the proprietary copies of your EP or its accompanying information.

(b) *Bibliography.* (1) If you reference a previously submitted EP, DPP, DOCD, study report, survey report, or other material in your EP or its accompanying information, a list of the referenced material; and

(2) The location(s) where the Regional Supervisor can inspect the cited referenced material if you have not submitted it.

**Review and Decision Process for the EP****§ 250.231 After receiving the EP, what will MMS do?**

(a) *Determine whether deemed submitted.* Within 15 working days after receiving your proposed EP and its accompanying information, the Regional Supervisor will review your submission and deem your EP submitted if:

(1) The submitted information, including the information that must accompany the EP (refer to the list in § 250.212), fulfills requirements and is sufficiently accurate;

(2) You have provided all needed additional information (see § 250.201(b)); and

(3) You have provided the required number of copies (see § 250.206(a)).

(b) *Identify problems and deficiencies.* If the Regional Supervisor determines that you have not met one or more of the conditions in paragraph (a) of this section, the Regional Supervisor will notify you of the problem or deficiency within 15 working days after the Regional Supervisor receives your EP and its accompanying information. The Regional Supervisor will not deem your EP submitted until you have corrected all problems or deficiencies identified in the notice.

(c) *Deemed submitted notification.* The Regional Supervisor will notify you when the EP is deemed submitted.

**§ 250.232 What actions will MMS take after the EP is deemed submitted?**

(a) *State and CZMA consistency reviews.* Within 2 working days after deeming your EP submitted under § 250.231, the Regional Supervisor will use receipted mail or alternative method to send a public information copy of the EP and its accompanying information to the following:

(1) *The Governor of each affected State.* The Governor has 21 calendar days after receiving your deemed-submitted EP to submit comments. The Regional Supervisor will not consider comments received after the deadline.

(2) *The CZMA agency of each affected State.* The CZMA consistency review period under section 307(c)(3)(B)(iii) of the CZMA (16 U.S.C. 1456(c)(3)(B)(ii)) and 15 CFR 930.78 begins when the State's CZMA agency receives a copy of your deemed-submitted EP, consistency certification, and required necessary

data and information (see 15 CFR 930.77(a)(1)).

(b) *MMS compliance review.* The Regional Supervisor will review the exploration activities described in your proposed EP to ensure that they conform to the performance standards in § 250.202.

(c) *MMS environmental impact evaluation.* The Regional Supervisor will evaluate the environmental impacts of the activities described in your proposed EP and prepare environmental documentation under the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) and the implementing regulations (40 CFR parts 1500 through 1508).

(d) *Amendments.* During the review of your proposed EP, the Regional Supervisor may require you, or you may elect, to change your EP. If you elect to amend your EP, the Regional Supervisor may determine that your EP, as amended, is subject to the requirements of § 250.231.

**§ 250.233 What decisions will MMS make on the EP and within what timeframe?**

(a) *Timeframe.* The Regional Supervisor will take one of the actions shown in the table in paragraph (b) of this section within 30 calendar days after the Regional Supervisor deems your EP submitted under § 250.231, or receives the last amendment to your proposed EP, whichever occurs later.

(b) *MMS decision.* By the deadline in paragraph (a) of this section, the Regional Supervisor will take one of the following actions:

The regional supervisor will . . .	If . . .	And then . . .
(1) Approve your EP .....	It complies with all applicable requirements .....	The Regional Supervisor will notify you in writing of the decision and may require you to meet certain conditions, including those to provide monitoring information.
(2) Require you to modify your proposed EP.	The Regional Supervisor finds that it is inconsistent with the lease, the Act, the regulations prescribed under the Act, or notify Federal laws.	The Regional Supervisor will notify you in writing of the decision and describe the modifications you must make to your proposed EP to ensure it complies with all applicable requirements.
(3) Disapprove your EP .....	Your proposed activities would probably cause serious harm or damage to life (including fish or other aquatic life); property; any mineral (in areas leased or not leased); the national security or defense; or the marine, coastal, or human environment; and you cannot modify your proposed activities to avoid such condition(s).	(i) The Regional Supervisor will notify you in writing of the decision and describe the reason(s) for disapproving your EP. (ii) MMS may cancel your lease and compensate you under 43 U.S.C. 1334(a)(2)(C) and the implementing regulations in §§ 250.182, 250.184, and 250.185 and 30 CFR 256.77.

**§ 250.234 How do I submit a modified EP or resubmit a disapproved EP, and when will MMS make a decision?**

(a) *Modified EP.* If the Regional Supervisor requires you to modify your proposed EP under § 250.233(b)(2), you must submit the modification(s) to the Regional Supervisor in the same manner

as for a new EP. You need submit only information related to the proposed modification(s).

(b) *Resubmitted EP.* If the Regional Supervisor disapproves your EP under § 250.233(b)(3), you may resubmit the disapproved EP if there is a change in

the conditions that were the basis of its disapproval.

(c) *MMS review and timeframe.* The Regional Supervisor will use the performance standards in § 250.202 to either approve, require you to further modify, or disapprove your modified or resubmitted EP. The Regional

Supervisor will make a decision within 30 calendar days after the Regional Supervisor deems your modified or resubmitted EP to be submitted, or receives the last amendment to your modified or resubmitted EP, whichever occurs later.

**§ 250.235 If a State objects to the EP's coastal zone consistency certification, what can I do?**

If an affected State objects to the coastal zone consistency certification accompanying your proposed EP within the timeframe prescribed in § 250.233(a) or § 250.234(c), you may do one of the following:

(a) *Amend your EP.* Amend your EP to accommodate the State's objection and submit the amendment to the Regional Supervisor for approval. The amendment needs to only address information related to the State's objection.

(b) *Appeal.* Appeal the State's objection to the Secretary of Commerce using the procedures in 15 CFR part 930, subpart H. The Secretary of Commerce will either:

(1) Grant your appeal by finding, under section 307(c)(3)(B)(iii) of the CZMA (16 U.S.C. 1456(c)(3)(B)(iii)), that each activity described in detail in your EP is consistent with the objectives of the CZMA, or is otherwise necessary in the interest of national security; or

(2) Deny your appeal, in which case you may amend your EP as described in paragraph (a) of this section.

(a) *Withdraw your EP.* Withdraw your EP if you decide not to conduct your proposed exploration activities.

**Contents of Development and Production Plans (DPP) and Development Operations Coordination Documents (DOCD)**

**§ 250.241 What must the DPP or DOCD include?**

Your DPP or DOCD must include the following:

(a) *Description, objectives, and schedule.* A description, discussion of the objectives, and tentative schedule (from start to completion) of the development and production activities you propose to undertake. Examples of development and production activities include:

(1) Development drilling;  
(2) Well test flaring;  
(3) Installation of production platforms, satellite structures, subsea wellheads and manifolds, and lease term pipelines (see definition at § 250.105); and  
(4) Installation of production facilities and conduct of production operations.

(b) *Location.* The location and water depth of each of your proposed wells

and production facilities. Include a map showing the surface and bottom-hole location and water depth of each proposed well, the surface location of each production facility, and the locations of all associated drilling unit and construction barge anchors.

(c) *Drilling unit.* A description of the drilling unit and associated equipment you will use to conduct your proposed development drilling activities. Include a brief description of its important safety and pollution prevention features, and a table indicating the type and the estimated maximum quantity of fuels and oil that will be stored on the facility (see third definition of "facility" under § 250.105).

(d) *Production facilities.* A description of the production platforms, satellite structures, subsea wellheads and manifolds, lease term pipelines (see definition at § 250.105), production facilities, umbilicals, and other facilities you will use to conduct your proposed development and production activities. Include a brief description of their important safety and pollution prevention features, and a table indicating the type and the estimated maximum quantity of fuels and oil that will be stored on the facility (see third definition of "facility" under § 250.105).

