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(a)(2) of this section shall be subject to the requirements and limitations of the Freedom of Information Act (5 U.S.C. 552), the regulations contained in 43 CFR part 2 (Records and Testimony), the Act (92 Stat. 629), the regulations contained in 30 CFR parts 250 and 550 (Oil and Gas and Sulphur Operations in the Outer Continental Shelf), the regulations contained in 30 CFR parts 251 and 551 (Geological and Geophysical Explorations of the Outer Continental Shelf), and the regulations contained in 30 CFR parts 252 and 552 (Outer Continental Shelf Oil and Gas Information Program).

(4) Prior to the transmittal of any privileged or proprietary data or information to any State, or the grant of access to a State official to such data or information, the Secretary shall enter into a written agreement with the Governor of the State in accordance with section 26(e) of the Act (43 U.S.C. 1352). In that agreement the State shall agree, as a condition precedent to receiving or being granted access to such data or information to: (i) Protect and maintain the confidentiality of privileged or proprietary data and information in accordance with the laws and regulations listed in paragraph (a)(3) of this section;

(ii) Waive the defenses as set forth in paragraph (b)(2) of this section; and

(iii) Hold the United States harmless from any violations of the agreement to protect the confidentiality of privileged or proprietary data or information by the State or its employees or contractors.

(b)(1) Whenever any employee of the Federal Government or of any State reveals in violation of the Act or of the provisions of the regulations implementing the Act, privileged or proprietary data or information obtained pursuant to the regulations in this chapter, the lessee or permittee who supplied such information to the Director or any other Federal official, and any person to whom such lessee or permittee has sold such data or information under the promise of confidentiality, may commence a civil action for damages in the appropriate district court of the United States against the Federal Government or such State, as the case may be. Any Federal or State

employee who is found guilty of failure to comply with any of the requirements of this section shall be subject to the penalties described in section 24 of the Act (43 U.S.C. 1350).

(2) In any action commenced against the Federal Government or a State pursuant to paragraph (b)(1) of this section, the Federal Government or such State, as the case may be, may not raise as a defense any claim of sovereign immunity, or any claim that the employee who revealed the privileged or proprietary data or information which is the basis of such suit was acting outside the scope of the person's employment in revealing such data or information.

(c) If the Director finds that any State cannot or does not comply with the conditions described in the agreement entered into pursuant to paragraph (a)(4) of this section, the Director shall thereafter withhold transmittal and deny access for inspection of privileged or proprietary data or information to such State until the Director finds that such State can and will comply with those conditions.

PART 253 [RESERVED]

PART 254—OIL-SPILL RESPONSE REQUIREMENTS FOR FACILITIES LOCATED SEAWARD OF THE COAST LINE

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AUTHORITY: 33 U.S.C. 1321.

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Subpart A—General

§ 254.1 Who must submit a spill-response plan?

(a) If you are the owner or operator of an oil handling, storage, or transportation facility, and it is located sea-

ward of the coast line, you must submit a spill-response plan to BSEE for approval. Your spill-response plan must demonstrate that you can respond quickly and effectively whenever oil is discharged from your facility. Refer to §254.6 for the definitions of “oil,” “facility,” and “coast line” if you have any doubts about whether to submit a plan.

(b) You must maintain a current response plan for an abandoned facility until you physically remove or dismantle the facility or until the Regional Supervisor notifies you in writing that a plan is no longer required.

(c) Owners or operators of offshore pipelines carrying essentially dry gas do not need to submit a plan. You must, however, submit a plan for a pipeline that carries:

- (1) Oil;
- (2) Condensate that has been injected into the pipeline; or
- (3) Gas and naturally occurring condensate.

(d) If you are in doubt as to whether you must submit a plan for an offshore facility or pipeline, you should check with the Regional Supervisor.

(e) If your facility is located landward of the coast line, but you believe your facility is sufficiently similar to OCS facilities that it should be regulated by BSEE, you may contact the Regional Supervisor, offer to accept BSEE jurisdiction over your facility, and request that BSEE seek from the agency with jurisdiction over your facility a relinquishment of that jurisdiction.

§ 254.2 When must I submit a response plan?

(a) You must submit, and BSEE must approve, a response plan that covers each facility located seaward of the coast line before you may use that facility. To continue operations, you must operate the facility in compliance with the plan.

(b) Despite the provisions of paragraph (a) of this section, you may operate your facility after you submit your plan while BSEE reviews it for approval. To operate a facility without an approved plan, you must certify in writing to the Regional Supervisor

that you have the capability to respond, to the maximum extent practicable, to a worst case discharge or a substantial threat of such a discharge. The certification must show that you have ensured by contract, or other means approved by the Regional Supervisor, the availability of private personnel and equipment necessary to respond to the discharge. Verification from the organization(s) providing the personnel and equipment must accompany the certification. BSEE will not allow you to operate a facility for more than 2 years without an approved plan.

