

approved the information collection requirements contained in this AD and has assigned OMB Control Number 2120-0056.

(1) If the inspection is accomplished after the effective date of this AD: Submit the report within 10 days after the inspection.

(2) If the inspection was accomplished before the effective date of this AD: Submit the report within 10 days after the effective date of this AD.

#### Parts Installation

(h) As of the effective date of this AD, no person may install a CFRP rudder, any series of P/N A55471500, on any airplane, unless the CFRP rudder has been inspected and any applicable corrective action has been accomplished in accordance with paragraphs (f)(2) and (f)(3) of this AD.

#### Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, International Branch, ANM-116, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

#### Related Information

(j) The European Aviation Safety Agency's airworthiness directive 2006-0066, dated March 24, 2006, also addresses the subject of this AD.

#### Material Incorporated by Reference

(k) You must use Airbus All Operators Telex A310-55A2043, dated March 2, 2006, or Airbus All Operators Telex A300-55A6042, dated March 2, 2006, as applicable; and Airbus Technical Disposition 943.0046/06, dated March 2, 2006; to perform the actions that are required by this AD, unless the AD specifies otherwise. (Only page 1 of Airbus All Operators Telex A310-55A2043 and Airbus All Operators Telex A300-55A6042 contains the document number and date of the document; no other page of the document contains this information.) The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL-401, Nassif Building, Washington, DC; on the Internet at <http://dms.dot.gov>; or at the National Archives and Records Administration (NARA).

For information on the availability of this material at the NARA, call (202) 741-6030, or go to [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

Issued in Renton, Washington, on March 24, 2006.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 06-3119 Filed 3-28-06; 12:45 pm]

BILLING CODE 4910-13-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 3

#### Change of Telephone Number; Technical Amendment

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule; technical amendment.

**SUMMARY:** The Food and Drug Administration (FDA) is amending its regulations to reflect a change in telephone number for the Office of Combination Products (OCP). This action is editorial in nature and is intended to improve the accuracy of the agency's regulations.

**DATES:** March 30, 2006.

**FOR FURTHER INFORMATION CONTACT:** Leigh Hayes, Office of Combination Products (HFG-3), Food and Drug Administration, 15800 Crabbs Branch Way, suite 200, Rockville, MD 20855, 301-427-1934.

**SUPPLEMENTARY INFORMATION:** FDA is amending its regulations in 21 CFR part 3 to reflect a change in the telephone number for the OCP.

Publication of this document constitutes final action on this change under the Administrative Procedure Act (5 U.S.C. 553). Notice and public procedures are unnecessary because FDA is merely correcting a nonsubstantive error.

#### List of Subjects in 21 CFR Part 3

Administrative practice and procedure, Biologics, Drugs, Medical devices.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR Part 3 is amended as follows:

#### PART 3—PRODUCT JURISDICTION

■ 1. The authority citation for 21 CFR part 17 continues to read as follows:

**Authority:** 21 U.S.C. 321, 351, 353, 355, 360, 360c-360f, 360h-360j, 360gg-360ss, 360bbb-2, 371(a), 379e, 381, 394; 42 U.S.C. 216, 262, 264.

#### § 3.6 [Amended]

■ 2. Section 3.6 is amended by removing “301-827-9229” and by adding in its place “301-427-1934”.

Dated: March 23, 2006.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

[FR Doc. 06-3046 Filed 3-29-06; 8:45 am]

BILLING CODE 4160-01-S

## DEPARTMENT OF THE INTERIOR

### Minerals Management Service

#### 30 CFR Parts 250 and 251

RIN 1010-AC81

#### Oil and Gas and Sulphur Operations in the Outer Continental Shelf (OCS)—Geological and Geophysical (G&G) Explorations of the OCS—Proprietary Terms and Data Disclosure

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

**ACTION:** Final rule.

**SUMMARY:** This rule expands the circumstances under which MMS allows inspection of G&G data and information. The rule also modifies the start dates of proprietary terms for geophysical data and information and any derivatives of these data and information that MMS acquires. In addition, the rule clarifies the proprietary terms of geological data and information MMS acquires pursuant to a permit.

**DATES:** *Effective Date:* May 1, 2006.

**FOR FURTHER INFORMATION CONTACT:** George Dellagiarino or David Zinzer at (703) 787-1628.

**SUPPLEMENTARY INFORMATION:** This final rule implements changes put forward by our notice of proposed rulemaking (NPR) published July 17, 2002 (67 FR 46942). The comment period ended September 16, 2002. MMS received 10 sets of written comments and recommendations in response to the NPR. Two sets of comments and recommendations were from industry associations, and eight were from permittees and third party users of G&G data and information collected on the OCS. We have carefully considered each of these comments and recommendations. We did not adopt recommendations that did not appear to be in the public's best interest.

#### Discussion and Analysis of Comments

MMS has decided to proceed with the final rule after carefully considering all written comments on the proposed

rulemaking. MMS appreciates the candor and scope of the many comments put forth, and the concerns of industry. However, MMS believes that specific concerns with the proposed rulemaking have been addressed properly, and that where MMS and industry disagree, MMS is acting appropriately, balancing the needs of industry and the public interest.

