

amended. Accordingly, the amendment is effective August 11, 2009.

#### List of Subjects in 17 CFR Part 200

Administrative practice and procedure, Authority delegations (Government agencies).

#### Text of Amendment

■ For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

#### PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

■ 1. The authority citation for part 200, subpart A, continues to read in part as follows:

**Authority:** 15 U.S.C. 77o, 77s, 77sss, 78d, 78d-1, 78d-2, 78w, 78ll(d), 78mm, 80a-37, 80b-11, and 7202, unless otherwise noted.

\* \* \* \* \*

■ 2. Section 200.30-4 is amended by adding paragraph (a)(13) to read as follows:

#### § 200.30-4 Delegation of authority to Director of Division of Enforcement.

\* \* \* \* \*

(a) \* \* \*

(13) For the period from August 11, 2009 through August 11, 2010, to order the making of private investigations pursuant to section 19(b) of the Securities Act of 1933 (15 U.S.C. 77s(b)), section 21(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(b)), section 42(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-41(b) and section 209(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9(b)). Orders issued pursuant to this delegation during this period will continue to have effect after August 11, 2010.

\* \* \* \* \*

Dated: August 5, 2009.

By the Commission.

Elizabeth M. Murphy,  
Secretary.

[FR Doc. E9-19116 Filed 8-10-09; 8:45 am]

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#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### Food and Drug Administration

#### 21 CFR Part 2

#### Use of Ozone-Depleting Substances; Epinephrine

#### CFR Correction

In Title 21 of the Code of Federal Regulations, parts 1 to 99, revised as of

Apr. 1, 2009, on page 66, § 2.125(e)(2)(v) is reinstated as follows:

#### § 2.125 Use of ozone-depleting substances in foods, drugs, devices, or cosmetics.

\* \* \* \* \*

(e) \* \* \*

(2) \* \* \*

(v) Epinephrine.

\* \* \* \* \*

[FR Doc. E9-19297 Filed 8-10-09; 8:45 am]

BILLING CODE 1505-01-D

#### DEPARTMENT OF THE INTERIOR

#### Minerals Management Service

#### 30 CFR Part 250

[Docket ID: MMS-2008-OMM-0023]

RIN 1010-AD55 (Formerly AD50)

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

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

**ACTION:** Final rule.

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

**DATES:** *Effective Date:* This rule becomes effective on September 10, 2009.

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

**SUPPLEMENTARY INFORMATION:** On September 17, 2008, MMS published a Notice of Proposed Rulemaking in the *Federal Register* entitled "Technical Changes to Production Measurement and Training Requirements" (73 FR 53793). The comment period for that proposed rule closed on November 17, 2008. In response to the proposed rule, MMS received seven sets of comments. One entity submitted two responses. The commenters included two trade organizations (Offshore Operators Committee (OOC) and National Ocean Industries Association (NOIA)), two energy companies, one industry training

company, and one individual. We have posted all of the comments received on our Web site at: <http://www.mms.gov/federalregister/PublicComments/TechnicalChangesToProductionMeasurementTraining.htm>.

We considered all of the comments we received on the proposed rule. Following is a discussion of the relevant comments MMS received:

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

We received suggestions from two entities regarding the proposed revisions to subpart L. The NOIA and OOC appreciate that the proposed rule will eliminate requirements for having to obtain certain waivers following force majeure events and suggested that similar revisions be made to the testing requirements in subpart H, Oil and Gas Production Safety Systems. Since we did not propose this change to subpart H, we cannot incorporate it into this final rulemaking. We will consider this suggestion in a future rulemaking.

The OOC provided additional suggestions. The OOC suggested that language be added to each of the following four paragraphs:

1. In § 250.1202(d)(3) add "and monthly thereafter but do not exceed 42 days between meter factor determinations." The OOC states this would make clear that this is not a make up proving, and the time starts over with the proving after returning to service.

2. In § 250.1202(k)(3) revise the ending to read "\* \* \* within 15 days after being returned to service and monthly thereafter." The OOC states that this should be added for clarity.

3. In § 250.1202(k)(4) revise the ending to read "\* \* \* within 15 days after being returned to service and quarterly thereafter." The OOC states that this should be added for clarity.

