

# Proposed Rules

Federal Register

Vol. 70, No. 57

Friday, March 25, 2005

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF THE INTERIOR

### Minerals Management Service

#### 30 CFR Part 250

#### RIN 1010-AD23

### Recovery of Costs Related to the Regulation of Oil and Gas Activities on the Outer Continental Shelf

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

**ACTION:** Advance Notice of Proposed Rulemaking (ANPR).

**SUMMARY:** MMS is proposing to develop regulations which impose new fees to cover MMS's costs of processing certain applications and permits. The purpose of this proposed rulemaking would be to charge those who benefit from the processing of applications and permits, rather than the general public. This document solicits recommendations and comments on the proposal to charge fees.

**DATES:** MMS will consider all comments received by April 25, 2005. MMS will begin reviewing comments and may not fully consider comments received after April 25, 2005.

**ADDRESSES:** You may submit comments on the rulemaking by any of the following methods listed below. Please use 1010-AD23 as the Regulation Identifier Number in your message. See also Public Comment Procedures under Procedural Matters.

- MMS's Public Connect on-line commenting system, <https://occonnect.mms.gov>. Follow the instructions on the website for submitting comments.
- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions on the Web site for submitting comments.
- E-mail MMS at [rules.comments@mms.gov](mailto:rules.comments@mms.gov). Use the Regulation Identifier Number (RIN) in the subject line.
- Fax: (703) 787-1093. Identify with RIN.

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 "Recovery of Costs Related to the Regulation of Oil and Gas Activities on the Outer Continental Shelf—AD23" in your comments.

**FOR FURTHER INFORMATION CONTACT:** Martin Heinze, Program Analyst at (703) 787-1010.

**SUPPLEMENTARY INFORMATION:** *Public Comment Procedure:* All submissions received must include the agency name and RIN for this rulemaking. MMS' practice is to make comments, including names and addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their address from the record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. Except for proprietary information, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

*Regulatory Background:* Federal agencies are generally authorized to recover the costs of providing services to non-federal entities through the provisions of the Independent Offices Appropriations Act of 1952 (IOAA), 31 U.S.C. 9701. The governing language concerning cost recovery can be found in Office of Management and Budget (OMB) Circular No. A-25 which states in part, "The provisions of this Circular cover all federal activities that convey benefits to recipients beyond those accruing to the general public. When a service (or privilege) provides special benefits to an identifiable recipient, beyond those that accrue to the general public, a charge will be imposed to recover the full costs to the Federal Government for providing this specific benefit, or the market price. The general policy is that user charges will be

instituted through the promulgation of regulations."

*Regulatory Objectives:* This ANPR solicits comments, recommendations, and specific remarks on a proposal to initiate a program of collecting fees for reviewing certain plans and permit applications. MMS will carefully evaluate all timely received responses as we develop a rule. MMS is considering regulations requiring operators to pay MMS fees for the review of the following:

- Exploration Plans (§ 250.203).
- Development and Production Plans (§ 250.204).
- Deep Water Operations Plans (Gulf Of Mexico (GOM) Notice To Lessees No. 2000-N06).
- Applications for Permit to Drill (APD; form MMS-123).
- Application for Permit to Modify (APM; form MMS-124).
- Application to Remove a Platform (Required by § 250.1727).
- Platform Approvals (Required by § 250.901 for the installation or modification of a platform).
- Conservation Information Documents (GOM Notice To Lessees No. 2000-N05).
- G&G Permits: Permit for Geophysical Exploration for Mineral Resources or Scientific Research on the OCS (MMS-328); Permit for Geological Exploration for Mineral Resources or Scientific Research on the OCS (form MMS-329).
- Sand and Gravel Permits: Permit for Geophysical Prospecting for Mineral Resources or Scientific Research on the OCS Related to Minerals Other than Oil, Gas, and Sulphur (MMS-135); Permit for Geological Prospecting for Mineral Resources or Scientific Research on the OCS Related to Minerals Other than Oil, Gas, and Sulphur (form MMS-136).

MMS invites specific comments on the following:

1. Are there other actions for which MMS should require fees to recover costs from operators?
2. MMS plans to calculate the fees in a manner similar to that used in the recently published Cost Recovery Rule (RIN 1010-AD16, 70 FR 12626). Are there alternative ways to determine fair and equitable fees?
3. MMS may have large cost differences associated with issuing permits and reviewing plans in the different regions (GOM, Pacific, Alaska);

should the fee be uniform nationwide or vary by region?

Dated: March 21, 2005.