#### Section-by-Section Analysis

##### *Section 250.196 Data and Information To Be Made Available to the Public or for Limited Inspection*

MMS is extending the circumstances under which MMS selectively allows persons with a direct and pertinent interest to inspect proprietary G&G data and information that are used by MMS in certain decisions. MMS currently allows limited inspection of data and information related to unitization determinations on two or more leases, competitive reservoir determinations, proper plans of development for competitive reservoirs, operational safety, and the environment. Under this final rule, MMS will also allow limited inspection of G&G data and information related to field determinations and eligibility for royalty relief. It has become necessary to include these circumstances to properly explain related MMS decisions.

*Comment:* One commenter requested that MMS withdraw, and other commenters suggested changes to, the proposed language. One of the commenters noted that there was a possibility that MMS could release highly confidential data and other information to competitors or other groups, which would impede the flow of information between MMS and lessees.

Other commenters cited increased opportunities for a competitor to determine, at no cost, what data a company sought to keep confidential. These same commenters argued also that the proposed language gives competitors the opportunity to look at, work, and analyze a submitting party's data and information without obtaining a license, thereby depriving the data owner of the economic benefits of obtaining the data.

*Response:* MMS is proceeding with the proposed language. The additional circumstances under which certain data and information may be disclosed are necessary to properly explain decisions related to field determinations and eligibility for royalty relief. However, in meetings where MMS discloses certain data and information to persons with a direct interest in specific MMS

decisions and related issues, MMS will not allow these persons to work or analyze data or information submitted by any party. MMS will not release data or information at these meetings.

*Comment:* Several commenters stated that the proposed criteria for determining limited access to the confidential data and information are vague and overbroad.

One commenter suggested language directly adapted from an industry model data licensing contract. The suggested language would limit disclosure of geophysical data and information to persons with a direct interest in related MMS decisions and issues; and would limit disclosure to such portions of the data and information directly pertaining to the decisions in question. Further, inspection would be done on MMS premises, in a secure environment under direct control of MMS. MMS would not provide copies of data and information, nor allow viewing parties to make, retain, or remove any copy thereof. Another commenter suggested that participants in the meeting agree in writing prior to inspection to maintain the confidentiality of the G&G data and information disclosed or discussed.

A third commenter suggested that these persons should be given only passive access to the portions of the geophysical information related to the specific geographic areas that are the subject of consultation. The commenter also suggested that persons inspecting the data and information should be prevented from summarizing, transcribing, reproducing, or photocopying the geophysical information; operating a computer workstation on which geophysical information is displayed; and altering or generating displays, interpretations, or processing of geophysical information. They also should be prevented from departing the MMS premises with any geophysical information, or any summary, description, or knowledge thereof that is comparable to having a copy thereof. Furthermore, under no circumstances should MMS allow inspection by any person of non-public G&G data or information covering any leased or unleased acreage not directly associated with a specific MMS decision. This includes, but is not limited to, regional studies or geological trend analysis partly or wholly based on non-public data or information.

*Response:* In response to these industry concerns, MMS is adding language to the rule to further ensure and clarify that proprietary G&G data and information are disclosed only to persons directly associated with specific MMS decisions affecting specific

geographic areas, and who agree in writing to confidentiality of the data and information. While most disclosures of the data and information will take place at MMS offices, MMS retains the prerogative of disclosing the data and information at non-MMS sites, if required by circumstances. However, MMS will disclose proprietary data and information only when necessary to explain these types of decisions, and will minimize the opportunity of meeting participants to inspect the data and information. MMS will determine the data and information that will be disclosed, the location of and participants in meetings with MMS, and the conditions of disclosure during and after the meeting. MMS will not allow participants to operate a computer or reproduce or transcribe information during a meeting, or remove data or information from the premises.

*Comment:* One commenter suggested that, if MMS is experiencing a substantial problem in release of confidential G&G data and information, MMS resolve the problem through the use of some type of form protective order that controls the individuals who will see and have access to data or information, and which controls the conditions surrounding use after disclosure. The commenter also suggested use of an expert not associated with the competitor company.

*Response:* MMS does not believe that a form protective order or use of an outside expert is necessary to properly protect confidential G&G data and information, and will not make the recommended changes. MMS limits access to data and information disclosed at meetings to persons with a direct interest in MMS decisions, and controls the conditions surrounding use after disclosure.

##### *Section 251.14 Protecting and Disclosing Data and Information Submitted to MMS Under a Permit*

MMS is changing the start date of the proprietary terms for geophysical data and information from the date that the data and information are submitted to MMS to the date that the permit under which the originating data were acquired was issued. The start date of the proprietary term for geological data and information currently is also the date that the permit was issued. Although the lengths of the proprietary terms do not change, the net result is that the total length of time for which geophysical data and information are held by MMS before public release will be shorter than under the current rule.

Since MMS may select and retain geophysical data and information numerous times from a single permit, under the existing regulations there is a separate start and release date for each submission of geophysical data and information. This has resulted in substantial and complex recordkeeping for submitted data and information. This change is being made to relieve the administrative recordkeeping burden by using a single date (the permit issue date) to manage the release of the geophysical data and information following expiration of the proprietary term.