4. In § 250.1204(b)(1) revise the ending to read "\* \* \* within 15 days after being returned to service and bimonthly (or other frequency approved by the Regional Supervisor) thereafter." The OOC states that this should be added for clarity.

We agree with these suggestions, and will incorporate them in the final rule. Since § 250.1203(c)(1) was similarly worded, we incorporated OOC's language in the regulatory text there also.

The OOC also suggested that the force majeure waiver should be applied to the testing requirements for the master meter in § 250.1202(e)(3). We did not make this revision because we do not believe it is appropriate for a master

meter used in royalty meter provings. Only 3 percent of the sales metering locations in the Gulf of Mexico use master meters for meter proving and a departure has never been requested to the best of our knowledge. We will deal with any departure requests on these master meters on a case-by-case basis.

In addition to the changes we made in response to the NOIA and OOC's comments, in § 250.1203(c)(1), we have changed the terms "calibrate," "calibrations," and "calibrated" to "verify/calibrate," "verification/calibration," and "verified/calibrated" to be consistent with the revision of the definition promulgated on April 15, 2008 (73 FR 20171). We also added the word "operating" before "allocation meters" in § 250.1202(k)(3) and (k)(4) because it appears in the existing regulation but was inadvertently omitted from the proposed rule and added it before "meters" in (c)(1) for consistency. In addition, we added the phrase "the previous month" in § 250.1202(k)(3) and (4) after "per meter" in each subparagraph. This clarifies that the daily average (the volume measured by the particular meter for the month divided by the number of days in that month) is based on the previous month. In § 250.1204(b)(1), we changed the 2-month time period to 60 days. In the existing regulation, 2 months is defined parenthetically as 60 days. We also changed the word "service" to "production" to more accurately describe the function of wells.

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

We received comments and suggestions from four entities regarding the revisions to subpart O. The training company agreed with the proposed revisions. The OOC submitted the following general comment regarding the proposed rule:

OOC is of the opinion that the vast majority of the OCS workforce is well trained and capable of performing their specific jobs. The fact that MMS interviews, in MMS's opinion, indicated a poorer understanding of MMS regulations and the training requirements does not directly relate to the offshore workers ability to perform specific jobs on a complex. Likewise, INCs issued during audits have primarily been associated with training requirements for contractors being spelled out, recordkeeping and documentation. OOC is not aware of any INCs or incidents offshore that have been the result of lack of training. MMS testing of a very small sample of 3 employees in well control and 3 in production safety systems two years ago is also not an indicator of lack of understanding of MMS requirements given the large number of offshore workers (30,000

or more in any given day). It is OOC's opinion that the preamble discussion associated with this Subpart O revision does not accurately portray the current capability of the offshore workforce. A large portion of MMS complaints are in the area of field personnel not knowing in detail all of the training program requirements and timing that were drafted by office personnel to meet compliance needs. It would seem that it should be more important for the field personnel to know what to do and why they are doing it than to know that they have to be re-trained XX number of months apart.

Since publishing the proposed rule on September 17, 2008, MMS has developed and implemented a subpart O pilot testing program, in accordance with the current subpart O regulations (30 CFR 250.1507(c)). As part of this pilot test program, MMS developed a series of five written production tests designed to evaluate both lessee and contract personnel involved with Outer Continental Shelf (OCS) production safety operations. These tests were developed to evaluate an employee's understanding of not only basic production safety devices, such as surface and subsurface safety equipment, but additional areas of production operations, including separation, dehydration, compression, sweetening, and metering.

In recent years, MMS has been concerned that the majority of in-house and third-party-led production training schools focus their efforts primarily on surface and subsurface safety equipment testing and installation and reporting requirements, and not on other equally important aspects of offshore oil and gas production operations, including, but not limited to, separation, dehydration, compression, sweetening, and metering activities. The pilot testing program was designed in part to evaluate these other components of production operations.