**§ 250.242 What information must accompany the DPP or DOCD?**

The following information must accompany your DPP or DOCD.

(a) General information required by § 250.243;

(b) G&G information required by § 250.244;

(c) Hydrogen sulfide information required by § 250.245;

(d) Mineral resource conservation information required by § 250.246;

(e) Biological, physical, and socioeconomic information required by § 250.247;

(f) Solid and liquid wastes and discharges information and cooling water intake information required by § 250.248;

(g) Air emissions information required by § 250.249;

(h) Oil and hazardous substance spills information required by § 250.250;

(i) Alaska planning information required by § 250.251;

(j) Environmental monitoring information required by § 250.252;

(k) Lease stipulations information required by § 250.253;

(l) Mitigation measures information required by § 250.254;

(m) Decommissioning information required by § 250.255;

(n) Related facilities and operations information required by § 250.256;

(o) Support vessels and aircraft information required by § 250.257;

(p) Onshore support facilities information required by § 250.258;

(q) Sulphur operations information required by § 250.259;

(r) Coastal zone management information required by § 250.260;

(s) Environmental impact analysis information required by § 250.261; and

(t) Administrative information required by § 250.262.

**§ 250.243 What general information must accompany the DPP or DOCD?**

The following general information must accompany your DPP or DOCD:

(a) *Applications and permits.* A listing, including filing or approval status, of the Federal, State, and local application approvals or permits you must obtain to carry out your proposed development and production activities.

(b) *Drilling fluids.* A table showing the projected amount, discharge rate, and chemical constituents for each type (*i.e.*, water based, oil based, synthetic based) of drilling fluid you plan to use to drill your proposed development wells.

(c) *Production.* The following production information:

(1) Estimates of the average and peak rates of production for each type of production and the life of the reservoir(s) you intend to produce; and

(2) The chemical and physical characteristics of the produced oil (see definition under 30 CFR 254.6) that you will handle or store at the facilities you will use to conduct your proposed development and production activities.

(d) *Chemical products.* A table showing the name and brief description, quantities to be stored, storage method, and rates of usage of the chemical products you will use to conduct your proposed development and production activities. You need list only those chemical products you will store or use in quantities greater than the amounts defined as Reportable Quantities in 40 CFR part 302, or amounts specified by the Regional Supervisor.

(e) *New or unusual technology.* A description and discussion of any new or unusual technology (see definition under § 250.200) you will use to carry out your proposed development and production activities. In the public information copies of your DPP or DOCD, you may exclude any proprietary information from this description. In that case, include a brief discussion of the general subject matter of the omitted information. If you will not use any new or unusual technology to carry out your proposed development and production activities, include a statement so indicating.

(f) *Bonds, oil spill financial responsibility, and well control statements.* Statements attesting that:

(1) The activities and facilities proposed in your DPP or DOCD are or will be covered by an appropriate bond under 30 CFR part 256, subpart I;

(2) You have demonstrated or will demonstrate oil spill financial responsibility for facilities proposed in your DPP or DOCD, according to 30 CFR Part 253; and

(3) You have or will have the financial capability to drill a relief well and conduct other emergency well control operations.

(g) *Suspensions of production or operations.* A brief discussion of any suspensions of production or suspensions of operations that you anticipate may be necessary in the course of conducting your activities under the DPP or DOCD.

(h) *Blowout scenario.* A scenario for a potential blowout of the proposed well in your DPP or DOCD that you expect will have the highest volume of liquid hydrocarbons. Include the estimated flow rate, total volume, and maximum duration of the potential blowout. Also, discuss the potential for the well to bridge over, the likelihood for surface intervention to stop the blowout, the availability of a rig to drill a relief well, and rig package constraints. Estimate the time it would take to drill a relief well.

(i) *Contact.* The name, mailing address, (e-mail address if available), and telephone number of the person with whom the Regional Supervisor and the affected State(s) can communicate about your DPP or DOCD.

#### **§ 250.244 What geological and geophysical (G&G) information must accompany the DPP or DOCD?**

The following G&G information must accompany your DPP or DOCD:

(a) *Geological description.* A geological description of the prospect(s).

(b) *Structure contour maps.* Current structure contour maps (depth-based, expressed in feet subsea) showing depths of expected productive formations and the locations of proposed wells.

(c) *Two dimensional (2-D) or three-dimensional (3-D) seismic lines.* Copies of migrated and annotated 2-D or 3-D seismic lines (with depth scale) intersecting at or near your proposed well locations. You are not required to conduct both 2-D and 3-D seismic surveys if you choose to conduct only one type of survey. If you have conducted both types of surveys, the Regional Supervisor may instruct you to submit the results of both surveys. You

must interpret and display this information. Provide this information as an enclosure to only one proprietary copy of your DPP or DOCD.

(d) *Geological cross-sections.* Interpreted geological cross-sections showing the depths of expected productive formations.

(e) *Shallow hazards report.* A shallow hazards report based on information obtained from a high-resolution geophysical survey, or a reference to such report if you have already submitted it to the Regional Supervisor.

(f) *Shallow hazards assessment.* For each proposed well, an assessment of any seafloor and subsurface geologic and manmade features and conditions that may adversely affect your proposed drilling operations.

(g) *High resolution seismic lines.* A copy of the high-resolution survey line closest to each of your proposed well locations. Because of its volume, provide this information as an enclosure to only one proprietary copy of your DPP or DOCD. You are not required to provide this information if the surface location of your proposed well has been approved in a previously submitted EP, DPP, or DOCD.

(h) *Stratigraphic column.* A generalized biostratigraphic/lithostratigraphic column from the surface to the total depth of each proposed well.

(i) *Time-versus-depth chart.* A seismic travel time-versus-depth chart based on the appropriate velocity analysis in the area of interpretation and specifying the geodetic datum.

(j) *Geochemical information.* A copy of any geochemical reports you used or generated.

(k) *Future G&G activities.* A brief description of the G&G explorations and development G&G activities that you may conduct for lease or unit purposes after your DPP or DOCD is approved.

#### **§ 250.245 What hydrogen sulfide (H<sub>2</sub>S) information must accompany the DPP or DOCD?**

The following H<sub>2</sub>S information, as applicable, must accompany your DPP or DOCD:

(a) *Concentration.* The estimated concentration of any H<sub>2</sub>S you might encounter or handle while you conduct your proposed development and production activities.

(b) *Classification.* Under § 250.490(c), a request that the Regional Supervisor classify the area of your proposed development and production activities as either H<sub>2</sub>S absent, H<sub>2</sub>S present, or H<sub>2</sub>S unknown. Provide sufficient information to justify your request.

(c) *H<sub>2</sub>S Contingency Plan.* If you request that the Regional Supervisor

classify the area of your proposed development and production activities as either H<sub>2</sub>S present or H<sub>2</sub>S unknown, an H<sub>2</sub>S Contingency Plan prepared under § 250.490(f), or a reference to an approved or submitted H<sub>2</sub>S Contingency Plan that covers the proposed development and production activities.

(d) *Modeling report.* (1) If you have determined or estimated that the concentration of any H<sub>2</sub>S you may encounter or handle while you conduct your development and production activities will be greater than 500 parts per million (ppm), you must:

(i) Model a potential worst case H<sub>2</sub>S release from the facilities you will use to conduct your proposed development and production activities; and

(ii) Include a modeling report or modeling results, or a reference to such report or results if you have already submitted it to the Regional Supervisor.

(2) The analysis in the modeling report must be specific to the particular site of your development and production activities, and must consider any nearby human-occupied OCS facilities, shipping lanes, fishery areas, and other points where humans may be subject to potential exposure from an H<sub>2</sub>S release from your proposed activities.