*Comment:* One commenter asked that MMS reconsider the proposed rule, and that MMS meet with geophysical contractors to modify the proposal in a manner that will allow the MMS to achieve its recordkeeping goals while not destroying the existence of the geophysical contractor and Gulf of Mexico (GOM) exploration.

*Response:* After carefully considering all comments, including suggested options, MMS is proceeding with the proposed rule. MMS believes that changing the start date of proprietary terms for geophysical data and information to the date the permit was issued is necessary, and is the only viable option to efficiently and properly manage the release of the data and information.

*Comment:* One commenter noted that, in 2000, geophysical contractors in the GOM invested \$214 million in data acquisition and initial data processing, and \$62 million in reprocessing existing data. Similarly, in 2001, the industry invested \$281 million in data acquisition and initial processing, and \$92 million in reprocessing existing data.

Another commenter stated that the economic value of privileged and proprietary information received by the Secretary of the Interior from permittees and lessees is emphasized by the requirement in the OCS Lands Act for the Secretary of the Interior to secure the agreement of permittees or licensees before releasing data to states under certain circumstances.

One commenter stated that shortening the proprietary time period associated with all geophysical data and information previously submitted, and submitted in the future, regardless of the terms of the original permit, is financially detrimental to the data owners. Two commenters stated that resetting the start date [of the proprietary term] to the date the permit is issued reduces the economic life of new geophysical information, and in effect reduces the return on investment

in future non-exclusive seismic programs, hence stifling healthy competition and investment in new technologies and innovation.

Another commenter further stated that investment in new non-exclusive seismic programs will be reduced and employment will be adversely affected. Another commenter asserted that competition and exploration in the GOM will be limited to a few majors, eliminating small to medium exploration entities, eliminating a large portion of the MMS leases in the GOM, and eliminating even more geophysical companies.

One commenter stated that since the collection and possession of G&G data is a valuable property right, MMS should reconsider promulgation of a rule which reduces or destroys the value of that property right by earlier release through promulgation of a regulation retroactive to June 1976.

*Response:* MMS recognizes the significant investment that the geophysical service industry and the oil and gas industry make in acquiring, licensing, processing, and reprocessing geophysical data and information; and that the competitive and economic value of these data and information continues during the proprietary period. However, only data and information that are selected and retained by MMS will be released to the public. Data and information that are selected for inspection but not retained by MMS, or which are not selected for inspection, are not subject to release by MMS. Data owners and licensees may hold geophysical data and information that are not acquired by MMS confidential for as long as allowed by, for example, copyright or intellectual property law.

MMS rarely acquires geophysical data (e.g., raw field tapes). Moreover, since most of the geophysical information that MMS retains was acquired within 2 to 3 years of the date the permit was issued, only a small amount of geophysical information would be released more than 3 years sooner by using the permit date than is currently the case when using the date of submission to MMS.

Furthermore, as stated in the preamble of the proposed rulemaking, in 1988 MMS extended the proprietary term for geophysical data from 10 years after the date of issuance of the permit to 50 years after the date of submission of the data to MMS, and for geophysical information from 10 years to 25 years after the date of submission of the information. Those changes, also made retroactive to June 1976, substantially increased the value to companies of data and information submitted to MMS.

MMS does not believe that the proposed rule destroys or significantly reduces the value of property rights by earlier release through promulgation of a retroactive regulation.

*Comment:* One commenter stated that computing power and imaging algorithms have been improving and developing more rapidly than data acquisition technology. Data owners have applied these computing technologies to existing geophysical data which has helped to open up exploration in areas with subsalt structures, gas clouds, and amplitude plays, and to illuminate deep gas on the continental shelf. New play ideas get tested; new technologies get developed; and a cycle of new processing begins. The proposed rule eliminates incentives for data owners to invest in new geophysical information derived from existing geophysical data.

Another commenter stated that very few oil and gas companies are willing to pay the necessary fees for new seismic data to be acquired in the GOM. Reprocessing will continue to be the key enhancement related to seismic data.

*Response:* MMS recognizes that increased computer capacity and the application of advanced algorithms to older raw data, or previously processed information, have improved imaging of sub-bottom geology. However, the use of modern computing techniques to process new seismic data acquired with advanced recording methods and instrumentation usually yields results that are superior to those obtained by reprocessing older data or information. Modern seismic data are acquired with more sensitive and reliable instruments; denser sampling of the sub-bottom; and superior navigation, positioning, and on-board data recording and processing techniques. MMS' experience is that industry continues to acquire seismic data in areas of dense coverage (e.g., GOM shallow shelf) with deeper seismic targets, and in areas of relatively sparse or no data coverage (e.g., deep water).

*Comment:* One commenter stated that in some areas crowded production facilities provide obstacles to new data being acquired, leaving holes in the data which can be filled in by undershooting, but at a higher cost, or by reprocessing legacy geophysical data to create value-added derivative products.

*Response:* MMS acknowledges that undershooting production facilities is usually more costly than shooting in unobstructed areas or reprocessing legacy data. However, in practice, acquiring new data is usually preferable to reprocessing older data in these areas.