From the period of November 1, 2008, through January 31, 2009, MMS conducted 31 written production tests on the OCS in both the Gulf of Mexico and Pacific Regions. Though all personnel passed these tests in accordance with MMS grading policies (e.g., passing is a score greater than 70 percent; the lowest score received was a 74 percent by a lead production operator), there were problem areas identified, which validates our concern about the knowledge of the other components of production operations. The majority of the questions answered incorrectly on the 31 written production tests fall within the following five categories:

1. Equipment test intervals for temperature safety highs (TSH) on compressors and fired components;

2. Equipment test intervals for burner safety lows (BSL) and tubing plugs;

3. Wellhead components, including casing valves and casing heads;

4. Pressure relief valve settings on oil and gas separators; and

5. Lease automatic custody transfer (LACT) units.

The MMS believes that the original test results presented in the proposed rule and the results of the additional testing mentioned above indicate a lack of understanding of the regulations covering production and drilling operations safety by offshore workers. The results also indicate a lack of understanding of the training regulations by industry. Therefore, we believe the minor changes to the training regulations in this final rule are necessary to emphasize the importance of knowledge of MMS regulations and the importance of periodic training and assessment of training needs for lessees, operators, and contract personnel.

The proposed revisions consisted of adding two new definitions (contractor and periodic) to subpart O, and revising one existing definition (production safety). The following is the definition of *contractor* from the proposed rule:

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

The OOC suggested that a more concise definition be used as follows:

*Contractor* means anyone other than an employee performing well control and production safety duties for the lessee.

The OOC stated that this definition is consistent with the definition of employee in subpart O. It also delineates between those contractors performing well control or production safety operations (required to have training by subpart O) and those contractors not performing well control or production safety operations, such as providers of domestic services, painters, inspectors, etc., and others the lessee may utilize in conducting day-to-day operations. We agree with this suggestion. Additionally, the existing regulations also use the term contract personnel, so we have added that to the definition of contractor. The revised definition is as follows:

*Contractor and contract personnel* mean anyone, other than an employee of the lessee, performing well control or production safety duties for the lessee.

Following is the definition of *periodic* from the proposed rule:

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

The OOC noted that the second sentence is not a definition, but is a reminder of requirements found elsewhere in subpart O. We agree with OOC that the second sentence is not a definition, but the reason for proposing this definition was to remind the lessees of those requirements for periodic training and periodic assessment of training needs. Some lessees were not conducting the periodic training and assessment requirements. We will leave the reminder in the definition.

The following is the definition of *production safety* from the proposed rule:

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

Two commenters suggested that this definition would be difficult to apply and cause uncertainty. One of them suggested using the definition of production safety in MMS Notice to Lessees and Operators (NTL) No. 2008–N03, *Well Control and Production Safety Training*. The OOC suggested a definition of *production safety* that was consistent with the definition in the NTL. The following is the definition from NTL No. 2008–N03:

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

We agree that the proposed definition could cause uncertainty, and we also believe that the definition in the NTL can be improved for use in this final rule. Therefore, we have revised the proposed definition of *production safety* for the final rule as follows:

*Production safety* includes measures, practices, procedures, and equipment to ensure safe, accident-free, and pollution-free production operations, as well as installation, repair, testing, maintenance, and operation of surface and subsurface safety devices. Production operations include, but are not limited to, separation, dehydration,

compression, sweetening, and metering operations.

One of the energy companies asked if it is our intent to include safety related to hazard communications, hearing conservation, water survival, etc., in this rulemaking. This definition excludes hazard communication, hearing conservation, water survival, and other similar types of safety. Most of those topics may be covered in a future rulemaking dealing with safety and environmental management issues. (See proposed rule published on June 17, 2009, 74 FR 28639).

#### Procedural Matters

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

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

(1) This final rule will not have an annual 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 revisions to the production measurement regulations will only have a small positive effect on industry in the event of a hurricane or other incident beyond the control of the lessee that results in a facility being off production for an extended period of time. The revisions to the training regulations will cause some lessees and operators to revise their training programs. We estimate that 50 of the 130 lessees and/or operators have already modified their training plans, and will not be affected by the revisions to subpart O. The remaining 80 lessees and/or operators will have to modify their training plans. Of the 80 lessees and/or operators, MMS estimates that 56 are small businesses, and that 24 are large companies. The majority of small operators have an off-the-shelf type training plan. The MMS estimates that a modification to this type of plan would cost about \$500. The large companies would most likely revise their training plans in-house at a slightly lower cost than revising an off-the-shelf plan. For the purpose of estimating the total cost to industry, MMS will use the higher estimate. The total cost for revising training plans to industry would be \$500 multiplied by 80 lessees/operators, which would equal \$40,000. The cost to retrain the employees from the 80 companies would be about \$200 per person. This is based on the price of a typical 3-day production operations safety course

