

**UNITED STATES DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE**

No. 93-1N

Effective Date: April 16, 1993

NOTICE TO LESSEES AND OPERATORS OF FEDERAL OIL AND GAS LEASES
IN THE OUTER CONTINENTAL SHELF

**Guidelines for an Application for Certificate of Oil Spill
Financial Responsibility for Offshore Facilities**

This Notice to Lessees and Operators (NTL):

(a) Announces the transfer of the oil spill financial responsibility program for Outer Continental Shelf (OCS) facilities from the U. S. Coast Guard (USCG) to the Minerals Management Service (MMS), which became effective October 1, 1992; and

(b) Clarifies the MMS policy and procedures regarding the implementation of the higher financial responsibility level specified in the Oil Pollution Act of 1990 (OPA 90) and the assessment of civil penalties for violation of section 1016 of OPA 90.

This NTL sets forth interim procedures for applying for certification of oil spill financial responsibility for OCS offshore facilities. New superseding regulations, when finalized, will implement the requirement for proof of the higher amount of financial responsibility required by section 1016(c)(1) of OPA 90.

Section 1016(c)(1) of OPA 90 imposes upon responsible parties (e.g., the lessee or permittee of the area in which the facility is located and any person owning or operating a pipeline) for offshore facilities the obligation to establish and maintain evidence of financial responsibility of \$150,000,000 to meet the amount of liability to which a responsible party could be subjected under section 1004(a)(3) of OPA 90. This provision will supersede a requirement to maintain evidence of financial responsibility of \$35,000,000 under Title III of the OCS Lands Act, as amended, which was repealed.

The interim procedures remain substantially the same as those previously followed by the USCG. The MMS will utilize the procedures specified in 33 CFR Part 135, Subpart C, which remain in full force and effect under section 1016(h) of OPA 90, and accept the forms of evidence of financial responsibility specified therein. All currently valid certificates of financial responsibility (COFR) issued to offshore facility owners/leaseholders by the USCG remain in effect until revoked by MMS for reasons set forth in 33 CFR 135.223, or a new COFR

application or COFR modification for an existing facility is made in accordance with this NTL.

Applications for offshore facility COFR's filed with the USCG prior to the date of this NTL will be processed and certificates will be issued by MMS evidencing compliance with the financial responsibility requirements of Title III of the OCS Lands Act, as set forth in 33 CFR Part 135. Until new regulations are promulgated, all new applications for COFR's or modifications to existing COFR's must evidence financial responsibility at the level of \$35,000,000.

A responsible party who operates without a COFR, or who has failed to provide acceptable evidence of compliance with the financial responsibility requirements as specified herein, is liable to the United States for civil penalties not to exceed \$25,000 per day of violation, to be assessed by the MMS under section 4303(a) of OPA 90.

A. Application Requirements

A COFR application shall be submitted using the existing USCG facility application form CG-5210, and other required evidence of financial responsibility, which may include a leasehold letter application format, Insurance Certificate format, and Surety Bond format, to the following address:

Chief, Inspection, Compliance, and Training Division
Minerals Management Service
381 Elden Street (Mail Stop 4830)
Herndon, Virginia 22070-4817
Attn: Oil Spill Financial Responsibility Program

Mobile offshore drilling units (MODU) to be used on a lease shall be identified on an offshore facility COFR application submitted by the lessee, permittee, or other responsible party, to the MMS, unless the MODU operations are to be conducted on leases already covered on a currently valid leasehold COFR. The MMS intends to carry out the requirements of 33 CFR Part 135, Subpart C, by certifying the financial responsibility for lessees and operators on the OCS. Lessees/operators will be responsible for demonstrating financial responsibility, in accordance with 33 CFR Part 135, for their offshore facilities, including operations conducted from a MODU.

Until notified by the USCG, applications for vessel COFR's for MODU's shall continue to be submitted to the USCG under regulations for vessels at 33 CFR Part 130. Any questions on vessel COFR's should be directed to the USCG, (703) 235-4813.

In compliance with sections 1016(c)(1) and 1016(h) of OPA 90, each responsible party, or one member of a responsible party group in case of joint facility ownership, is required to establish and maintain evidence of oil spill financial responsibility of \$35,000,000 for their respective OCS offshore facilities. All new applications for COFR's must conform with this amount. Existing COFR's will remain in effect until they are canceled, revoked, or modified. The lessee/operator is required to immediately notify the MMS when:

- New or existing platforms, pipelines, wells, or other drilling and production appurtenances are added to the offshore facilities covered by a COFR; or
- An existing insurance certificate or other form of financial security, upon which basis the COFR was issued, terminates or is substantially modified.

B. Approval Procedures

These procedures and formats will remain in effect until new MMS procedures and formats are developed.

Applications for offshore facility COFR's will be reviewed and accepted utilizing the same tests provided for in 33 CFR Part 135, Subpart C. If a COFR application has been submitted to the USCG and has not been approved or disapproved in the past by the USCG, it is still a valid application. A new COFR application is not required unless the evidence of financial responsibility provided with the application has lapsed. Any changes to the COFR application must be submitted to the MMS at the address given in paragraph A of this NTL.

C. Civil Penalties

Responsible parties have 30 days from the date of this NTL to provide necessary evidence of financial responsibility, unless it already has been submitted to the USCG as specified in paragraph B of this NTL.

A written notice will be provided by MMS of its intent to recommend the imposition of civil penalties. The MMS will initiate referrals for civil penalties as required beginning the effective date of this NTL.

D. Termination of NTL

This NTL is effective upon approval by the Director of the MMS and will remain in effect until canceled or superseded.

[Signed] Carolita U. Kallaur 4/16/93
Acting Director, Minerals Management Service