(c) If you have a plan that BSEE already approved, you are not required to immediately rewrite the plan to comply with this part. You must, however, submit the information this regulation requires when submitting your first plan revision (see § 254.30) after the effective date of this rule. The Regional Supervisor may extend this deadline upon request.

§ 254.3 May I cover more than one facility in my response plan?

(a) Your response plan may be for a single lease or facility or a group of leases or facilities. All the leases or facilities in your plan must have the same owner or operator (including affiliates) and must be located in the same BSEE Region (see definition of Regional Response Plan in § 254.6).

(b) Regional Response Plans must address all the elements required for a response plan in Subpart B, *Oil Spill Response Plans for Outer Continental Shelf Facilities*, or Subpart D, *Oil Spill Response Requirements for Facilities Located in State Waters Seaward of the Coast Line*, as appropriate.

(c) When developing a Regional Response Plan, you may group leases or facilities subject to the approval of the Regional Supervisor for the purposes of:

- (1) Calculating response times;
- (2) Determining quantities of response equipment;
- (3) Conducting oil-spill trajectory analyses;
- (4) Determining worst case discharge scenarios; and
- (5) Identifying areas of special economic and environmental importance

that may be impacted and the strategies for their protection.

(d) The Regional Supervisor may specify how to address the elements of a Regional Response Plan. The Regional Supervisor also may require that Regional Response Plans contain additional information if necessary for compliance with appropriate laws and regulations.

§ 254.4 May I reference other documents in my response plan?

You may reference information contained in other readily accessible documents in your response plan. Examples of documents that you may reference are the National Contingency Plan (NCP), Area Contingency Plan (ACP), BSEE or BOEM environmental documents, and Oil Spill Removal Organization (OSRO) documents that are readily accessible to the Regional Supervisor. You must ensure that the Regional Supervisor possesses or is provided with copies of all OSRO documents you reference. You should contact the Regional Supervisor if you want to know whether a reference is acceptable.

§ 254.5 General response plan requirements.

(a) The response plan must provide for response to an oil spill from the facility. You must immediately carry out the provisions of the plan whenever there is a release of oil from the facility. You must also carry out the training, equipment testing, and periodic drills described in the plan, and these measures must be sufficient to ensure the safety of the facility and to mitigate or prevent a discharge or a substantial threat of a discharge.

(b) The plan must be consistent with the National Contingency Plan and the appropriate Area Contingency Plan(s).

(c) Nothing in this part relieves you from taking all appropriate actions necessary to immediately abate the source of a spill and remove any spills of oil.

(d) In addition to the requirements listed in this part, you must provide any other information the Regional Supervisor requires for compliance with appropriate laws and regulations.

§ 254.6 Definitions.

For the purposes of this part:

Adverse weather conditions mean weather conditions found in the operating area that make it difficult for response equipment and personnel to clean up or remove spilled oil or hazardous substances. These include, but are not limited to: Fog, inhospitable water and air temperatures, wind, sea ice, current, and sea states. It does not refer to conditions such as a hurricane, under which it would be dangerous or impossible to respond to a spill.

Area Contingency Plan means an Area Contingency Plan prepared and published under section 311(j) of the Federal Water Pollution Control Act (FWPCA).

Coast line means the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters.

Discharge means any emission (other than natural seepage), intentional or unintentional, and includes, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

District Manager means the BSEE officer with authority and responsibility for a district within a BSEE Region.

Facility means any structure, group of structures, equipment, or device (other than a vessel) which is used for one or more of the following purposes: Exploring for, drilling for, producing, storing, handling, transferring, processing, or transporting oil. The term excludes deep-water ports and their associated pipelines as defined by the Deepwater Port Act of 1974, but includes other pipelines used for one or more of these purposes. A mobile offshore drilling unit is classified as a facility when engaged in drilling or downhole operations.

Maximum extent practicable means within the limitations of available technology, as well as the physical limitations of personnel, when responding to a worst case discharge in adverse weather conditions.

National Contingency Plan means the National Oil and Hazardous Substances Pollution Contingency Plan prepared and published under section 311(d) of the FWPCA, (33 U.S.C. 1321(d)) or re-

vised under section 105 of the Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. 9605).

National Contingency Plan Product Schedule means a schedule of dispersants and other chemical or biological products, maintained by the Environmental Protection Agency, that may be authorized for use on oil discharges in accordance with the procedures found at 40 CFR 300.910.

Oil means oil of any kind or in any form, including but not limited to petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil. This also includes hydrocarbons produced at the wellhead in liquid form (includes distillates or condensate associated with produced natural gas), and condensate that has been separated from a gas prior to injection into a pipeline. It does not include petroleum, including crude oil or any fraction thereof, which is specifically listed or designated as a hazardous substance under paragraphs (A) through (F) of section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601) and which is subject to the provisions of that Act. It also does not include animal fats and oils and greases and fish and marine mammal oils, within the meaning of paragraph (2) of section 61(a) of title 13, United States Code, and oils of vegetable origin, including oils from the seeds, nuts, and kernels referred to in paragraph (1)(A) of that section.