(3) If any H<sub>2</sub>S emissions are projected to affect an onshore location in concentrations greater than 10 ppm, the modeling analysis must be consistent with the EPA's risk management plan methodologies outlined in 40 CFR part 68.

#### **§ 250.246 What mineral resource conservation information must accompany the DPP or DOCD?**

The following mineral resource conservation information, as applicable, must accompany your DPP or DOCD:

(a) *Technology and reservoir engineering practices and procedures.* A description of the technology and reservoir engineering practices and procedures you will use to increase the ultimate recovery of oil and gas (e.g., secondary, tertiary, or other enhanced recovery practices). If you will not use enhanced recovery practices initially, provide an explanation of the methods you considered and the reasons why you are not using them.

(b) *Technology and recovery practices and procedures.* A description of the technology and recovery practices and procedures you will use to ensure optimum recovery of oil and gas or sulphur.

(c) *Reservoir development.* A discussion of exploratory well results, other reservoir data, proposed well

spacing, completion methods, and other relevant well plan information.

**§ 250.247 What biological, physical, and socioeconomic information must accompany the DPP or DOCD?**

If you obtain the following information in developing your DPP or DOCD, or if the Regional Supervisor requires you to obtain it, you must include a report, or the information obtained, or a reference to such a report or information if you have already submitted it to the Regional Supervisor, as accompanying information:

(a) *Biological environment reports.* Site-specific information on chemosynthetic communities, sensitive underwater features, marine sanctuaries, or other areas of biological concern.

(b) *Physical environment reports.* Site-specific meteorological, physical oceanographic, geotechnical reports, or archaeological reports (if required under § 250.194).

(c) *Socioeconomic study reports.* Socioeconomic information related to your proposed development and production activities.

**§ 250.248 What solid and liquid wastes and discharges information and cooling water intake information must accompany the DPP or DOCD?**

The following solid and liquid wastes and discharges information and cooling water intake information must accompany your DPP or DOCD:

(a) *Projected wastes.* A table providing the name, brief description, projected quantity, and composition of solid and liquid wastes (such as spent drilling fluids, drill cuttings, trash, sanitary and domestic wastes, produced waters, and chemical product wastes) likely to be generated by your proposed development and production activities. Describe:

(1) The methods you used for determining this information; and  
(2) Your plans for treating, storing, and downhole disposal of these wastes at your facility location(s).

(b) *Projected ocean discharges.* If any of your solid and liquid wastes will be discharged overboard or are planned discharges from manmade islands:

(1) A table showing the name, projected amount, and rate of discharge for each waste type; and

(2) A description of the discharge method (such as shunting through a downpipe, adding to a produced water stream, etc.) you will use.

(c) *National Pollutant Discharge Elimination System (NPDES) permit.* (1) A discussion of how you will comply with the provisions of the applicable general NPDES permit that covers your

proposed development and production activities; or

(2) A copy of your application for an individual NPDES permit. Briefly describe the major discharges and methods you will use for compliance.

(d) *Modeling report.* A modeling report or the modeling results (if you modeled the discharges of your projected solid or liquid wastes in developing your DPP or DOCD), or a reference to such report or results if you have already submitted it to the Regional Supervisor.

(e) *Projected cooling water intake.* A table for each cooling water intake structure likely to be used by your proposed development and production activities that includes a brief description of the cooling water intake structure, daily water intake rate, water intake through-screen velocity, percentage of water intake used for cooling water, mitigation measures for reducing impingement and entrainment of aquatic organisms, and biofouling prevention measures.

**§ 250.249 What air emissions information must accompany the DPP or DOCD?**

The following air emissions information, as applicable, must accompany your DPP or DOCD:

(a) *Projected emissions.* Tables showing the projected emissions of sulphur dioxide (SO<sub>2</sub>), particulate matter in the form of PM<sub>10</sub> and PM<sub>2.5</sub> when applicable, nitrogen oxides (NO<sub>x</sub>), carbon monoxide (CO), and volatile organic compounds (VOC) that will be generated by your proposed development and production activities.

(1) For each source on or associated with the facility you will use to conduct your proposed development and production activities, you must list:

(i) The projected peak hourly emissions;  
(ii) The total annual emissions in tons per year;

(iii) Emissions over the duration of the proposed development and production activities;

(iv) The frequency and duration of emissions; and

(v) The total of all emissions listed in paragraph (a)(1)(i) through (iv) of this section.

(2) If your proposed production and development activities would result in an increase in the emissions of an air pollutant from your facility to an amount greater than the amount specified in your previously approved DPP or DOCD, you must show the revised emission rates for each source as well as the incremental change for each source.

(3) You must provide the basis for all calculations, including engine size and

rating, and applicable operational information.

(4) You must base the projected emissions on the maximum rated capacity of the equipment and the maximum throughput of the facility you will use to conduct your proposed development and production activities under its physical and operational design.

(5) If the specific drilling unit has not yet been determined, you must use the maximum emission estimates for the type of drilling unit you will use.

(b) *Emission reduction measures.* A description of any proposed emission reduction measures, including the affected source(s), the emission reduction control technologies or procedures, the quantity of reductions to be achieved, and any monitoring system you propose to use to measure emissions.

(c) *Processes, equipment, fuels, and combustibles.* A description of processes, processing equipment, combustion equipment, fuels, and storage units. You must include the frequency, duration, and maximum burn rate of any flaring activity.

(d) *Distance to shore.* Identification of the distance of the site of your proposed development and production activities from the mean high water mark (mean higher high water mark on the Pacific coast) of the adjacent State.

(e) *Non-exempt facilities.* A description of how you will comply with § 250.303 when the projected emissions of SO<sub>2</sub>, PM, NO<sub>x</sub>, CO, or VOC that will be generated by your proposed development and production activities are greater than the respective emission exemption amounts "E" calculated using the formulas in § 250.303(d). When MMS requires air quality modeling, you must use the guidelines in Appendix W of 40 CFR part 51 with a model approved by the Director. Submit the best available meteorological information and data consistent with the model(s) used.

(f) *Modeling report.* A modeling report or the modeling results (if § 250.303 requires you to use an approved air quality model to model projected air emissions in developing your DPP or DOCD), or a reference to such report or results if you have already submitted it to the Regional Supervisor.

**§ 250.250 What oil and hazardous substance spills information must accompany the DPP or DOCD?**

The following information regarding potential spills of oil (see definition under 30 CFR 254.6) and hazardous substances (see definition under 40 CFR

part 116), as applicable, must accompany your DPP or DOCD:

(a) *Oil spill response planning.* The material required under paragraph (a)(1) or (a)(2) of this section:

(1) An Oil Spill Response Plan (OSRP) for the facilities you will use to conduct your proposed development and production activities prepared according to the requirements of 30 CFR part 254, subpart B; or

(2) Reference to your approved regional OSRP (see 30 CFR 254.3) to include:

(i) A discussion of your regional OSRP;

(ii) The location of your primary oil spill equipment base and staging area;

(iii) The name(s) of your oil spill removal organization(s) for both equipment and personnel;

(iv) The calculated volume of your worst case discharge scenario (see 30 CFR 254.26(a)), and a comparison of the appropriate worst case discharge scenario in your approved regional OSRP with the worst case discharge scenario that could result from your proposed development and production activities; and

(v) A description of the worst case oil spill scenario that could result from your proposed development and production activities (see 30 CFR 254.26(b), (c), (d), and (e)).

(b) *Modeling report.* If you model a potential oil or hazardous substance spill in developing your DPP or DOCD, a modeling report or the modeling results, or a reference to such report or results if you have already submitted it to the Regional Supervisor.