*Comment:* One commenter noted that the seismic industry is experiencing

increasing scrutiny from MMS and the National Oceanic and Atmospheric Administration (NOAA) Fisheries over the impacts of acoustic pulses and other emissions [from seismic surveys] on the health and well being of marine mammals, particularly the sperm whale which is listed as an endangered species. There are new restrictions on data acquisition operations, and some are suggesting that prime producing areas of the GOM should be designated as critical habitat which would make access more difficult.

*Response:* MMS is funding a collaborative, international effort to study sperm whales in the GOM and determine what, if any, potential impacts there may be to sperm whales as a result of seismic survey activity. MMS also prepared a programmatic environmental assessment on geological and geophysical exploration activities in the GOM. The assessment found no significant potentially adverse impacts to sperm whales from seismic survey activities. MMS, as a precaution, developed mitigation measures to avoid or minimize any potential incidental (accidental) take of certain marine mammals in the GOM, and petitioned NOAA Fisheries to promulgate incidental take regulations governing the conduct of seismic surveys in the GOM. Any designation of critical habitat for the sperm whale in the GOM would be the responsibility of NOAA Fisheries under established Endangered Species Act procedures.

*Comment:* One commenter noted that under the proposed changes, a company that reprocesses older data would enjoy a much shorter time period during which MMS would keep the reprocessed information confidential than under current regulations. Competitors could gain access to the reprocessed information in as few as 2 years after submittal of the information by the company.

Another commenter stated that, for the explorer who desires to reprocess older data in order to make a decision as to whether to bid on a lease or not, consideration must be given to the fact that such a bid may precipitate a request from MMS for the reprocessed data set with the probability that it will be available to others in the near future. This will have a negative effect on whether or not to reprocess data as the data ages.

*Response:* MMS acknowledges that it is possible that reprocessed information derived from data or information that is more than 20 years old could be made available in as few as 2 years after submittal. However, this would be a relatively rare occurrence.

Processed seismic information that has been retained by MMS and is more than 20 years old was acquired on widely spaced 2-D grids. Reprocessing this older information would not result in quality or data density comparable to more recently acquired 2-D or 3-D seismic data and processed information.

Also, most seismic information submitted to MMS was processed near or at the final stages of the processing sequence. Most reprocessing for or by licensees is conducted on information at earlier stages of processing, closer in the sequence to initial processing of edited field tapes. Thus, for the purposes of reprocessing publicly available seismic information, there would be little demand for the processed seismic information that MMS releases, following expiration of the proprietary term. Furthermore, very little seismic data would be available from MMS for processing as MMS rarely acquires seismic data which, if acquired, has a 50-year proprietary term.

Most of the geophysical information that MMS selects and retains under Part 251 is information that was initially processed/reprocessed within 3 years after the permit date. However, approximately 5 percent of the information that MMS has retained was initially processed/reprocessed more than 3 years after the permit date. For example, on occasion in areas of sparse data coverage, MMS will acquire geophysical information that was processed or reprocessed 15 years or more after the date of the permit under which the source data were collected. More commonly in these areas, MMS will acquire geophysical information that was processed shortly after data acquisition by a permittee, but was not selected and retained by MMS until 15 or more years after the data were processed.

*Comment:* One commenter noted that E&P [exploration and production] companies (third parties) which process geophysical data that they obtain under license from permittees usually do not request, nor are generally furnished, information relative to the permits associated with acquisition of the data. The third parties will not have permit information available without having to undertake a significant effort to collect that needed information. Also, data libraries which have been bought out and/or which merged with other libraries may not be able to determine missing permit dates.

*Response:* The great majority of geophysical information that MMS has acquired for retention under Part 251 is from permittees, which makes it easier to obtain the applicable permit dates

associated with the information. MMS acquires a smaller, though increasing, amount of geophysical information from third parties who obtain licenses for, or acquire on an exclusive basis, data and information from permittees. When MMS acquires geophysical information from third parties, MMS is able to determine the associated permit date, albeit with more effort than from the original permittee.

*Comment:* Three commenters noted that legacy seismic information from contiguous surveys acquired under different permits over a period of years are sometimes reprocessed together using new computing technology to produce a seamless, single volume of seismic information used to target a new exploration objective, and to better correlate discoveries and improve images at the former edges of permit areas.

One of the commenters further noted that this single deliverable volume of seismic information derived from multiple permits would have to be separated into information sets, based on the original permit, before release to the public.

*Response:* When MMS acquires geophysical information that cannot be adequately separated by permit date from other information in the same area (coincident or contiguous to each other), the most recent permit date will be used to determine the start of the proprietary term for the whole volume of information.

*Comment:* One commenter stated that geophysical companies keep records of the dates non-exclusive geophysical information is available for license to exploration companies. The date the geophysical information first becomes available would be a logical change to the start time of the proprietary period during which MMS retains the information. Under this alternate solution, the geophysical data owners would submit to MMS the dates that the projects were first made available and certify that this information is accurate. Although under this alternate proposal the proprietary period for geophysical information would still be shortened for a great number of surveys that MMS has retained, it would be less onerous than using the permit date. This would also allow for each new investment in new geophysical information to have its own 25-year proprietary period.