Oil spill removal organization (OSRO) means an entity contracted by an owner or operator to provide spill-response equipment and/or manpower in the event of an oil or hazardous substance spill.

Outer Continental Shelf means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (43 U.S.C. 1301) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

Owner or operator means, in the case of an offshore facility, any person owning or operating such offshore facility. In the case of any abandoned offshore

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facility, it means the person who owned such facility immediately prior to such abandonment.

Pipeline means pipe and any associated equipment, appurtenance, or building used or intended for use in the transportation of oil located seaward of the coast line, except those used for deep-water ports. Pipelines do not include vessels such as barges or shuttle tankers used to transport oil from facilities located seaward of the coast line.

Qualified individual means an English-speaking representative of an owner or operator, located in the United States, available on a 24-hour basis, with full authority to obligate funds, carry out removal actions, and communicate with the appropriate Federal officials and the persons providing personnel and equipment in removal operations.

Regional Response Plan means a spill-response plan required by this part which covers multiple facilities or leases of an owner or operator, including affiliates, which are located in the same BSEE Region.

Regional Supervisor means the BSEE official with responsibility and authority for operations or other designated program functions within a BSEE Region.

Remove means containment and cleanup of oil from water and shorelines or the taking of other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, public and private property, shorelines, and beaches.

Spill is synonymous with “discharge” for the purposes of this part.

Spill management team means the trained persons identified in a response plan who staff the organizational structure to manage spill response.

Spill-response coordinator means a trained person charged with the responsibility and designated the commensurate authority for directing and coordinating response operations.

Spill-response operating team means the trained persons who respond to spills through deployment and operation of oil-spill response equipment.

State waters located seaward of the coast line means the belt of the seas

measured from the coast line and extending seaward a distance of 3 miles (except the coast of Texas and the Gulf coast of Florida, where the State waters extend seaward a distance of 3 leagues).

You means the owner or the operator as defined in this section.

§ 254.7 How do I submit my response plan to the BSEE?

You must submit the number of copies of your response plan that the appropriate BSEE regional office requires. If you prefer to use improved information technology such as electronic filing to submit your plan, ask the Regional Supervisor for further guidance.

(a) Send plans for facilities located seaward of the coast line of Alaska to: Bureau of Safety and Environmental Enforcement, Regional Supervisor, Field Operations, Alaska OCS Region, 3801 Centerpoint Drive, Suite #500, Anchorage, AK 99503-5823.

(b) Send plans for facilities in the Gulf of Mexico or Atlantic Ocean to: Bureau of Safety and Environmental Enforcement, Regional Supervisor, Field Operations, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, LA 70123-2394.

(c) Send plans for facilities in the Pacific Ocean (except seaward of the coast line of Alaska) to: Bureau of Safety and Environmental Enforcement, Regional Supervisor, Office of Development Operations and Safety, Pacific OCS Region, 770 Paseo Camarillo, Camarillo, CA 93010-6064.

§ 254.8 May I appeal decisions under this part?

See 30 CFR part 290 for instructions on how to appeal any order or decision that we issue under this part.

§ 254.9 Authority for information collection.

(a) The Office of Management and Budget (OMB) has approved the information collection requirements in this part under 44 U.S.C. 3501 *et seq.* OMB assigned the control number 1010-0091. The title of this information collection is “30 CFR part 254, Oil Spill Response Requirements for Facilities Located Seaward of the Coast line.”

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(b) BSEE collects this information to ensure that the owner or operator of an offshore facility is prepared to respond to an oil spill. BSEE uses the information to verify compliance with the mandates of the Oil Pollution Act of 1990 (OPA). The requirement to submit this information is mandatory. No confidential or proprietary information is collected.

(c) 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 control number.

(d) Send comments regarding any aspect of the collection of information under this part, including suggestions for reducing the burden, to the Information Collection Clearance Officer, Bureau of Safety and Environmental Enforcement, 381 Elden Street, Herndon, VA 20170.

Subpart B—Oil-Spill Response Plans for Outer Continental Shelf Facilities

§ 254.20 Purpose.

This subpart describes the requirements for preparing spill-response plans for facilities located on the OCS.

§ 254.21 How must I format my response plan?

(a) You must divide your response plan for OCS facilities into the sections specified in paragraph (b) of this section and explained in the other sections of this subpart. The plan must have an easily found marker identifying each section. You may use an alternate format if you include a cross-reference table to identify the location of required sections. You may use alternate contents if you can demonstrate to the Regional Supervisor that they provide for equal or greater levels of preparedness.