**§ 250.251 If I propose activities in the Alaska OCS Region, what planning information must accompany the DPP?**

If you propose development and production activities in the Alaska OCS Region, the following planning information must accompany your DPP:

(a) *Emergency plans.* A description of your emergency plans to respond to a blowout, loss or disablement of a drilling unit, and loss of or damage to support craft; and

(b) *Critical operations and curtailment procedures.* Critical operations and curtailment procedures for your development and production activities. The procedures must identify ice conditions, weather, and other constraints under which the development and production activities will either be curtailed or not proceed.

**§ 250.252 What environmental monitoring information must accompany the DPP or DOCD?**

The following environmental monitoring information, as applicable, must accompany your DPP or DOCD:

(a) *Monitoring systems.* A description of any existing and planned monitoring systems that are measuring, or will measure, environmental conditions or will provide project-specific data or information on the impacts of your development and production activities.

(b) *Flower Garden Banks National Marine Sanctuary (FGBNMS).* If you propose to conduct development and production activities within the protective zones of the FGBNMS, a description of your provisions for monitoring the impacts of an oil spill on the environmentally sensitive resources of the FGBNMS.

**§ 250.253 What lease stipulations information must accompany the DPP or DOCD?**

A description of the measures you took, or will take, to satisfy the conditions of lease stipulations related to your proposed development and production activities must accompany your DPP or DOCD.

**§ 250.254 What mitigation measures information must accompany the DPP or DOCD?**

If you propose to use any measures, beyond those required by the regulations in this part, to minimize or mitigate environmental impacts from your proposed development and production activities, a description of the measures you will use must accompany your DPP or DOCD.

**§ 250.255 What decommissioning information must accompany the DPP or DOCD?**

A brief description of how you intend to decommission your wells, platforms, pipelines, and other facilities, and clear your site(s) must accompany your DPP or DOCD.

**§ 250.256 What related facilities and operations information must accompany the DPP or DOCD?**

The following information regarding facilities and operations directly related to your proposed development and production activities must accompany your DPP or DOCD.

(a) *OCS facilities and operations.* A description and location of any of the following that directly relate to your proposed development and production activities:

- (1) Drilling units;
- (2) Production platforms;

(3) Right-of-way pipelines (including those that transport chemical products and produced water); and

(4) Other facilities and operations located on the OCS (regardless of ownership).

(b) *Transportation system.* A discussion of the transportation system that you will use to transport your production to shore, including:

(1) Routes of any new pipelines;

(2) Information concerning barges and shuttle tankers, including the storage capacity of the transport vessel(s), and the number of transfers that will take place per year;

(3) Information concerning any intermediate storage or processing facilities;

(4) An estimate of the quantities of oil, gas, or sulphur to be transported from your production facilities; and

(5) A description and location of the primary onshore terminal.

**§ 250.257 What information on the support vessels, offshore vehicles, and aircraft you will use must accompany the DPP or DOCD?**

The following information on the support vessels, offshore vehicles, and aircraft you will use must accompany your DPP or DOCD:

(a) *General.* A description of the crew boats, supply boats, anchor handling vessels, tug boats, barges, ice management vessels, other vessels, offshore vehicles, and aircraft you will use to support your development and production activities. The description of vessels and offshore vehicles must estimate the storage capacity of their fuel tanks and the frequency of their visits to the facilities you will use to conduct your proposed development and production activities.

(b) *Air emissions.* A table showing the source, composition, frequency, and duration of the air emissions likely to be generated by the support vessels, offshore vehicles, and aircraft you will use that will operate within 25 miles of the facilities you will use to conduct your proposed development and production activities.

(c) *Drilling fluids and chemical products transportation.* A description of the transportation method and quantities of drilling fluids and chemical products (see § 250.243(b) and (d)) you will transport from the onshore support facilities you will use to the facilities you will use to conduct your proposed development and production activities.

(d) *Solid and liquid wastes transportation.* A description of the transportation method and a brief description of the composition,

quantities, and destination(s) of solid and liquid wastes (see § 250.248(a)) you will transport from the facilities you will use to conduct your proposed development and production activities.

(e) *Vicinity map.* A map showing the location of your proposed development and production activities relative to the shoreline. The map must depict the primary route(s) the support vessels and aircraft will use when traveling between the onshore support facilities you will use and the facilities you will use to conduct your proposed development and production activities.

**§ 250.258 What information on the onshore support facilities you will use must accompany the DPP or DOCD?**

The following information on the onshore support facilities you will use must accompany your DPP or DOCD:

(a) *General.* A description of the onshore facilities you will use to provide supply and service support for your proposed development and production activities (e.g., service bases and mud company docks).

(1) Indicate whether the onshore support facilities are existing, to be constructed, or to be expanded; and

(2) For DPPs only, provide a timetable for acquiring lands (including rights-of-way and easements) and constructing or expanding any of the onshore support facilities.

(b) *Air emissions.* A description of the source, composition, frequency, and duration of the air emissions (attributable to your proposed development and production activities) likely to be generated by the onshore support facilities you will use.

(c) *Unusual solid and liquid wastes.* A description of the quantity, composition, and method of disposal of any unusual solid and liquid wastes (attributable to your proposed development and production activities) likely to be generated by the onshore support facilities you will use. Unusual wastes are those wastes not specifically addressed in the relevant National Pollution Discharge Elimination System (NPDES) permit.

(d) *Waste disposal.* A description of the onshore facilities you will use to store and dispose of solid and liquid wastes generated by your proposed development and production activities (see § 250.248(a)) and the types and quantities of such wastes.

**§ 250.259 What sulphur operations information must accompany the DPP or DOCD?**

If you are proposing to conduct sulphur development and production activities, the following information must accompany your DPP or DOCD:

(a) *Bleedwater.* A discussion of the bleedwater that will be generated by your proposed sulphur activities, including the measures you will take to mitigate the potential toxic or thermal impacts on the environment caused by the discharge of bleedwater.

(b) *Subsidence.* An estimate of the degree of subsidence expected at various stages of your sulphur development and production activities, and a description of the measures you will take to mitigate the effects of subsidence on existing or potential oil and gas production, production platforms, and production facilities, and to protect the environment.

**§ 250.260 What Coastal Zone Management Act (CZMA) information must accompany the DPP or DOCD?**

The following CZMA information must accompany your DPP or DOCD:

(a) *Consistency certification.* A copy of your consistency certification under section 307(c)(3)(B) of the CZMA (16 U.S.C. 1456(c)(3)(B)) and 15 CFR 930.76(d) stating that the proposed development and production activities described in detail in this DPP or DOCD comply with (name of State(s)) approved coastal management program(s) and will be conducted in a manner that is consistent with such program(s); and

(b) *Other information.* "Information" as required by 15 CFR 930.76(a) and 15 CFR 930.58(a)(2)) and "Analysis" as required by 15 CFR 930.58(a)(3).

**§ 250.261 What environmental impact analysis (EIA) information must accompany the DPP or DOCD?**

The following EIA information must accompany your DPP or DOCD:

(a) *General requirements.* Your EIA must:

(1) Assess the potential environmental impacts of your proposed development and production activities;

(2) Be project specific; and

(3) Be as detailed as necessary to assist the Regional Supervisor in complying with the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) and other relevant Federal laws.

(b) *Resources, conditions, and activities.* Your EIA must describe those resources, conditions, and activities listed below that could be affected by your proposed development and production activities, or that could affect the construction and operation of facilities or structures or the activities proposed in your DPP or DOCD.