Another commenter proposed that the owner of geophysical data and information should be given two alternatives for determining the confidentiality period for geophysical information: (1) Use the permit date, as in the proposed rule, or (2) start the 25-

year period on the date of completion of data processing or reprocessing, on the condition that the owner of the information make electronic application to MMS for a 25-year confidentiality period; identify the area and product name of the information, permit date, and date of completion of the processing or reprocessing of the information; and certify the accuracy of information.

Various grace periods to phase in the suggested alternatives to the proposed rule were offered by some commenters.

*Response:* MMS believes that these alternatives do not alleviate the burden and impracticality of determining the release dates for geophysical data and information submitted to, and retained by, MMS. The date that a particular set of information is available to exploration companies, or the date processing or reprocessing is completed, is not adequate. The date that MMS acquires geophysical information usually does not coincide with the date the geophysical information is available for commercial purposes. MMS usually acquires information at a separate time or stage of data processing and development. Thus, the geophysical information acquired by MMS would not coincide in time or content with the information offered to exploration companies. Regarding dates on which data processing is complete, there would be many instances when these dates may not be available or accurate. For example, records are often not available from permittees who have gone out of business or have merged with other companies. Also, many companies, including permittees and third parties, did/do not keep accurate records of the date processing was completed or the dates that information was submitted to MMS.

*Comment:* Two commenters suggested changing the proprietary term to a uniform period of 40 years from the date the permit is issued for G&G data and information acquired under Part 251 and submitted under Parts 203, 250, or 251.

Another commenter suggested eliminating the two-step proprietary period for geophysical data (50 years) and geophysical information (25 years) by standardizing all geophysical data and information to a 50-year period.

Another commenter suggested granting a new start date of a 25-year term for new geophysical information generated when a geophysical company creates a new and improved product by processing data acquired 5 years ago, or earlier.

*Response:* Extending the proprietary terms of G&G data and information is not in the public interest. The final

rulemaking balances the need to properly protect data and information that MMS acquires from industry with the need to increase competition for oil and gas exploration and to provide academia and other parties with information that may be used to better understand the geology of the sub-bottom.

By comparison, G&G data and information acquired from lessees have much shorter proprietary terms than G&G data and information acquired from permittees. For example, most logs from wells drilled on GOM leases are released to the public 2 years after submittal. Geophysical data and information acquired from lessees are released 10 years after submittal, or when the lease expires, whichever is sooner. Also, proprietary terms for offshore geophysical exploration data and information in other countries are usually shorter than in the United States (U.S.). For example, for the continental shelves of Norway, United Kingdom, and Australia, the proprietary terms generally range from 2 to 10 years.

*Comment:* One commenter voiced concern over the amount of geophysical information that will become public in the next 10 years, and questioned how digital information would be handled when the rules were written with the concept of paper information in mind. The commenter noted that to date, the information that has become public all consists of paper copies and is distributed on CDs in the form of PDF files. Geophysical information that will become available in the future will be digital. The commenter stated that this adds many complications to the process, and asked who will distribute the information.

*Response:* MMS releases geophysical information on analog hard copy (paper and plastic transparencies) and on CDs. The information on CDs includes PDF files of seismic line and map images, TIFF files of seismic velocity panels, SEG-P1 navigation files for all seismic lines released, and digital seismic information in SEG-Y format. In the future, MMS may also release geophysical information on other digital media such as DVDs, DLT and LTO tapes, and/or on-line.

*Comment:* Two commenters stated that a huge amount of information will become available to the public in the coming 10 years and that management of this information will be a very costly endeavor. Meanwhile, data owners already have data storage distribution facilities in place. The commenters suggested that MMS consider a policy that when geophysical information becomes publicly available, MMS list

the availability on its Web site, and direct interested parties to the owner(s) of the data and information for copying and distribution.

*Response:* MMS does not agree to suggestions that industry distribute publicly released data and information. MMS is responsible for a full, consistent, and timely distribution of data and information that are readily available to the public. Not all companies from which MMS acquired geophysical data and information still exist or, after mergers, have the proper records available and/or the means to distribute the data and information when their proprietary terms expire.

*Comment:* Two commenters also noted that in other parts of the world the geophysical industry has experienced companies that access public information and use it for more than their own information purposes. Scanning and creating digital versions that can be altered and resold have occurred and are expected to continue to occur. If this takes place in the 50-year period of data exclusivity, then it would be very detrimental to the original data owner.

The commenters further suggested that MMS publish a notice of ownership and owner rights on all forms of information released to the public; or that such notice of ownership or owner rights be stated in an accompanying informational transmittal or cover letter. The notice would state, notwithstanding the release of geophysical information, that the geophysical information remains the intellectual property of the party or parties who originally acquired the data or created the information, and is subject to their copyright and ownership rights. The notice would further state that the rights of individuals or other entities to use this geophysical information for their own use upon its public release was a condition of their securing the original right to acquire the data, either through their lease or by permit, and that everyone using publicly released data or information for any purpose other than their own use contact its owner.