(b) Your plan must include:

- (1) Introduction and plan contents.
- (2) Emergency response action plan.
- (3) Appendices:
 - (i) Equipment inventory.
 - (ii) Contractual agreements.
 - (iii) Worst case discharge scenario.
 - (iv) Dispersant use plan.
 - (v) In situ burning plan.
 - (vi) Training and drills.

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§ 254.22 What information must I include in the “Introduction and plan contents” section?

The “Introduction and plan contents” section must provide:

- (a) Identification of the facility the plan covers, including its location and type;
- (b) A table of contents;
- (c) A record of changes made to the plan; and
- (d) A cross-reference table, if needed, because you are using an alternate format for your plan.

§ 254.23 What information must I include in the “Emergency response action plan” section?

The “Emergency response action plan” section is the core of the response plan. Put information in easy-to-use formats such as flow charts or tables where appropriate. This section must include:

(a) Designation, by name or position, of a trained qualified individual (QI) who has full authority to implement removal actions and ensure immediate notification of appropriate Federal officials and response personnel.

(b) Designation, by name or position, of a trained spill management team available on a 24-hour basis. The team must include a trained spill-response coordinator and alternate(s) who have the responsibility and authority to direct and coordinate response operations on your behalf. You must describe the team’s organizational structure as well as the responsibilities and authorities of each position on the spill management team.

(c) Description of a spill-response operating team. Team members must be trained and available on a 24-hour basis to deploy and operate spill-response equipment. They must be able to respond within a reasonable minimum specified time. You must include the number and types of personnel available from each identified labor source.

(d) A planned location for a spill-response operations center and provisions for primary and alternate communications systems available for use in coordinating and directing spill-response operations. You must provide telephone numbers for the response operations center. You also must provide

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any facsimile numbers and primary and secondary radio frequencies that will be used.

(e) A listing of the types and characteristics of the oil handled, stored, or transported at the facility.

(f) Procedures for the early detection of a spill.

(g) Identification of procedures you will follow in the event of a spill or a substantial threat of a spill. The procedures should show appropriate response levels for differing spill sizes including those resulting from a fire or explosion. These will include, as appropriate:

(1) Your procedures for spill notification. The plan must provide for the use of the oil spill reporting forms included in the Area Contingency Plan or an equivalent reporting form.

(i) Your procedures must include a current list which identifies the following by name or position, corporate address, and telephone number (including facsimile number if applicable):

(A) The qualified individual;

(B) The spill-response coordinator and alternate(s); and

(C) Other spill-response management team members.

(ii) You must also provide names, telephone numbers, and addresses for the following:

(A) OSRO's that the plan cites;

(B) Federal, State, and local regulatory agencies that you must consult to obtain site specific environmental information; and

(C) Federal, State, and local regulatory agencies that you must notify when an oil spill occurs.

(2) Your methods to monitor and predict spill movement;

(3) Your methods to identify and prioritize the beaches, waterfowl, other marine and shoreline resources, and areas of special economic and environmental importance;

(4) Your methods to protect beaches, waterfowl, other marine and shoreline resources, and areas of special economic or environmental importance;

(5) Your methods to ensure that containment and recovery equipment as well as the response personnel are mobilized and deployed at the spill site;

(6) Your methods to ensure that devices for the storage of recovered oil

are sufficient to allow containment and recovery operations to continue without interruption;

(7) Your procedures to remove oil and oiled debris from shallow waters and along shorelines and rehabilitating waterfowl which become oiled;

(8) Your procedures to store, transfer, and dispose of recovered oil and oil-contaminated materials and to ensure that all disposal is in accordance with Federal, State, and local requirements; and

(9) Your methods to implement your dispersant use plan and your in situ burning plan.

§ 254.24 What information must I include in the "Equipment inventory" appendix?

Your "Equipment inventory appendix" must include:

(a) An inventory of spill-response materials and supplies, services, equipment, and response vessels available locally and regionally. You must identify each supplier and provide their locations and telephone numbers.

(b) A description of the procedures for inspecting and maintaining spill-response equipment in accordance with § 254.43.

§ 254.25 What information must I include in the "Contractual agreements" appendix?

Your "Contractual agreements" appendix must furnish proof of any contracts or membership agreements with OSRO's, cooperatives, spill-response service providers, or spill management team members who are not your employees that you cite in the plan. To provide this proof, submit copies of the contracts or membership agreements or certify that contracts or membership agreements are in effect. The contract or membership agreement must include provisions for ensuring the availability of the personnel and/or equipment on a 24-hour-per-day basis.

§ 254.26 What information must I include in the "Worst case discharge scenario" appendix?

The discussion of your worst case discharge scenario must include all of the following elements:

(a) The volume of your worst case discharge scenario determined using

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the criteria in §254.47. Provide any assumptions made and the supporting calculations used to determine this volume.