costing \$600 per person (*i.e.*, \$200 per person per day). Adding 1 day to the course would be necessary to cover the operations mentioned in the revised definition of production operations. The MMS estimates that four employees per company would need the additional day of training, so the additional cost would be \$200, multiplied by four employees per company, multiplied by 80 companies, which would equal \$64,000. The total cost to industry from the subpart O changes would be \$40,000 plus \$64,000, which would equal \$104,000. Therefore, this final rule will not have a significant economic effect on industry.

(2) This final rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. No other agencies regulate oil and gas operations on the OCS.

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

(4) This final rule will not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866.

##### *Regulatory Flexibility Act*

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

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

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

The revised and new definitions in the training regulations in subpart O will cause some lessees and operators to revise their training plans. The MMS estimates that 80 operators will have to modify their training plans due to the changes to the definition of production operations. Of the 80 operators, MMS estimates that 56 are small businesses. This is a substantial number of small operators. The majority of small operators have off-the-shelf type training plans. The MMS estimates that a modification to this type of plan will cost about \$500. The total cost to the small operators will be \$500 multiplied by 56 operators, which equals \$28,000. The cost to retrain the employees from the 56 companies will be about \$200 per person. This is based on the price of a typical 3-day production operations safety course costing \$600 per person. Adding 1 day to the course will be necessary to cover the operations mentioned in the revised definition of production operations. The MMS estimates that four employees per company will need the additional day of training, so the additional cost will be \$200, multiplied by four employees per company, multiplied by 56 companies, which will equal \$44,800. The total cost to small businesses due to the changes in the subpart O regulations will be \$28,000 plus \$44,800, which equals \$72,800. Therefore, this final rule will not have a significant economic effect on a substantial number of small entities.

Comments from the public are important to us. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small business about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the actions of MMS, call 1-888-734-3247. You may comment to the Small Business Administration without fear of retaliation. Allegations of discrimination/retaliation filed with the Small Business Administration will be investigated for appropriate action.

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

This final rule is not a major rule under (5 U.S.C. 801 *et seq.*) of the Small Business Regulatory Enforcement Fairness Act. This final rule:

a. Will not have an annual effect on the economy of \$100 million or more. The effects of the subpart L changes are minor, but positive, and will only occur if there were a hurricane or other event

beyond the lessee's control that will cause the temporary shut-in of a facility. The effects on small business of the subpart O changes are approximately \$72,800. See the analysis of these costs in the previous section of this preamble entitled "Regulatory Flexibility Act".

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. As stated above, any effects due to the subpart L revisions will be positive for the industry and the Federal Government. The effects due to the revisions to subpart O will be minor.

c. Will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. The effects due to this final rule will be a result of temporary relief from reporting requirements and minor changes to training requirements, so there will be no adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. The requirements will apply to all entities operating on the OCS.

#### *Unfunded Mandates Reform Act of 1995*

This final rule will not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than \$100 million per year. The final rule will not have a significant or unique effect on State, local or Tribal governments or the private sector. This final rule only applies to oil and gas operations on the OCS. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) is not required.

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

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

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

Under the criteria in E.O. 13132, this final rule will not have federalism implications. This final rule will not substantially and directly affect the relationship between the Federal and State governments. This final rule applies only to oil and gas operations on the OCS. To the extent that State and local governments have a role in OCS activities, this final rule will not affect

that role. A Federalism Assessment is not required.

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

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

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

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

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

Under the criteria in E.O. 13175, we have evaluated this final rule and determined that it has no substantial effects on Federally recognized Indian Tribes. There are no Indian or Tribal lands in the OCS.

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

This rulemaking contains a new information collection requirement; therefore, a submission to OMB under the PRA (44 U.S.C. 3501 *et seq.*) is required. The OMB has approved the new requirement under OMB Control Number 1010-0178 (expiration date August 31, 2012, for a total of 144 burden hours). Once the rulemaking becomes effective and the one-time requirement has been achieved, we will discontinue this collection.