*Response:* In 2001, MMS started releasing to the public seismic information for which the 25-year proprietary terms have expired. MMS will continue to release, and will announce on its Web site the availability to the public of G&G information without stating restrictions on further use of the information. MMS is not in a position to affirm or endorse the existence or validity of specific intellectual property rights in any particular released information. However, there may be some type of

intellectual property right that attaches to some types of G&G information. Users should be aware that some of the information may be copyright protected, and that it is up to the user to determine what rights, if any, may apply to particular information. This is not an agreement, explicit or otherwise, that MMS is policing the use of released information. It is the intellectual property right owner's responsibility to diligently protect its rights.

#### Procedural Matters

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

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

(1) This rule will not have an 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. MMS takes all actions that result from the change in the start dates of the proprietary terms, with no costs to outside parties. Similarly, there would be no costs associated to industry concerning our disclosing permitted geophysical information for ensuring proper development of fields or reservoirs.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. There are no other Federal agencies involved in this process, because it relates to release or disclosure of geophysical data and information.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or rights or obligations of their recipients. This rule has no effect on these programs or such rights.

(4) This rule changes the basis for the start of proprietary terms for geophysical data and geophysical information acquired under a permit, retroactive to June 11, 1976. This rule does not raise novel legal or policy issues, although we recognize that this change in the start date may be controversial. Some geophysical companies have concerns that their data and information may be released by MMS earlier than under current regulations.

However, any data to be released will be at least 50 years old, and any information to be released will be at least 25 years old. As previously stated, the intent of this rule is to alleviate

administrative recordkeeping burdens and to ensure proper development of fields or reservoirs.

##### *Regulatory Flexibility Act (RFA)*

The Department certifies that this document will not have a significant economic effect on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). This revised rule would modify the start of the proprietary terms for geophysical data and information and add language to ensure proper development of fields or reservoirs under 30 CFR 251.14 and 250.196. The only entities affected by this rule change are certain geophysical companies, if still in existence, whose data and information being held by MMS may be released earlier than under current regulations. The Small Business Administration classifies geophysical surveying and mapping services companies under the North American Industry Classification System Code 541360. These changes will have no economic impact on these constituents, as MMS takes all of the actions with no cost to our customers.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses 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 enforcement actions of MMS, call toll-free 1-888-734-3247. You may comment to the Small Business Administration without fear of retaliation. Disciplinary action for retaliation by an MMS employee may include suspension or termination from employment with the Department of the Interior.

##### *Small Business Regulatory Enforcement Fairness Act (SBREFA)*

This rule is not a major rule under the SBREFA, 5 U.S.C. 804(2). This rule:

(1) Does not have an annual effect on the economy of \$100 million or more. This rule would modify the proprietary terms for geophysical data and information for consistency with those for geological data and information, and allow for possible limited disclosure of certain permitted information for assuring proper development of a field or competitive reservoir. This rule will not impose any costs on industry.

(2) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic areas. The modification to

the proprietary term and change in language regarding disclosure of information for proper development of fields or reservoirs will not cause a burden in terms of finance or time for any outside parties.

(3) Does 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 as the information to be released will be 25 years old, and any data to be released will be 50 years old.

##### *Paperwork Reduction Act (PRA) of 1995*

The proposed revisions to 30 CFR parts 250 and 251 refer to, but do not change, information collection requirements in current regulations. The rule proposes no new reporting or recordkeeping requirements, and an OMB form 83-I submission to OMB under the PRA, section 3507(d) is not required. The PRA provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information and assigns a control number, you are not required to respond. OMB approved the referenced information collection requirements for 30 CFR 250 under OMB control number 1010-0114 (22,288 burden hours, expiration October 31, 2007; and for 30 CFR 251 under OMB control number 1010-0048 (8,272 burden hours), expiration July 31, 2006.

##### *Federalism (Executive Order 13132)*

According to E. O. 13132, this rule does not have Federalism implications. This rule does not substantially and directly affect the relationship between the Federal and State Governments. The modification to the proprietary terms affects only our own methods of doing business, and the added language regarding data disclosure would only be of interest to industry. There will be no financial costs to states.

##### *Takings Implications Assessment (Executive Order 12630)*

According to Executive Order 12630, the rule does not have significant Takings implications. A Takings Implication Assessment is not required because the rule would not take away or restrict an operator's right to collect data and information and would have us maintain that data and information as proprietary under the terms of the permit.

*Civil Justice Reform (Executive Order 12988)*

According to E.O. 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of Sections 3(a) and 3(b)(2) of the Order. The rule would have little effect on the judicial system because it is an administrative action to modify the proprietary terms and support the MMS decision making process for proper development of fields or reservoirs.

*National Environmental Policy Act (NEPA)*

MMS has analyzed this rule according to the criteria of the NEPA and 516 DM. This rule does not constitute a major Federal action significantly affecting the quality of the human environment. An environmental assessment is not required.

*Unfunded Mandates Reform Act (UMRA) of 1995*

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. This rule does not create any kind of a mandate for state, local, or tribal governments or the private sector. A statement containing the information required by the UMRA, 2 U.S.C. 1501 *et seq.* is not required.