(b) An appropriate trajectory analysis specific to the area in which the facility is located. The analysis must identify onshore and offshore areas that a discharge potentially could affect. The trajectory analysis chosen must reflect the maximum distance from the facility that oil could move in a time period that it reasonably could be expected to persist in the environment.

(c) A list of the resources of special economic or environmental importance that potentially could be impacted in the areas identified by your trajectory analysis. You also must state the strategies that you will use for their protection. At a minimum, this list must include those resources of special economic and environmental importance, if any, specified in the appropriate Area Contingency Plan(s).

(d) A discussion of your response to your worst case discharge scenario in adverse weather conditions. This discussion must include:

(1) A description of the response equipment that you will use to contain and recover the discharge to the maximum extent practicable. This description must include the types, location(s) and owner, quantity, and capabilities of the equipment. You also must include the effective daily recovery capacities, where applicable. You must calculate the effective daily recovery capacities using the methods described in §254.44. For operations at a drilling or production facility, your scenario must show how you will cope with the initial spill volume upon arrival at the scene and then support operations for a blowout lasting 30 days.

(2) A description of the personnel, materials, and support vessels that would be necessary to ensure that the identified response equipment is deployed and operated promptly and effectively. Your description must include the location and owner of these resources as well as the quantities and types (if applicable);

(3) A description of your oil storage, transfer, and disposal equipment. Your description must include the types, lo-

cation and owner, quantity, and capacities of the equipment; and

(4) An estimation of the individual times needed for:

(i) Procurement of the identified containment, recovery, and storage equipment;

(ii) Procurement of equipment transportation vessel(s);

(iii) Procurement of personnel to load and operate the equipment;

(iv) Equipment loadout (transfer of equipment to transportation vessel(s));

(v) Travel to the deployment site (including any time required for travel from an equipment storage area); and

(vi) Equipment deployment.

(e) In preparing the discussion required by paragraph (d) of this section, you must:

(1) Ensure that the response equipment, materials, support vessels, and strategies listed are suitable, within the limits of current technology, for the range of environmental conditions anticipated at your facility; and

(2) Use standardized, defined terms to describe the range of environmental conditions anticipated and the capabilities of response equipment. Examples of acceptable terms include those defined in American Society for Testing of Materials (ASTM) publication F625–94, *Standard Practice for Describing Environmental Conditions Relevant to Spill Control Systems for Use on Water*, and ASTM F818–93, *Standard Definitions Relating to Spill Response Barriers*.

§ 254.27 What information must I include in the “Dispersant use plan” appendix?

Your dispersant use plan must be consistent with the National Contingency Plan Product Schedule and other provisions of the National Contingency Plan and the appropriate Area Contingency Plan(s). The plan must include:

(a) An inventory and a location of the dispersants and other chemical or biological products which you might use on the oils handled, stored, or transported at the facility;

(b) A summary of toxicity data for these products;

(c) A description and a location of any application equipment required as

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well as an estimate of the time to commence application after approval is obtained;

(d) A discussion of the application procedures;

(e) A discussion of the conditions under which product use may be requested; and

(f) An outline of the procedures you must follow in obtaining approval for product use.

§ 254.28 What information must I include in the “In situ burning plan” appendix?

Your in situ burning plan must be consistent with any guidelines authorized by the National Contingency Plan and the appropriate Area Contingency Plan(s). Your in situ burning plan must include:

(a) A description of the in situ burn equipment including its availability, location, and owner;

(b) A discussion of your in situ burning procedures, including provisions for ignition of an oil spill;

(c) A discussion of environmental effects of an in situ burn;

(d) Your guidelines for well control and safety of personnel and property;

(e) A discussion of the circumstances in which in situ burning may be appropriate;

(f) Your guidelines for making the decision to ignite; and

(g) An outline of the procedures you must follow to obtain approval for an in situ burn.

§ 254.29 What information must I include in the “Training and drills” appendix?

Your “Training and drills” appendix must:

(a) Identify and include the dates of the training provided to members of the spill-response management team and the qualified individual. The types of training given to the members of the spill-response operating team also must be described. The training requirements for your spill management team and your spill-response operating team are specified in § 254.41. You must designate a location where you keep

course completion certificates or attendance records for this training.

(b) Describe in detail your plans for satisfying the exercise requirements of § 254.42. You must designate a location where you keep the records of these exercises.

§ 254.30 When must I revise my response plan?

(a) You must review your response plan at least every 2 years and submit all resulting modifications to the Regional Supervisor. If this review does not result in modifications, you must inform the Regional Supervisor in writing that there are no changes.

(b) You must submit revisions to your plan for approval within 15 days whenever:

(1) A change occurs which significantly reduces your response capabilities;

(2) A significant change occurs in the worst case discharge scenario or in the type of oil being handled, stored, or transported at the facility;

(3) There is a change in the name(s) or capabilities of the oil spill removal organizations cited in the plan; or

(4) There is a significant change to the Area Contingency Plan(s).