The title of the collection of information for the rule is "30 CFR Part 250, Subpart O, Technical Changes to Production Measurement and Training Requirements."

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

The collection of information required by the current 30 CFR part 250, subpart L regulations, Oil and Gas Production Measurement, Surface Commingling, and Security, is approved under OMB Control Number 1010-0051, expiration 7/31/10 (8,533 hours). The regulation will not impose any new information collection burdens for this subpart. However, it does reduce the number of general departure requests for

§ 250.1204(b)(1). When the rule becomes effective, we will make an adjustment decrease to the paperwork burden.

The rulemaking for 30 CFR part 250, subpart O, Well Control and Production Safety Training, will require some lessees and/or operators to modify their current training programs due to the changes to the definitions in subpart O. We estimate that this would be a one-time new paperwork burden on 24 operators who will modify their programs in-house (6 hours per modification) for a total of 144 burden hours. Those operators who purchase their off-the-shelf training programs will incur costs to modify the programs. This is considered a regulatory cost of doing business and is not a paperwork burden. Existing paperwork requirements for current subpart O are approved under 1010-0128, expiration 8/31/09 (under renewal, 2,106 hours).

The comments received in response to the proposed rule did not address the information collection; therefore, there were no changes in the one new information collection requirement from the proposed rule to the final rule.

An agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. The public may comment, at any time, on the accuracy of the information collection burden in this rule and may submit any comments to the Department of the Interior; Minerals Management Service; Attention: Regulations and Standards Branch; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170-4817.

*National Environmental Policy Act of 1969*

This final rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required because this rule is covered by a categorical exclusion. Specifically, this rule qualifies as a regulation of an administrative or procedural nature. See 43 CFR 46.210(i). We have also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under the National Environmental Policy Act of 1969.

*Data Quality Act*

In developing this final rule we did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106-554,

app. C § 515, 114 Stat. 2763, 2763A-153-154).

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

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

#### List of Subjects in 30 CFR Part 250

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

Dated: July 15, 2009.

**Ned Farquhar,**

*Acting Assistant Secretary—Land and Minerals Management.*

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

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

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

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

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

##### § 250.1201 Definitions.

\* \* \* \* \*

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

\* \* \* \* \*

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

##### § 250.1202 Liquid hydrocarbon measurement.

\* \* \* \* \*

(d) \* \* \*

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

\* \* \* \* \*

(k) \* \* \*

(3) Prove operating allocation meters monthly if they measure 50 or more barrels per day per meter the previous

month. When a force majeure event precludes the required monthly meter proving, meters must be proved within 15 days after being returned to service. The meters must be proved monthly thereafter; or

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

\* \* \* \* \*

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

##### § 250.1203 Gas measurement.

\* \* \* \* \*

(c) \* \* \*

(1) Verify/calibrate operating meters monthly, but do not exceed 42 days between verifications/calibrations. When a force majeure event precludes the required monthly meter verification/calibration, meters must be verified/calibrated within 15 days after being returned to service. The meters must be verified/calibrated monthly thereafter, but do not exceed 42 days between meter verifications/calibrations;

\* \* \* \* \*

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

##### § 250.1204 Surface commingling.

\* \* \* \* \*

(b) \* \* \*

(1) Conduct a well test at least once every 60 days unless the Regional Supervisor approves a different frequency. When a force majeure event precludes the required well test within the prescribed 60 day period (or other frequency approved by the Regional Supervisor), wells must be tested within 15 days after being returned to production. Thereafter, well tests must be conducted at least once every 60 days (or other frequency approved by the Regional Supervisor);

\* \* \* \* \*

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

##### § 250.1500 Definitions.

\* \* \* \* \*

*Contractor and contract personnel* mean anyone, other than an employee of the lessee, performing well control or production safety duties for the lessee.

\* \* \* \* \*

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

*Production safety* includes measures, practices, procedures, and equipment to ensure safe, accident-free, and pollution-free production operations, as well as installation, repair, testing, maintenance, and operation of surface and subsurface safety equipment. Production operations include, but are not limited to, separation, dehydration, compression, sweetening, and metering operations.