**List of Subjects***30 CFR Part 250*

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

*30 CFR Part 251*

Continental shelf, Freedom of information, Geological and geophysical data, Oil and gas exploration, Public lands—mineral resources, Reporting and recordkeeping requirements.

Dated: March 14, 2006.

**R.M. "Johnnie" Burton,**  
*Acting Assistant Secretary, Land and Minerals Management.*

■ For the reasons stated in the preamble, the Minerals Management Service (MMS) amends 30 CFR parts 250 and 251 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:** 43 U.S.C. 1331 *et seq.*, 31 U.S.C. 9701.

■ 2. In § 250.196 the following changes are made:

■ A. Revise the section heading as set forth below.

■ B. Revise the introductory text as set forth below.

■ C. Revise paragraph (b) introductory text as set forth below.

■ D. Remove paragraph (b)(1); redesignate paragraphs (b)(2) through (10) as paragraphs (b)(1) through (9) respectively; and revise redesignated paragraph (b)(9) to read as set forth below.

■ E. Add new paragraph (c) to read as set forth below.

**§ 250.196 Data and information to be made available to the public or for limited inspection.**

MMS will protect data and information that you submit under this part, and part 203 of this chapter, as described in this section. Paragraphs (a) and (b) of this section describe what data and information will be made available to the public without the consent of the lessee, under what circumstances, and in what time period. Paragraph (c) of this section describes what data and information will be made available for limited inspection without the consent of the lessee, and under what circumstances.

(b) MMS will release lease and permit data and information that you submit and MMS retains, but that are not normally submitted on MMS forms, according to the following table:

| If                                                                                                                                                                                                                                                                               | MMS will release                                                                                                                                     | At this time                                                                                                                                                                                                                                         | Special provisions                                           |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------|
| <p>           *           <br/>           (9) Except for high-resolution data and information released under paragraph (b)(2) of this section data and information acquired by a permit under part 251 are submitted by a lessee under 30 CFR part 203 or part 250.         </p> | <p>           *           <br/>           G&amp;G data, analyzed geological information, processed and interpreted G&amp;G information.         </p> | <p>           *           <br/>           Geological data and information: 10 years after MMS issues the permit; Geophysical data: 50 years after MMS issues the permit; Geophysical information: 25 years after MMS issues the permit.         </p> | <p>           *           <br/>           None.         </p> |

(c) MMS may allow limited inspection, but only by persons with a direct interest in related MMS decisions and issues in specific geographic areas, and who agree in writing to its confidentiality, of G&G data and information submitted under this part or part 203 of this chapter that MMS uses to:

- (1) Make unitization determinations on two or more leases;
- (2) Make competitive reservoir determinations;
- (3) Ensure proper plans of development for competitive reservoirs;
- (4) Promote operational safety;
- (5) Protect the environment;
- (6) Make field determinations; or

(7) Determine eligibility for royalty relief.

**PART 251—GEOLOGICAL AND GEOPHYSICAL (G&G) EXPLORATIONS OF THE OUTER CONTINENTAL SHELF**

■ 3. The authority citation for part 251 continues to read as follows:

**Authority:** 43 U.S.C. 1331 *et seq.*

■ 4. In § 251.14 paragraph (b) introductory text is revised, the table in paragraph (b)(1) is revised, and paragraph (b)(3) is added to read as follows:

**§ 251.14 Protecting and disclosing data and information submitted to MMS under a permit.**

\* \* \* \* \*

(b) *Timetable for release of G&G data and information that MMS acquires.* Except for high-resolution data and information released under 30 CFR 250.196(b)(2), MMS will release or disclose data and information that you or a third party submit and MMS retains in accordance with paragraphs (b)(1), (b)(2), and (b)(3) of this section.

(1) \* \* \*

|                                                                |                                                                                |
|----------------------------------------------------------------|--------------------------------------------------------------------------------|
| If you or a third party submit and MMS retains * * *           | The Regional Director will release them to the public * * *                    |
| (i) Geological data and information.<br>Geophysical data ..... | 10 years after MMS issues the permit.<br>50 years after MMS issues the permit. |
| Geophysical information.                                       | 25 years after MMS issues the permit.                                          |

\* \* \* \* \*

(3) MMS may allow limited inspection, but only by persons with a direct interest in related MMS decisions and issues in specific geographic areas, and who agree in writing to its confidentiality, of G&G data and information submitted under this part that MMS uses to:

- (i) Make unitization determinations on two or more leases;
- (ii) Make competitive reservoir determinations;
- (iii) Ensure proper plans of development for competitive reservoirs;
- (iv) Promote operational safety;
- (v) Protect the environment;
- (vi) Make field determinations; or
- (vii) Determine eligibility for royalty relief.