(c) The Regional Supervisor may require that you resubmit your plan if the plan has become outdated or if numerous revisions have made its use difficult.

(d) The Regional Supervisor will periodically review the equipment inventories of OSRO's to ensure that sufficient spill removal equipment is available to meet the cumulative needs of the owners and operators who cite these organizations in their plans.

(e) The Regional Supervisor may require you to revise your plan if significant inadequacies are indicated by:

(1) Periodic reviews (described in paragraph (d) of this section);

(2) Information obtained during drills or actual spill responses; or

(3) Other relevant information the Regional Supervisor obtained.

**Subpart C—Related Requirements
for Outer Continental Shelf Fa-
cilities**

§ 254.40 Records.

You must make all records of services, personnel, and equipment provided by OSRO's or cooperatives available to any authorized BSEE representative upon request.

§ 254.41 Training your response personnel.

(a) You must ensure that the members of your spill-response operating team who are responsible for operating response equipment attend hands-on training classes at least annually. This training must include the deployment and operation of the response equipment they will use. Those responsible for supervising the team must be trained annually in directing the deployment and use of the response equipment.

(b) You must ensure that the spill-response management team, including the spill-response coordinator and alternates, receives annual training. This training must include instruction on:

- (1) Locations, intended use, deployment strategies, and the operational and logistical requirements of response equipment;
- (2) Spill reporting procedures;
- (3) Oil-spill trajectory analysis and predicting spill movement; and
- (4) Any other responsibilities the spill management team may have.

(c) You must ensure that the qualified individual is sufficiently trained to perform his or her duties.

(d) You must keep all training certificates and training attendance records at the location designated in your response plan for at least 2 years. They must be made available to any authorized BSEE representative upon request.

§ 254.42 Exercises for your response personnel and equipment.

(a) You must exercise your entire response plan at least once every 3 years (triennial exercise). You may satisfy this requirement by conducting separate exercises for individual parts of the plan over the 3-year period; you do

not have to exercise your entire response plan at one time.

(b) In satisfying the triennial exercise requirement, you must, at a minimum, conduct:

(1) An annual spill management team tabletop exercise. The exercise must test the spill management team's organization, communication, and decision making in managing a response. You must not reveal the spill scenario to team members before the exercise starts.

(2) An annual deployment exercise of response equipment identified in your plan that is staged at onshore locations. You must deploy and operate each type of equipment in each triennial period. However, it is not necessary to deploy and operate each individual piece of equipment.

(3) An annual notification exercise for each facility that is manned on a 24-hour basis. The exercise must test the ability of facility personnel to communicate pertinent information in a timely manner to the qualified individual.

(4) A semiannual deployment exercise of any response equipment which the BSEE Regional Supervisor requires an owner or operator to maintain at the facility or on dedicated vessels. You must deploy and operate each type of this equipment at least once each year. Each type need not be deployed and operated at each exercise.

(c) During your exercises, you must simulate conditions in the area of operations, including seasonal weather variations, to the extent practicable. The exercises must cover a range of scenarios over the 3-year exercise period, simulating responses to large continuous spills, spills of short duration and limited volume, and your worst case discharge scenario.

(d) BSEE will recognize and give credit for any documented exercise conducted that satisfies some part of the required triennial exercise. You will receive this credit whether the owner or operator, an OSRO, or a Government regulatory agency initiates the exercise. BSEE will give you credit for an actual spill response if you evaluate the response and generate a proper record. Exercise documentation

should include the following information:

- (1) Type of exercise;
- (2) Date and time of the exercise;
- (3) Description of the exercise;
- (4) Objectives met; and
- (5) Lessons learned.

(e) All records of spill-response exercises must be maintained for the complete 3-year exercise cycle. Records should be maintained at the facility or at a corporate location designated in the plan. Records showing that OSRO's and oil spill removal cooperatives have deployed each type of equipment also must be maintained for the 3-year cycle.

(f) You must inform the Regional Supervisor of the date of any exercise required by paragraph (b)(1), (2), or (4) of this section at least 30 days before the exercise. This will allow BSEE personnel the opportunity to witness any exercises.

(g) The Regional Supervisor periodically will initiate unannounced drills to test the spill response preparedness of owners and operators.

(h) The Regional Supervisor may require changes in the frequency or location of the required exercises, equipment to be deployed and operated, or deployment procedures or strategies. The Regional Supervisor may evaluate the results of the exercises and advise the owner or operator of any needed changes in response equipment, procedures, or strategies.

(i) Compliance with the National Preparedness for Response Exercise Program (PREP) Guidelines will satisfy the exercise requirements of this section. Copies of the PREP document may be obtained from the Regional Supervisor.

§ 254.43 Maintenance and periodic inspection of response equipment.