(1) Meteorology, oceanography, geology, and shallow geological or manmade hazards;

(2) Air and water quality;

(3) Benthic communities, marine mammals, sea turtles, coastal and marine birds, fish and shellfish, and plant life;

(4) Threatened or endangered species and their critical habitat;

(5) Sensitive biological resources or habitats such as essential fish habitat, refuges, preserves, special management areas identified in coastal management programs, sanctuaries, rookeries, and calving grounds;

(6) Archaeological resources;

(7) Socioeconomic resources (including the approximate number, timing, and duration of employment of persons engaged in onshore support and construction activities), population (including the approximate number of people and families added to local onshore areas), existing offshore and onshore infrastructure (including major sources of supplies, services, energy, and water), types of contractors or vendors that may place a demand on local goods and services, land use, subsistence resources and harvest practices, recreation, recreational and commercial fishing (including seasons, location, and type), minority and lower income groups, and CZMA programs;

(8) Coastal and marine uses such as military activities, shipping, and mineral exploration or development; and

(9) Other resources, conditions, and activities identified by the Regional Supervisor.

(c) *Environmental impacts.* Your EIA must:

(1) Analyze the potential direct and indirect impacts (including those from accidents and cooling water intake structures) that your proposed development and production activities will have on the identified resources, conditions, and activities;

(2) Describe the type, severity, and duration of these potential impacts and their biological, physical, and other consequences and implications;

(3) Describe potential measures to minimize or mitigate these potential impacts;

(4) Describe any alternatives to your proposed development and production activities that you considered while developing your DPP or DOCD, and compare the potential environmental impacts; and

(5) Summarize the information you incorporate by reference.

(d) *Consultation.* Your EIA must include a list of agencies and persons with whom you consulted, or with whom you will be consulting, regarding potential impacts associated with your



proposed development and production activities.

(e) *References cited.* Your EIA must include a list of the references that you cite in the EIA.

**§ 250.262 What administrative information must accompany the DPP or DOCD?**

The following administrative information must accompany your DPP or DOCD:

(a) *Exempted information description (public information copies only).* A description of the general subject matter of the proprietary information that is included in the proprietary copies of your DPP or DOCD or its accompanying information.

(b) *Bibliography.* (1) If you reference a previously submitted EP, DPP, DOCD, study report, survey report, or other material in your DPP or DOCD or its accompanying information, a list of the referenced material; and

(2) The location(s) where the Regional Supervisor can inspect the cited referenced material if you have not submitted it.

**Review and Decision Process for the DPP or DOCD**

**§ 250.266 After receiving the DPP or DOCD, what will MMS do?**

(a) *Determine whether deemed submitted.* Within 25 working days after receiving your proposed DPP or DOCD and its accompanying information, the Regional Supervisor will deem your DPP or DOCD submitted if:

(1) The submitted information, including the information that must accompany the DPP or DOCD (refer to the list in § 250.242), fulfills requirements and is sufficiently accurate;

(2) You have provided all needed additional information (see § 250.201(b)); and

(3) You have provided the required number of copies (see § 250.206(a)).

(b) *Identify problems and deficiencies.* If the Regional Supervisor determines that you have not met one or more of the conditions in paragraph (a) of this section, the Regional Supervisor will notify you of the problem or deficiency within 25 working days after the Regional Supervisor receives your DPP or DOCD and its accompanying information. The Regional Supervisor will not deem your DPP or DOCD submitted until you have corrected all problems or deficiencies identified in the notice.

(c) *Deemed submitted notification.* The Regional Supervisor will notify you when your DPP or DOCD is deemed submitted.

**§ 250.267 What actions will MMS take after the DPP or DOCD is deemed submitted?**

(a) *State, local government, CZMA consistency, and other reviews.* Within 2 working days after the Regional Supervisor deems your DPP or DOCD submitted under § 250.266, the Regional Supervisor will use receipted mail or alternative method to send a public information copy of the DPP or DOCD and its accompanying information to the following:

(1) *The Governor of each affected State.* The Governor has 60 calendar days after receiving your deemed-submitted DPP or DOCD to submit comments and recommendations. The Regional Supervisor will not consider comments and recommendations received after the deadline.

(2) *The executive of any affected local government who requests a copy.* The executive of any affected local government has 60 calendar days after receipt of your deemed-submitted DPP or DOCD to submit comments and recommendations. The Regional Supervisor will not consider comments and recommendations received after the deadline. The executive of any affected local government must forward all comments and recommendations to the respective Governor before submitting them to the Regional Supervisor.

(3) *The CZMA agency of each affected State.* The CZMA consistency review period under section 307(c)(3)(B)(ii) of the CZMA (16 U.S.C.1456(c)(3)(B)(ii)) and 15 CFR 930.78 begins when the States CZMA agency receives a copy of your deemed-submitted DPP or DOCD, consistency certification, and required necessary data/information (see 15 CFR 930.77(a)(1)).

(b) *General public.* Within 2 working days after the Regional Supervisor deems your DPP or DOCD submitted under § 250.266, the Regional Supervisor will make a public information copy of the DPP or DOCD and its accompanying information available for review to any appropriate interstate regional entity and the public at the appropriate MMS Regional Public Information Office. Any interested Federal agency or person may submit comments and recommendations to the Regional Supervisor. Comments and recommendations must be received by the Regional Supervisor within 60 calendar days after the DPP or DOCD including its accompanying information is made available.

(c) *MMS compliance review.* The Regional Supervisor will review the development and production activities in your proposed DPP or DOCD to ensure that they conform to the performance standards in § 250.202.

(d) *Amendments.* During the review of your proposed DPP or DOCD, the Regional Supervisor may require you, or you may elect, to change your DPP or DOCD. If you elect to amend your DPP or DOCD, the Regional Supervisor may determine that your DPP or DOCD, as amended, is subject to the requirements of § 250.266.

**§ 250.268 How does MMS respond to recommendations?**

(a) *Governor.* The Regional Supervisor will accept those recommendations from the Governor that provide a reasonable balance between the national interest and the well-being of the citizens of each affected State. The Regional Supervisor will explain in writing to the Governor the reasons for rejecting any of his or her recommendations.

(b) *Local governments and the public.* The Regional Supervisor may accept recommendations from the executive of any affected local government or the public.

(c) *Availability.* The Regional Supervisor will make all comments and recommendations available to the public upon request.

**§ 250.269 How will MMS evaluate the environmental impacts of the DPP or DOCD?**

The Regional Supervisor will evaluate the environmental impacts of the activities described in your proposed DPP or DOCD and prepare environmental documentation under the National Environmental Policy Act (NEPA) (42 U.S.C.4321 *et seq.*) and the implementing regulations (40 CFR parts 1500 through 1508).

(a) *Environmental impact statement (EIS) declaration.* At least once in each OCS planning area (other than the Western and Central GOM Planning Areas), the Director will declare that the approval of a proposed DPP is a major Federal action, and MMS will prepare an EIS.

(b) *Leases or units in the vicinity.* Before or immediately after the Director determines that preparation of an EIS is required, the Regional Supervisor may require lessees and operators of leases or units in the vicinity of the proposed development and production activities for which DPPs have not been approved to submit information about preliminary plans for their leases or units.

(c) *Draft EIS.* The Regional Supervisor will send copies of the draft EIS to the Governor of each affected State and to the executive of each affected local government who requests a copy. Additionally, when MMS prepares a DPP EIS, and the Federally-approved

CZMA program for an affected State requires a DPP NEPA document for use in determining consistency, the Regional Supervisor will forward a copy of the draft EIS to the State's CZMA agency. The Regional Supervisor will also make copies of the draft EIS available to any appropriate Federal agency, interstate regional entity, and the public.

**§ 250.270 What decisions will MMS make on the DPP or DOCD and within what timeframe?**

(a) *Timeframe.* The Regional Supervisor will act on your deemed-submitted DPP or DOCD as follows:

(1) The Regional Supervisor will make a decision within 60 calendar days after the latest of the day that:

- (i) The comment period provided in § 267(a)(1), (a)(2), and (b) closes;
- (ii) The final EIS for a DPP is released or adopted; or
- (iii) The last amendment to your proposed DOCD is received by the Regional Supervisor.