\* \* \* \* \*

[FR Doc. 06-3009 Filed 3-29-06; 8:45 am]

BILLING CODE 4310-MR-P

## DEPARTMENT OF THE TREASURY

### 31 CFR Part 103

RIN 1506-AA29

#### Financial Crimes Enforcement Network; Anti-Money Laundering Programs; Special Due Diligence Programs for Certain Foreign Accounts

**AGENCY:** Financial Crimes Enforcement Network, Department of the Treasury.

**ACTION:** Final rule; extension of applicability dates.

**SUMMARY:** The Financial Crimes Enforcement Network ("FinCEN") is issuing this final rule extending, in part, the applicability dates of 31 CFR 103.176 and 103.178 for certain covered financial institutions. Those sections require covered financial institutions to establish due diligence procedures for correspondent accounts and private banking accounts that they maintain for non-U.S. persons. This final rule extends, from April 4, 2006 to July 5, 2006, the date on which covered financial institutions must begin to apply the due diligence provisions contained in those sections to new correspondent accounts and new private banking accounts.

**DATES:** This final rule is effective on March 30, 2006. The revised applicability dates for 31 CFR 103.176 and 103.178 are set forth at 31 CFR 103.176(e)(1) and 103.178(e)(1) of the final rule contained in this document.

**FOR FURTHER INFORMATION CONTACT:** Regulatory Policy and Programs Division, Financial Crimes Enforcement Network at (800) 949-2732.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On January 4, 2006, we published a final rule<sup>1</sup> implementing section 312 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001,<sup>2</sup> which amended the Bank Secrecy Act<sup>3</sup> to add new subsection (i) to 31 U.S.C. 5318. This provision requires each U.S. financial institution that establishes, maintains, administers, or manages a correspondent account or a private banking account in the United States for a non-U.S. person to subject such accounts to certain anti-money laundering measures. In particular, financial institutions must establish appropriate, specific, and, where necessary, enhanced due diligence policies, procedures, and controls that are reasonably designed to enable the financial institution to detect and report instances of money laundering through these accounts.

In addition to the general due diligence requirements, which apply to all correspondent accounts for non-U.S. persons, section 5318(i)(2) specifies additional standards for correspondent accounts maintained for certain foreign banks. These additional standards apply to correspondent accounts maintained for a foreign bank operating under an offshore banking license, under a license issued by a country designated as being non-cooperative with international anti-money laundering principles or procedures by an intergovernmental group or organization of which the United States is a member and with which designation the United States concurs, or under a license issued by a country designated by the Secretary of the Treasury as warranting special measures due to money laundering concerns. A financial institution must take reasonable steps to: (1) Conduct enhanced scrutiny of a correspondent

account maintained for or on behalf of such a foreign bank to guard against money laundering and to report suspicious activity; (2) ascertain whether such a foreign bank provides correspondent accounts to other foreign banks and, if so, ascertain the identity of those foreign banks and conduct due diligence as appropriate; and (3) identify the owners of such a foreign bank if its shares are not publicly traded.

Section 5318(i) also sets forth minimum due diligence requirements for private banking accounts for non-U.S. persons. Specifically, a covered financial institution must take reasonable steps to ascertain the identity of the nominal and beneficial owners of, and the source of funds deposited into, private banking accounts, as necessary to guard against money laundering and to report suspicious transactions. The institution must also conduct enhanced scrutiny of private banking accounts requested or maintained for or on behalf of senior foreign political figures, including their family members and their close associates. Such enhanced scrutiny must be reasonably designed to detect and report transactions that may involve the proceeds of foreign corruption.

On February 23, 2006, the Investment Company Institute ("ICI"), the Securities Industry Association ("SIA"), and the Futures Industry Association ("FIA")<sup>4</sup> submitted letters expressing concern that it will be difficult for their members to implement the due diligence rules for correspondent accounts and private banking accounts by the compliance dates for new accounts in each rule. On March 10, 2006, The Clearing House Association L.L.C. ("The Clearing House") submitted a letter expressing the same concern on behalf of its member banks.<sup>5</sup> The associations have explained that additional time is needed for their

<sup>4</sup> The ICI is the national association of the U.S. investment company industry, including 8,554 open-end investment companies (mutual funds), 7,654 closed-end investment companies, 162 exchange-traded funds, and five sponsors of unit investment trusts. The SIA is a trade association whose membership includes more than 600 securities firms, including investment banks, broker-dealers, and mutual fund companies. The FIA describes itself as a principal spokesman for the commodity futures and options industry, with a regular membership composed of approximately 40 of the largest futures commission merchants and approximately 150 associate members representing all segments of the futures industry.

<sup>5</sup> The members of The Clearing House are Bank of America, N.A.; The Bank of New York; Citibank, N.A.; Deutsche Bank Trust Company Americas; HSBC Bank USA, N.A.; JPMorgan Chase Bank, N.A.; LaSalle Bank National Association; UBS AG; U.S. Bank National Association; Wachovia Bank, N.A.; and Wells Fargo Bank, N.A.

<sup>1</sup> Anti-Money Laundering Programs; Special Due Diligence Programs for Certain Foreign Accounts, 71 FR 496 (Jan. 4, 2006).

<sup>2</sup> Pub. L. 107-56.

<sup>3</sup> Pub. L. 91-508 (codified as amended at 12 U.S.C. 1829b, 12 U.S.C. 1957-1959, and 31 U.S.C. 5311-5314 and 5316-5332).