(a) You must ensure that the response equipment listed in your response plan is inspected at least monthly and is maintained, as necessary, to ensure optimal performance.

(b) You must ensure that records of the inspections and the maintenance activities are kept for at least 2 years and are made available to any authorized BSEE representative upon request.

§ 254.44 Calculating response equipment effective daily recovery capacities.

(a) You are required by § 254.26(d)(1) to calculate the effective daily recovery capacity of the response equipment identified in your response plan that you would use to contain and recover your worst case discharge. You must calculate the effective daily recovery capacity of the equipment by multiplying the manufacturer's rated throughput capacity over a 24-hour period by 20 percent. This 20 percent efficiency factor takes into account the limitations of the recovery operations due to available daylight, sea state, temperature, viscosity, and emulsification of the oil being recovered. You must use this calculated rate to determine if you have sufficient recovery capacity to respond to your worst case discharge scenario.

(b) If you want to use a different efficiency factor for specific oil recovery devices, you must submit evidence to substantiate that efficiency factor. Adequate evidence includes verified performance data measured during actual spills or test data gathered according to the provisions of § 254.45(b) and (c).

§ 254.45 Verifying the capabilities of your response equipment.

(a) The Regional Supervisor may require performance testing of any spill-response equipment listed in your response plan to verify its capabilities if the equipment:

- (1) Has been modified;
- (2) Has been damaged and repaired; or
- (3) Has a claimed effective daily recovery capacity that is inconsistent with data otherwise available to BSEE.

(b) You must conduct any required performance testing of booms in accordance with BSEE-approved test criteria. You may use the document "Test Protocol for the Evaluation of Oil-Spill Containment Booms," available from BSEE, for guidance. Performance testing of skimmers also must be conducted in accordance with BSEE approved test criteria. You may use the document "Suggested Test Protocol for the Evaluation of Oil Spill Skimmers for the OCS," available from BSEE, for guidance.

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(c) You are responsible for any required testing of equipment performance and for the accuracy of the information submitted.

§ 254.46 Whom do I notify if an oil spill occurs?

(a) You must immediately notify the National Response Center (1-800-424-8802) if you observe:

- (1) An oil spill from your facility;
 - (2) An oil spill from another offshore facility; or
 - (3) An offshore spill of unknown origin.
- (b) In the event of a spill of 1 barrel or more from your facility, you must orally notify the Regional Supervisor without delay. You also must report spills from your facility of unknown size but thought to be 1 barrel or more.

(1) If a spill from your facility not originally reported to the Regional Supervisor is subsequently found to be 1 barrel or more, you must then report it without delay.

(2) You must file a written follow up report for any spill from your facility of 1 barrel or more. The Regional Supervisor must receive this confirmation within 15 days after the spillage has been stopped. All reports must include the cause, location, volume, and remedial action taken. Reports of spills of more than 50 barrels must include information on the sea state, meteorological conditions, and the size and appearance of the slick. The Regional Supervisor may require additional information if it is determined that an analysis of the response is necessary.

(c) If you observe a spill resulting from operations at another offshore facility, you must immediately notify the responsible party and the Regional Supervisor.

§ 254.47 Determining the volume of oil of your worst case discharge scenario.

You must calculate the volume of oil of your worst case discharge scenario as follows:

(a) For an oil production platform facility, the size of your worst case discharge scenario is the sum of the following:

(1) The maximum capacity of all oil storage tanks and flow lines on the facility. Flow line volume may be estimated; and

(2) The volume of oil calculated to leak from a break in any pipelines connected to the facility considering shutdown time, the effect of hydrostatic pressure, gravity, frictional wall forces and other factors; and

(3) The daily production volume from an uncontrolled blowout of the highest capacity well associated with the facility. In determining the daily discharge rate, you must consider reservoir characteristics, casing/production tubing sizes, and historical production and reservoir pressure data. Your scenario must discuss how to respond to this well flowing for 30 days as required by § 254.26(d)(1).

(b) For exploratory or development drilling operations, the size of your worst case discharge scenario is the daily volume possible from an uncontrolled blowout. In determining the daily discharge rate, you must consider any known reservoir characteristics. If reservoir characteristics are unknown, you must consider the characteristics of any analog reservoirs from the area and give an explanation for the selection of the reservoir(s) used. Your scenario must discuss how to respond to this well flowing for 30 days as required by § 254.26(d)(1).

(c) For a pipeline facility, the size of your worst case discharge scenario is the volume possible from a pipeline break. You must calculate this volume as follows:

(1) Add the pipeline system leak detection time to the shutdown response time.

(2) Multiply the time calculated in paragraph (c)(1) of this section by the highest measured oil flow rate over the preceding 12-month period. For new pipelines, you should use the predicted oil flow rate in the calculation.