\* \* \* \* \*

[FR Doc. E9-19204 Filed 8-10-09; 8:45 am]  
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 50 and 51**

[EPA-HQ-OAR-2008-0419, FRL-8943-3]  
RIN 2060-AP96

**Implementation of the 1997 8-Hour Ozone National Ambient Air Quality Standard: Addressing a Portion of the Phase 2 Ozone Implementation Rule Concerning Reasonable Further Progress Emissions Reductions Credits Outside Ozone Nonattainment Areas**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to revise a portion of its Phase 2 implementation rule for the 8-hour ozone National Ambient Air Quality Standard (NAAQS or standard) for which the Agency had sought a voluntary remand from the U.S. Circuit Court of Appeals for the District of Columbia Circuit. The Court granted EPA's request by remanding and vacating that portion of the rule. Specifically, this rule addresses an interpretation that allowed certain credits toward reasonable further progress (RFP) for the 8-hour standard from emissions reductions outside the nonattainment area.

**DATES:** This rule is effective on October 13, 2009.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2008-0419. All documents in the docket are listed in <http://www.regulations.gov>. Although listed in the index, some information is

not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Air and Radiation Docket and Information Center in the EPA Headquarters Library, Room Number 3334 in the EPA West Building, located at 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744.

**FOR FURTHER INFORMATION CONTACT:** For further information on the this final rule contact: Ms. Denise Gerth, Office of Air Quality Planning and Standards, (C539-01), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5550 or by e-mail at [gerth.denise@epa.gov](mailto:gerth.denise@epa.gov), fax number (919) 541-0824; or Mr. John Silvasi, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, (C539-01), Research Triangle Park, NC 27711, telephone number (919) 541-5666, fax number (919) 541-0824 or by e-mail at [silvasi.john@epa.gov](mailto:silvasi.john@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does This Action Apply to Me?*

Entities potentially affected directly by this action include state, local, and tribal governments. Entities potentially affected indirectly by this rule include owners and operators of sources of emissions [volatile organic compounds (VOCs) and nitrogen oxides (NO<sub>x</sub>)] that contribute to ground-level ozone concentrations.

*B. Where Can I Get a Copy of This Document and Other Related Information?*

A copy of this document and other related information is available from the docket EPA-HQ-OAR-2008-0419.

*C. How Is This Notice Organized?*

The information presented in this notice is organized as follows:

- I. General Information
  - A. Does This Action Apply to Me?
  - B. Where Can I Get a Copy of This Document and Other Related Information?
  - C. How Is This Notice Organized?
- II. What is the Background for This Rule?

- A. Proposed Regulatory Interpretation of the Phase 2 Rule To Address RFP Emission Credits Outside Ozone Nonattainment Areas
- III. This Action
  - A. Background
  - B. Final Rule
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- IV. Statutory and Executive Order Reviews
  - A. Executive Order 12866: Regulatory Planning and Review
  - B. Paperwork Reduction Act
  - C. Regulatory Flexibility Act (RFA)
  - D. Unfunded Mandates Reform Act
  - E. Executive Order 13132: Federalism
  - F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
  - G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
  - H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
  - I. National Technology Transfer and Advancement Act
  - J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
  - K. Congressional Review Act
  - L. Determination Under Section 307(d)

**II. What Is the Background for This Rule?**

*A. Proposed Regulatory Interpretation of the Phase 2 Rule To Address RFP Emission Credits Outside Ozone Nonattainment Areas*

On July 21, 2008 (73 FR 42294), EPA published a proposed rule to revise its regulatory interpretation of the Phase 2 implementation rule for the 8-hour ozone NAAQS to address the U.S. Circuit Court of Appeals for the District of Columbia Circuit's vacatur and remand of that portion of the interpretation of the Phase 2 implementation rule for which EPA had asked for a voluntary remand. The proposal addressed a provision that allowed credit toward RFP for the 8-hour NAAQS from emission reductions outside the nonattainment area. Readers should refer to the proposed rule for additional background on this action, including the final Phase 2 ozone implementation rule and the Court's vacatur and remand of the provision allowing credit for emissions reductions outside a nonattainment area for the purposes of RFP for the 8-hour NAAQS.

**III. This Action**

*A. Background*

In the Phase 2 Rule to implement the 8-hour ozone NAAQS, EPA set forth an interpretation that stated that credits could be taken for emissions reductions from a source outside the nonattainment