**R.M. "Johnnie" Burton,**

*Director, Minerals Management Service.*

[FR Doc. 05-5884 Filed 3-24-05; 8:45 am]

BILLING CODE 4310-MR-P

## DEPARTMENT OF DEFENSE

### Department of the Army, Corps of Engineers

#### 33 CFR Part 334

#### Restricted Areas and Danger Zone at Multiple Military Sites Within the State of Florida

**AGENCY:** U.S. Army Corps of Engineers, DoD.

**ACTION:** Notice of proposed rulemaking and request for comments.

**SUMMARY:** The U.S. Army Corps of Engineers (Corps) is proposing to amend its regulations by modifying seven existing restricted areas and one danger zone to incorporate changes to the types of restriction, the area affected by the restriction, and/or the administration of the restricted area and to disestablish one existing restricted area. Additionally, the Corps is proposing to establish two new restricted areas. The restricted areas and danger zone are located within the State of Florida. The proposed regulations will enable the affected units of the U.S. Military to enhance safety and security around active military establishments. These regulations are necessary to safeguard military vessels and United States Government facilities from sabotage and other subversive acts, accidents, or incidents of similar nature. These regulations are also necessary to protect the public from potentially hazardous conditions that may exist as a result of military use of the area.

**DATES:** Written comments must be submitted on or before April 25, 2005.

**ADDRESSES:** Written comments should be sent to the U.S. Army Corps of Engineers, Attn: CECW-MVD (David B. Olson), 441 G Street NW., Washington, DC 20314-1000, or by e-mail to [david.b.olson@usace.army.mil](mailto:david.b.olson@usace.army.mil). Electronic comments should be submitted in ASCII format or portable document format to ensure that those comments can be read. Electronic files should avoid the use of special characters and any form of encryption, and be free of any defects or viruses. Consideration will be given to all

comments received within 30 days of the date of publication of this notice.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Olson, U.S. Army Corps of Engineers, Headquarters, Washington, DC at 202-761-4922, or Mr. Jon M. Griffin, U.S. Army Corps of Engineers, Jacksonville District, Regulatory Division, at 904-232-1680.

**SUPPLEMENTARY INFORMATION:** Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3) the Corps is proposing to amend the restricted area regulations in 33 CFR part 334 by modifying the areas or restrictions at §§ 334.540, 334.560, 334.580, 334.610, 334.760, 334.775, 334.778, and 334.780, and by disestablishing the restricted area at § 334.550. Additionally, the Corps is proposing to establish two new restricted areas at §§ 334.515 and 334.635. The proposed modification to each existing restricted area or danger zone is described in the body of this notice along with a description of the two newly proposed restricted areas.

If the amendments to § 334.540 are approved, the Commander, 45th Space Wing, has requested that the restricted area at § 334.550 be disestablished. This request has been made because the modified restricted area proposed for § 334.540 will completely encompass the existing restricted area defined at § 334.550.

The Commanding Officer, Blount Island Command has requested that the Corps establish a restricted area at the U.S. Marine Slip area at Blount Island, Jacksonville, Florida. We are proposing to amend the restricted area regulations in 33 CFR part 334 by adding § 334.515 as a restricted area at the U.S. Marine Slip area at Blount Island.

The Commander, MacDill Air Force Base has requested that the Corps establish a restricted area in the Hillsborough Bay and waters contiguous to MacDill Air Force Base, Florida. We are proposing to amend the restricted area regulations in 33 CFR part 334 by adding § 334.635 as a restricted area in Hillsborough Bay and waters contiguous to MacDill Air Force Base.

#### Procedural Requirements

a. *Review Under Executive Order 12866.* These proposed rules are issued with respect to a military function of the United States and the provisions of Executive Order 12866 do not apply.

b. *Review Under the Regulatory Flexibility Act.* These proposed rules have been reviewed under the Regulatory Flexibility Act (Pub. L. 96-

354, 5 U.S.C. 601) which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (i.e., small businesses and small governments). The Corps expects that the proposed modifications to the existing restricted areas and the establishment of two new restricted areas would have practically no economic impact on the public, and would create no anticipated navigational hazard or interference with existing waterway traffic. Accordingly, it is certified that this proposal if adopted, will not have a significant economic impact on a substantial number of small entities.

c. *Review Under the National Environmental Policy Act.* The Corps has concluded, based on the minor nature of the proposed changes, that these amendments to danger zones and restricted areas, if adopted, will not be a major Federal action having a significant impact on the quality of the human environment, and preparation of an environmental impact statement is not required.

d. *Unfunded Mandates Act.* These proposed rules do not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of Section 202 or 205 of the Unfunded Mandates Reform Act (Pub. L. 104-4). We have also found under Section 203 of the Act, that small governments will not be significantly or uniquely affected by this rulemaking.

#### List of Subjects in 33 CFR Part 334

Danger zones, Marine safety, Navigation (water), Restricted areas, Waterways.

For the reasons set out in the preamble, the Corps proposes to amend portions of 33 CFR part 334 as follows:

#### PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for 33 CFR 334 continues to read as follows:

**Authority:** 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

2. Add § 334.515 to read as follows:

#### § 334.515 U.S. Marine Slip area at Blount Island, Jacksonville, Fla.; restricted area.

(a) *The area.* The restricted area shall encompass all navigable waters of the United States, as defined at part 329 of this title, within the area identified at the U.S. Marine Corps Slip (also identified as Back River on many nautical maps) located on the