(3) Add to the volume calculated in paragraph (c)(2) of this section the total volume of oil that would leak from the pipeline after it is shut in. Calculate this volume by taking into account the effects of hydrostatic pressure, gravity, frictional wall forces, length of pipeline segment, tie-ins with other pipelines, and other factors.

(d) If your facility which stores, handles, transfers, processes, or transports oil does not fall into the categories listed in paragraph (a), (b), or (c) of this section, contact the Regional Supervisor for instructions on the calculation of the volume of your worst case discharge scenario.

Subpart D—Oil-Spill Response Requirements for Facilities Located in State Waters Seaward of the Coast Line

§ 254.50 Spill response plans for facilities located in State waters seaward of the coast line.

Owners or operators of facilities located in State waters seaward of the coast line must submit a spill-response plan to BSEE for approval. You may choose one of three methods to comply with this requirement. The three methods are described in §§ 254.51, 254.52, and 254.53.

§ 254.51 Modifying an existing OCS response plan.

You may modify an existing response plan covering a lease or facility on the OCS to include a lease or facility in State waters located seaward of the coast line. Since this plan would cover more than one lease or facility, it would be considered a Regional Response Plan. You should refer to § 254.3 and contact the appropriate regional BSEE office if you have any questions on how to prepare this Regional Response Plan.

§ 254.52 Following the format for an OCS response plan.

You may develop a response plan following the requirements for plans for OCS facilities found in subpart B of this part.

§ 254.53 Submitting a response plan developed under State requirements.

(a) You may submit a response plan to BSEE for approval that you developed in accordance with the laws or regulations of the appropriate State. The plan must contain all the elements the State and OPA require and must:

(1) Be consistent with the requirements of the National Contingency

Plan and appropriate Area Contingency Plan(s).

(2) Identify a qualified individual and require immediate communication between that person and appropriate Federal officials and response personnel if there is a spill.

(3) Identify any private personnel and equipment necessary to remove, to the maximum extent practicable, a worst case discharge as defined in § 254.47. The plan must provide proof of contractual services or other evidence of a contractual agreement with any OSRO's or spill management team members who are not employees of the owner or operator.

(4) Describe the training, equipment testing, periodic unannounced drills, and response actions of personnel at the facility. These must ensure both the safety of the facility and the mitigation or prevention of a discharge or the substantial threat of a discharge.

(5) Describe the procedures you will use to periodically update and resubmit the plan for approval of each significant change.

(b) Your plan developed under State requirements also must include the following information:

(1) A list of the facilities and leases the plan covers and a map showing their location;

(2) A list of the types of oil handled, stored, or transported at the facility;

(3) Name and address of the State agency to whom the plan was submitted;

(4) Date you submitted the plan to the State;

(5) If the plan received formal approval, the name of the approving organization, the date of approval, and a copy of the State agency's approval letter if one was issued; and

(6) Identification of any regulations or standards used in preparing the plan.

§ 254.54 Spill prevention for facilities located in State waters seaward of the coast line.

In addition to your response plan, you must submit to the Regional Supervisor a description of the steps you are taking to prevent spills of oil or mitigate a substantial threat of such a discharge. You must identify all State

or Federal safety or pollution prevention requirements that apply to the prevention of oil spills from your facility, and demonstrate your compliance with these requirements. You also should include a description of industry safety and pollution prevention standards your facility meets. The Regional Supervisor may prescribe additional equipment or procedures for spill prevention if it is determined that your efforts to prevent spills do not reflect good industry practices.

PART 256—LEASING OF SULPHUR OR OIL AND GAS IN THE OUTER CONTINENTAL SHELF

Subpart A—Outer Continental Shelf Oil, Gas, and Sulphur Management, General

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Subpart A—Outer Continental Shelf Oil, Gas, and Sulphur Management, General

§ 256.0 [Reserved]

§ 256.1 Purpose.

The purpose of the regulations in 30 CFR part 256 is to establish the procedures under which the Secretary of the Interior (Secretary) will exercise the authority to administer a leasing program for oil, gas and sulphur. The procedures under which the Secretary will exercise the authority to administer a program to grant rights-of-way, are addressed in part 250, Subpart J.

§§ 256.2–256.5 [Reserved]

§ 256.7 Cross references.

(a) For Bureau of Safety and Environmental Enforcement (BSEE) regulations governing exploration, development and production on leases, see 30 CFR parts 250 and 270.

(b) For BSEE regulations governing the appeal of an order or decision issued under the regulations in this part, see 30 CFR part 290.

(c) For multiple use conflicts, see the Environmental Protection Agency listing of ocean dumping sites—40 CFR part 228.

(d) For related National Oceanic and Atmospheric Administration programs see:

- (1) Marine sanctuary regulations, 15 CFR part 922;
- (2) Fishermen's Contingency Fund, 50 CFR part 296;
- (3) Coastal Energy Impact Program, 15 CFR part 931;