

Public Comments Procedures

Our practice is to make comments, including the names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by the 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. 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 Planning and Review (Executive Order 12866)

According to the criteria in Executive Order 12866, this rule is not a significant regulatory action.

(1) This proposed rule will not have an annual economic effect of \$100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. A cost-benefit and economic analysis is not required. Current incident reporting regulations require that MMS be notified of certain types of incidents. This proposed rule revises these requirements by providing more specific definitions and thresholds for which incidents must be reported and by requiring submission of written incident reports. It provides more consistency with USCG reporting requirements for incidents where the two agencies have mutual interest and responsibility. Written reports must be submitted electronically. MMS and the USCG continue to work on changes to their procedures that would allow a report to be sent to both agencies in one submission. The proposed rule will have an economic effect, but it is much less than \$100 million per year. Costs to comply with this proposed rule involve the cost of making the appropriate notifications and reports. These costs include some one-time set-up costs that we have estimated at \$491,000 and an annual incremental reporting cost for making the oral notifications and submitting the written reports over and above the annual reporting cost in the current MMS regulations. The annual incremental reporting cost is estimated at \$64,512. These costs are explained in

the following Regulatory Flexibility Act section.

(2) This proposed rule will not create inconsistencies with other agencies' actions. The only agency affected is the USCG. As noted, MMS and the USCG have worked together on this proposed rule to minimize incident reporting inconsistencies between the two agencies and are working to develop a single point electronic reporting system to streamline the reporting process between the two agencies.

(3) This proposed rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. It only deals with incident reporting requirements for OCS lessees/operators and pipeline right-of-way holders.

(4) This proposed rule will not raise novel legal or policy issues. MMS worked with the USCG to make the requirements as consistent as possible with their requirements and is working with them to develop an electronic reporting system that would allow written reports to be submitted through a single point to both agencies. This proposed rule does have a unique feature—it lists USCG reporting requirements for incidents where both agencies have mutual interest and responsibility. We included the USCG requirements so that both MMS and USCG requirements for these incidents can be found in one location. However, this is an MMS proposed rule. It does not require reporting to the USCG. Those requirements are found in the USCG regulations. The USCG will also need to take some action that allows the appropriate segments of their regulated community to report incidents electronically according to the MMS regulation.

We will work closely with the USCG as we review the comments to the proposed rule and finalize the incident reporting regulation. As a result of this continued coordination, we anticipate that at an appropriate time, the USCG will issue a regulation, or other appropriate notice, that describes how electronic reporting under the MMS regulation can be used to satisfy USCG requirements. Once the USCG has issued this notice, submission of the required incident reports through the electronic system should satisfy both MMS and USCG requirements for incidents when both agencies have a mutual interest and responsibility. This should provide for continued coordination between the two agencies, while allowing each agency the flexibility to exercise its statutory responsibilities.

Regulatory Flexibility (RF) Act

The Department of the Interior certifies that this proposed rule will not have a significant economic effect on a substantial number of small entities as defined under the RF Act (5 U.S.C. 601 *et seq.*). An RF analysis is not required. Accordingly, a Small Entity Compliance Guide is not required.

This rule applies to all lessees/operators and pipeline right-of-way holders operating on the OCS. Lessees/operators fall under the Small Business Administration's North American Industry Classification System (NAICS) code 211111, Crude Petroleum and Natural Gas Extraction. Under this NAICS code, companies with less than 500 employees are considered small businesses. MMS estimates that 130 lessees/operators explore for and produce oil and gas on the OCS; approximately 70 percent of them (91 companies) fall into the small business category.

A pipeline company (non-producer) is a small entity if it is a liquid pipeline company with fewer than 1,500 employees, or a natural gas pipeline company with gross annual receipts of \$25 million or less. MMS's database indicates that there are 88 pipeline right-of-way holders who do not own an interest in any oil and gas leases on the OCS. Fifty-seven of these companies are either major energy companies (large oil and gas or pipeline transmission companies), or wholly owned subsidiaries of these companies. Another 13 entities were either formed by partnerships among major producers and transporters or have "arms-length" contractual relationships with several major producers on the OCS for which they provide transportation services. It is our understanding that in such relationships one of the major partners usually serves as the "managing partner" of the entity so that the entity (whether a partnership or a corporation) is not actually independent in the usual sense. The remaining 18 entities could be categorized as small independent pipeline companies in the sense that they provide transportation services for several non-major oil or gas producers with which they have an "arms-length" but symbiotic business relationship. These companies are represented by NAICS code 213112, "Support Activities for Oil and Gas Operations."

Thus, there are 218 companies affected by this proposed rule, of which 109 would be considered small businesses. The costs to comply with the reporting requirements proposed in