(2) Notwithstanding paragraph (a)(1) of this section, MMS will not approve your DPP or DOCD until either:

- (i) All affected States with approved CZMA programs concur, or have been conclusively presumed to concur, with

your DPP or DOCD consistency certification under section 307(c)(3)(B)(i) and (ii) of the CZMA (16 U.S.C. 1456(c)(3)(B)(i) and (ii)); or

(ii) The Secretary of Commerce has made a finding authorized by section 307(c)(3)(B)(iii) of the CZMA (16 U.S.C. 1456(c)(3)(B)(iii)) that each activity described in the DPP or DOCD is consistent with the objectives of the CZMA, or is otherwise necessary in the interest of national security.

(b) *MMS decision.* By the deadline in paragraph (a) of this section, the Regional Supervisor will take one of the following actions:

The regional supervisor will . . .	If . . .	And then . . .
(1) Approve your DPP or DOCD.	It complies with all applicable requirements .....	The Regional Supervisor will notify you in writing of the decision and may require you to meet certain conditions, including those to provide monitoring information.
(2) Require you to modify your proposed DPP or DOCD.	It fails to make adequate provisions for safety, environmental protection, or conservation of natural resources or otherwise does not comply with the lease, the Act, the regulations prescribed under the Act, or other Federal laws.	The Regional Supervisor will notify you in writing of the decision and describe the modifications you must make to your proposed DPP or DOCD to ensure it complies with all applicable requirements.
(3) Disapprove your DPP or DOCD.	Any of the reasons in § 250.271 apply .....	(i) The Regional Supervisor will notify you in writing of the decision and describe the reason(s) for disapproving your DPP or DOCD; and (ii) MMS may cancel your lease and compensate you under 43 U.S.C. 1351(h)(2)(C) and the implementing regulations in §§ 250.183, 250.184, and 250.185 and 30 CFR 256.77.

**§ 250.271 For what reasons will MMS disapprove the DPP or DOCD?**

The Regional Supervisor will disapprove your proposed DPP or DOCD if one of the four reasons in this section applies:

(a) *Non-compliance.* The Regional Supervisor determines that you have failed to demonstrate that you can comply with the requirements of the Outer Continental Shelf Lands Act, as amended (Act), implementing regulations, or other applicable Federal laws.

(b) *No consistency concurrence.* (1) An affected State has not yet issued a final decision on your coastal zone consistency certification (see 15 CFR 930.78(a)); or

(2) An affected State objects to your coastal zone consistency certification, and the Secretary of Commerce, under section 307(c)(3)(B)(iii) of the CZMA (16 U.S.C. 1456(c)(3)(B)(iii)), has not found that each activity described in the DPP or DOCD is consistent with the objectives of the CZMA or is otherwise necessary in the interest of national security.

(3) If the Regional Supervisor disapproved your DPP or DOCD for the sole reason that an affected State either

has not yet issued a final decision on, or has objected to, your coastal zone consistency certification (see paragraphs (b)(1) and (2) in this section), the Regional Supervisor will approve your DPP or DOCD upon receipt of concurrence by the affected State, at the time concurrence of the affected State is conclusively presumed, or when the Secretary of Commerce makes a finding authorized by section 307(c)(3)(B)(iii) of the CZMA (16 U.S.C. 1456(c)(3)(B)(iii)) that each activity described in your DPP or DOCD is consistent with the objectives of the CZMA, or is otherwise necessary in the interest of national security. In that event, you do not need to resubmit your DPP or DOCD for approval under § 250.273(b).

(c) *National security or defense conflicts.* Your proposed activities would threaten national security or defense.

(d) *Exceptional circumstances.* The Regional Supervisor determines because of exceptional geological conditions, exceptional resource values in the marine or coastal environment, or other exceptional circumstances that all of the following apply:

(1) Implementing your DPP or DOCD would cause serious harm or damage to

life (including fish and other aquatic life), property, any mineral deposits (in areas leased or not leased), the national security or defense, or the marine, coastal, or human environment;

(2) The threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time; and

(3) The advantages of disapproving your DPP or DOCD outweigh the advantages of development and production.

**§ 250.272 If a State objects to the DPP's or DOCD's coastal zone consistency certification, what can I do?**

If an affected State objects to the coastal zone consistency certification accompanying your proposed or disapproved DPP or DOCD, you may do one of the following:

(a) *Amend or resubmit your DPP or DOCD.* Amend or resubmit your DPP or DOCD to accommodate the State's objection and submit the amendment or resubmittal to the Regional Supervisor for approval. The amendment or resubmittal needs to only address information related to the State's objections.

(b) *Appeal.* Appeal the State's objection to the Secretary of Commerce using the procedures in 15 CFR part 930, subpart H. The Secretary of Commerce will either:

(1) Grant your appeal by finding under section 307(c)(3)(B)(iii) of the CZMA (16 U.S.C.1456(c)(3)(B)(iii)) that each activity described in detail in your DPP or DOCD is consistent with the objectives of the CZMA, or is otherwise necessary in the interest of national security; or

(2) Deny your appeal, in which case you may amend or resubmit your DPP or DOCD, as described in paragraph (a) of this section.

(c) *Withdraw your DPP or DOCD.* Withdraw your DPP or DOCD if you decide not to conduct your proposed development and production activities.

**§ 250.273 How do I submit a modified DPP or DOCD or resubmit a disapproved DPP or DOCD?**

(a) *Modified DPP or DOCD.* If the Regional Supervisor requires you to modify your proposed DPP or DOCD under § 250.270(b)(2), you must submit the modification(s) to the Regional Supervisor in the same manner as for a new DPP or DOCD. You need submit only information related to the proposed modification(s).

(b) *Resubmitted DPP or DOCD.* If the Regional Supervisor disapproves your DPP or DOCD under § 250.270(b)(3), and except as provided in § 250.271(b)(3), you may resubmit the disapproved DPP or DOCD if there is a change in the conditions that were the basis of its disapproval.

(c) *MMS review and timeframe.* The Regional Supervisor will use the performance standards in § 250.202 to either approve, require you to further modify, or disapprove your modified or resubmitted DPP or DOCD. The Regional Supervisor will make a decision within 60 calendar days after the Regional Supervisor deems your modified or resubmitted DPP or DOCD to be submitted, or receives the last amendment to your modified or resubmitted DPP or DOCD, whichever occurs later.

**Post-Approval Requirements for the EP, DPP, and DOCD**

**§ 250.280 How must I conduct activities under the approved EP, DPP, or DOCD?**

(a) *Compliance.* You must conduct all of your lease and unit activities according to your approved EP, DPP, or DOCD and any approval conditions. If you fail to comply with your approved EP, DPP, or DOCD:

(1) You may be subject to MMS enforcement action, including civil penalties; and

(2) The lease(s) involved in your EP, DPP, or DOCD may be forfeited or cancelled under 43 U.S.C. 1334(c) or (d). If this happens, you will not be entitled to compensation under § 250.185(b) and 30 CFR 256.77.

(b) *Emergencies.* Nothing in this subpart or in your approved EP, DPP, or DOCD relieves you of, or limits your responsibility to take appropriate measures to meet emergency situations. In an emergency situation, the Regional Supervisor may approve or require departures from your approved EP, DPP, or DOCD.

**§ 250.281 What must I do to conduct activities under the approved EP, DPP, or DOCD?**

(a) *Approvals and permits.* Before you conduct activities under your approved EP, DPP, or DOCD you must obtain the following approvals and or permits, as applicable, from the District Manager or Regional Supervisor:

(1) Approval of applications for permits to drill (APDs) (see § 250.410);

(2) Approval of production safety systems (see § 250.800);

(3) Approval of new platforms and other structures (or major modifications to platforms and other structures) (see § 250.901);

(4) Approval of applications to install lease term pipelines (see § 250.1007); and

(5) Other permits, as required by applicable law.

