

Previous proposed rule section	Comment	Rationale	MMS response
§ 250.20(a)(2)	We recommend that [sic] the striking of the provision which only allows panel members and panel experts to address questions to the person giving testimony.	This provision violates the provisions of Section 22(f) of the OCS Lands Act which requires that the production of documents and the handling of testimony and witnesses be analogous to the Federal Rules of Civil Procedures. The Federal Rules of Civil Procedures give the party at risk for citation the opportunity to participate in questioning of witnesses in the course of any hearing.	<p>However, in this proposed rule, we deleted the reference to the USCG because procedures outlined in § 250.191 apply only to MMS investigations. The MOU between MMS and the USCG, signed on December 16, 1998, outlines how the two agencies will coordinate their incident investigation activities conducted under the authority of the OCS Lands Act, as amended (43 U.S.C. 1331 <i>et seq.</i>) (§ 250.191).</p> <p>We did not make the proposed changes. Incident investigations are fact-finding proceedings without adverse parties. The purpose of the investigation is to prepare a public report that determines the cause of the incident. Persons who are not panel members or panel experts may have interests other than finding the cause of the incident. Allowing them to question the person giving testimony could easily lead to an adversarial proceeding. However, in response to the comment, we have deleted the reference to the panel's legal advisors as being one of the categories of people who can question the person giving testimony (§ 250.191(b)). As noted earlier in the Preamble, we also propose to remove the reference to civil or criminal issues (§ 250.191). That proposed deletion does not change MMS's commitment to conduct investigations as fact-finding proceedings in a non-adversarial manner. However, MMS does retain its right to pursue any regulatory violations that may come to light as a result of the incident investigation in a separate penalty proceeding. Procedural safeguards to alleviate the commenters' concerns are already incorporated into MMS regulations (see 30 CFR 250, Subpart N).</p>

Appendices

The following appendices will not appear in the Code of Federal Regulations. Appendix A is included for reference. We solicit your comments on

the new MMS forms in Appendices B and C.

Appendix A—U.S. Coast Guard Form CG-2692, “Report of Marine Accident, Injury or Death”

Appendix B—Department of the Interior Form MMS 142, “Report of OCS Incident—Immediate and 12 Hour”

Appendix C—Department of the Interior Form MMS-143, “Report of OCS Incident—15 Day”

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