(b) *Conformance.* The activities proposed in these applications and permits must conform to the activities described in detail in your approved EP, DPP, or DOCD.

(c) *Separate State CZMA consistency review.* APDs, and other applications for licenses, approvals, or permits to conduct activities under your approved EP, DPP, or DOCD including those identified in paragraph (a) of this section, are not subject to separate State CZMA consistency review.

(d) *Approval restrictions for permits for activities conducted under EPs.* The District Manager or Regional Supervisor will not approve any APDs or other applications for licenses, approvals, or permits under your approved EP until either:

(1) All affected States with approved coastal zone management programs concur, or are conclusively presumed to concur, with the coastal zone consistency certification accompanying your EP under section 307(c)(3)(B)(i) and (ii) of the CZMA (16 U.S.C. 1456(c)(3)(B)(i) and (ii)); or

(2) The Secretary of Commerce finds, under section 307(c)(3)(B)(iii) of the CZMA (16 U.S.C.1456(c)(3)(B)(iii)) that each activity covered by the EP is consistent with the objectives of the CZMA or is otherwise necessary in the interest of national security;

(3) If an affected State objects to the coastal zone consistency certification accompanying your approved EP after MMS has approved your EP, you may either:

(i) Revise your EP to accommodate the State's objection and submit the revision to the Regional Supervisor for approval; or

(ii) Appeal the State's objection to the Secretary of Commerce using the procedures in 15 CFR part 930 subpart H. The Secretary of Commerce will either:

(A) Grant your appeal by making the finding described in paragraph (d)(2) of this section; or

(B) Deny your appeal, in which case you may revise your EP as described in paragraph (d)(3)(i) of this section.

**§ 250.282 Do I have to conduct post-approval monitoring?**

After approving your EP, DPP, or DOCD the Regional Supervisor may direct you to conduct monitoring programs. You must retain copies of all monitoring data obtained or derived from your monitoring programs and make them available to MMS upon request. The timeframe for retention of all monitoring data will be stipulated in the approval letter. The Regional Supervisor may require you to:

(a) *Monitoring plans.* Submit monitoring plans for approval before you begin the work; and

(b) *Monitoring reports.* Prepare and submit reports that summarize and analyze data and information obtained or derived from your monitoring programs. The Regional Supervisor will specify requirements for preparing and submitting these reports.

**§ 250.283 When must I revise or supplement the approved EP, DPP, or DOCD?**

(a) *Revised OCS plans.* You must revise your approved EP, DPP, or DOCD when you propose to:

(1) Change the type of drilling rig (e.g., jack-up, platform rig, barge, submersible, semisubmersible, or drillship), production facility (e.g., caisson, fixed platform with piles, tension leg platform), or transportation mode (e.g., pipeline, barge);

(2) Change the surface location of a well or production platform by a distance more than that specified by the Regional Supervisor;

(3) Change the type of production or significantly increase the volume of production or storage capacity;

(4) Increase the emissions of an air pollutant to an amount that exceeds the amount specified in your approved EP, DPP, or DOCD;

(5) Significantly increase the amount of solid or liquid wastes to be handled or discharged;

(6) Request a new H<sub>2</sub>S area classification, or increase the concentration of H<sub>2</sub>S to a concentration greater than that specified by the Regional Supervisor;

(7) Change the location of your onshore support base either from one State to another or to a new base or a base requiring expansion; or

(8) Change any other activity specified by the Regional Supervisor.

(b) *Supplemental OCS plans.* You must supplement your approved EP, DPP, or DOCD when you propose to conduct activities on your lease(s) or unit that require approval of a license or permit which is not described in your approved EP, DPP, or DOCD. These types of changes are called supplemental OCS plans.

**§ 250.284 How will MMS require revisions to the approved EP, DPP, or DOCD?**

(a) *Periodic review.* The Regional Supervisor will periodically review the activities you conduct under your approved EP, DPP, or DOCD and may require you to submit updated information on your activities. The frequency and extent of this review will be based on the significance of any changes in available information and onshore or offshore conditions affecting, or affected by, the activities in your approved EP, DPP, or DOCD.

(b) *Results of review.* The Regional Supervisor may require you to revise your approved EP, DPP, or DOCD based on this review. In such cases, the Regional Supervisor will inform you of the reasons for the decision.

**§ 250.285 How do I submit revised and supplemental EPs, DPPs, and DOCDs?**

(a) *Submittal.* You must submit to the Regional Supervisor any revisions and supplements to approved EPs, DPPs, or DOCDs for approval, whether you initiate them or the Regional Supervisor orders them.

(b) *Information.* Revised and supplemental EPs, DPPs, and DOCDs need include only information related to or affected by the proposed changes, including information on changes in expected environmental impacts.

(c) *Procedures.* All supplemental EPs, DPPs, and DOCDs, and those revised EPs, DPPs, and DOCDs that the Regional

Supervisor determines are likely to result in a significant change in the impacts previously identified and evaluated, are subject to all of the procedures under § 250.231 through § 250.235 for EPs and § 250.266 through § 250.274 for DPPs and DOCDs.

**Deepwater Operations Plans (DWOP)**

**§ 250.286 What is a DWOP?**

(a) A DWOP is a plan that provides sufficient information for MMS to review a deepwater development project, and any other project that uses non-conventional production or completion technology, from a total system approach. The DWOP does not replace, but supplements other submittals required by the regulations such as Exploration Plans, Development and Production Plans, and Development Operations Coordination Documents. MMS will use the information in your DWOP to determine whether the project will be developed in an acceptable manner, particularly with respect to operational safety and environmental protection issues involved with non-conventional production or completion technology.

(b) The DWOP process consists of two parts: a Conceptual Plan and the DWOP. Section 250.289 prescribes what the Conceptual Plan must contain, and § 250.292 prescribes what the DWOP must contain.

**§ 250.287 For what development projects must I submit a DWOP?**

You must submit a DWOP for each development project in which you will use non-conventional production or completion technology, regardless of water depth. If you are unsure whether MMS considers the technology of your project non-conventional, you must contact the Regional Supervisor for guidance.

**§ 250.288 When and how must I submit the Conceptual Plan?**

You must submit four copies, or one hard copy and one electronic version, of the Conceptual Plan to the Regional Director after you have decided on the general concept(s) for development and before you begin engineering design of the well safety control system or subsea production systems to be used after well completion.

**§ 250.289 What must the Conceptual Plan contain?**

In the Conceptual Plan, you must explain the general design basis and philosophy that you will use to develop the field. You must include the following information:

(a) An overview of the development concept(s);

(b) A well location plat;

(c) The system control type (*i.e.*, direct hydraulic or electro-hydraulic); and

(d) The distance from each of the wells to the host platform.

**§ 250.290 What operations require approval of the Conceptual Plan?**

You may not complete any production well or install the subsea wellhead and well safety control system (often called the tree) before MMS has approved the Conceptual Plan.

**§ 250.291 When and how must I submit the DWOP?**

You must submit four copies, or one hard copy and one electronic version, of the DWOP to the Regional Director after you have substantially completed safety system design and before you begin to procure or fabricate the safety and operational systems (other than the tree), production platforms, pipelines, or other parts of the production system.

**§ 250.292 What must the DWOP contain?**

You must include the following information in your DWOP:

(a) A description and schematic of the typical wellbore, casing, and completion;

(b) Structural design, fabrication, and installation information for each surface system, including host facilities;

(c) Design, fabrication, and installation information on the mooring systems for each surface system;

(d) Information on any active stationkeeping system(s) involving thrusters or other means of propulsion used with a surface system;

(e) Information concerning the drilling and completion systems;

(f) Design and fabrication information for each riser system (*e.g.*, drilling, workover, production, and injection);

(g) Pipeline information;

(h) Information about the design, fabrication, and operation of an offtake system for transferring produced hydrocarbons to a transport vessel;

(i) Information about subsea wells and associated systems that constitute all or part of a single project development covered by the DWOP;

(j) Flow schematics and Safety Analysis Function Evaluation (SAFE) charts (API RP 14C, subsection 4.3c, incorporated by reference in § 250.198) of the production system from the Surface Controlled Subsurface Safety Valve (SCSSV) downstream to the first item of separation equipment;

(k) A description of the surface/subsea safety system and emergency support

systems to include a table that depicts what valves will close, at what times, and for what events or reasons;

(l) A general description of the operating procedures, including a table summarizing the curtailment of production and offloading based on operational considerations;

(m) A description of the facility installation and commissioning procedure;

(n) A discussion of any new technology that affects hydrocarbon recovery systems; and

(o) A list of any alternate compliance procedures or departures for which you anticipate requesting approval.

#### **§ 250.293 What operations require approval of the DWOP?**

You may not begin production until MMS approves your DWOP.

#### **§ 250.294 May I combine the Conceptual Plan and the DWOP?**

If your development project meets the following criteria, you may submit a combined Conceptual Plan/DWOP on or before the deadline for submitting the Conceptual Plan.

(a) The project is located in water depths of less than 400 meters (1,312 feet); and

(b) The project is similar to projects involving non-conventional production or completion technology for which you have obtained approval previously.

#### **§ 250.295 When must I revise my DWOP?**

You must revise either the Conceptual Plan or your DWOP to reflect changes in your development project that materially alter the facilities, equipment, and systems described in your plan. You must submit the revision within 60 days after any material change to the information required for that part of your plan.

#### **Conservation Information Documents (CID)**

#### **§ 250.296 When and how must I submit a CID or a revision to a CID?**

(a) You must submit one original and two copies of a CID to the appropriate OCS Region at the same time you first submit your DOCD or DPP for any development of a lease or leases located in water depths greater than 400 meters (1,312 feet). You must also submit a CID for a Supplemental DOCD or DPP when requested by the Regional Supervisor.

(b) If you decide not to develop a reservoir you committed to develop in your CID, you must submit one original and two copies of a revision to the CID to the appropriate OCS Region. The revision to the CID must be submitted within 14 calendar days after making

your decision not to develop the reservoir and before the reservoir is bypassed. The Regional Supervisor will approve or disapprove any such revision to the original CID. If the Regional Supervisor disapproves the revision, you must develop the reservoir as described in the original CID.

#### **§ 250.297 What information must a CID contain?**

(a) You must base the CID on wells drilled before your CID submittal, that define the extent of the reservoirs. You must notify MMS of any well that is drilled to total depth during the CID evaluation period and you may be required to update your CID.

(b) You must include all of the following information if available. Information must be provided for each hydrocarbon-bearing reservoir that is penetrated by a well that would meet the producibility requirements of § 250.115 or § 250.116:

(1) General discussion of the overall development of the reservoir;

(2) Summary spreadsheets of well log data and reservoir parameters (*i.e.*, sand tops and bases, fluid contacts, net pay, porosity, water saturations, pressures, formation volume factor);

(3) Appropriate well logs, including digital well log (*i.e.*, gamma ray, resistivity, neutron, density, sonic, caliper curves) curves in an acceptable digital format;

(4) Sidewall core/whole core and pressure-volume-temperature analysis;

(5) Structure maps, with the existing and proposed penetration points and subsea depths for all wells penetrating the reservoirs, fluid contacts (or the lowest or highest known levels in the absence of actual contacts), reservoir boundaries, and the scale of the map;

(6) Interpreted structural cross sections and corresponding interpreted seismic lines or block diagrams, as necessary, that include all current wellbores and planned wellbores on the leases or units to be developed, the reservoir boundaries, fluid contacts, depth scale, stratigraphic positions, and relative biostratigraphic ages;

(7) Isopach maps of each reservoir showing the net feet of pay for each well within the reservoir identified at the penetration point, along with the well name, labeled contours, and scale;

(8) Estimates of original oil and gas in-place and anticipated recoverable oil and gas reserves, all reservoir parameters, and risk factors and assumptions;

(9) Plat map at the same scale as the structure maps with existing and proposed well paths, as well as existing and proposed penetrations;

(10) Wellbore schematics indicating proposed perforations;

(11) Proposed wellbore utility chart showing all existing and proposed wells, with proposed completion intervals indicated for each borehole;

(12) Appropriate pressure data, specified by date, and whether estimated or measured;

(13) Description of reservoir development strategies;

(14) Description of the enhanced recovery practices you will use or, if you do not plan to use such practices, an explanation of the methods you considered and reasons you do not intend to use them;

(15) For each reservoir you do not intend to develop:

(i) A statement explaining the reason(s) you will not develop the reservoir, and

(ii) Economic justification, including costs, recoverable reserve estimate, production profiles, and pricing assumptions; and

(16) Any other appropriate data you used in performing your reservoir evaluations and preparing your reservoir development strategies.

#### **§ 250.298 How long will MMS take to evaluate and make a decision on the CID?**

(a) The Regional Supervisor will make a decision within 150 calendar days of receiving your CID. If MMS does not act within 150 calendar days, your CID is considered approved.

(b) MMS may suspend the 150-calendar-day evaluation period if there is missing, inconclusive, or inaccurate data, or when a well reaches total depth during the evaluation period. MMS may also suspend the evaluation period when a well penetrating a hydrocarbon-bearing structure reaches total depth during the evaluation period and the data from that well is needed for the CID. You will receive written notification from the Regional Supervisor describing the additional information that is needed, and the evaluation period will resume once MMS receives the requested information.

(c) The Regional Supervisor will approve or deny your CID request based on your commitment to develop economically producible reservoirs according to sound conservation, engineering, and economic practices.

#### **§ 250.299 What operations require approval of the CID?**

You may not begin production before you receive MMS approval of the CID.

#### **§ 250.303 [Amended]**

■ 6. Section 250.303 is amended as follows:

■ a. In paragraph (b)(2), the citation “250.203(b)(19)” is revised to read “250.218”.

■ b. In paragraph (b)(2), the citation “250.204(b)(12)” is revised to read “250.249”.

■ c. In paragraph (d), the citation “250.204(b)(12)(i)(A)” is revised to read “250.218(a)”.

■ d. In paragraph (d), the citation “250.203(b)(19)(i)(A)” is revised to read “250.249(a)”.

**§ 250.304 [Amended]**

■ 7. Section 250.304 is amended as follows:

■ a. In paragraph (a)(6), the citation “250.203(b)(19)” is revised to read “250.218”.

■ b. In paragraph (a)(6), the citation “250.204(b)(12)” is revised to read “250.249”.

■ c. In paragraph (b), the citation “250.203(b)(19)(i)(A)” is revised to read “250.218(a)”.

■ d. In paragraph (b), the citation “250.204(b)(12)(i)(A)” is revised to read “250.249(a)”.

**§ 250.1605 [Amended]**

■ 8. Section 250.1605 is amended as follows:

■ a. In paragraph (d), the citation “250.203” is revised to read “250.211 through 250.228”.

■ b. In paragraph (d), the citation “250.204” is revised to read “250.241 through 250.262”.

**PART 282—OPERATIONS IN THE OUTER CONTINENTAL SHELF FOR MINERALS OTHER THAN OIL, GAS, AND SULPHUR**

■ 9. The authority citation for Part 282 continues to read as follows:

*Authority:* 43 U.S.C. 1331 *et seq.*

**§ 282.28 [Amended]**

■ 10. Section 282.28 is amended as follows:

■ a. In paragraph (a), the citation “250.203(b)(19)” is revised to read “250.218”.

■ b. In paragraph (a), the citation “250.204(b)(12)” is revised to read “250.249”.

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