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DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

30 CFR Part 250

[Docket ID: BSEE-2013-0007; 134E1700D2 EEAA103000 ET1EX0000.PEA000]

RIN 1014-AA12

Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Adjustment of Service Fees

AGENCY: Bureau of Safety and Environmental Enforcement (BSEE), Interior.

ACTION: Final rule.

SUMMARY: This final rule amends the BSEE oil and gas resources regulations to update some fees that cover BSEE's cost of processing and filing certain documents relating to its oil and gas resources program.

DATES: This final rule becomes effective on October 1, 2013.

FOR FURTHER INFORMATION CONTACT: Angela Mazzullo, Office of the Deputy Director, 202-208-5122 or Amy C. White, Chief, Regulations and Standards Branch, 703-787-1665.

SUPPLEMENTARY INFORMATION:

I. BSEE

The BSEE promotes safety, protects the environment, and conserves offshore oil and gas resources through vigorous regulatory oversight and enforcement. The BSEE was established on October 1, 2011, as part of a major restructuring of the Department of the Interior's (DOI) offshore regulatory programs. The Secretary of the Interior (Secretary)

announced the new division of responsibilities of the former Minerals Management Service (MMS) into three new bureaus within DOI in Secretarial Order No. 3299, issued on May 19, 2010. The BSEE, one of the three new bureaus, assumed responsibility for "safety and environmental enforcement functions including, but not limited to, the authority to permit activities, inspect, investigate, summon witnesses and produce evidence[;] levy penalties; cancel or suspend activities; and oversee safety, response and removal preparedness" (76 FR 64432).

II. BSEE Statutory and Regulatory Authority

The BSEE derives its authority from the Outer Continental Shelf Lands Act (OCSLA)(43 U.S.C. §§ 1331-1356(a). Congress enacted OCSLA in 1953, establishing Federal control over the Outer Continental Shelf (OCS) and authorizing the Secretary to regulate oil and gas exploration, development, and production operations on the OCS. The Secretary has authorized BSEE to perform these functions (30 CFR 250.101).

The BSEE regulatory program is comprehensive and provides regulatory oversight over a wide range of facilities and activities including drilling, completion, workover production, pipeline, and decommissioning operations. To carry out its responsibilities, BSEE develops and enforces regulations to enhance safety and environmental protection for offshore exploration and development of oil and natural gas on the OCS and to reflect advancements in technology and new information. The BSEE also conducts onsite inspections to assure compliance with regulations, lease terms, and approved plans and operates an oil spill response program. Detailed information concerning BSEE's regulations and guidance to the offshore industry may be found on BSEE's website at <http://www.bsee.gov/Regulations-and-Guidance/index.aspx>.

III. Background

The BSEE has authority to recover the full cost of services that confer special benefits under the Independent Offices Appropriation Act (31 U.S.C. § 9701), the Omnibus Appropriations Bill (Pub. L. 104-133, 110 Stat. 1321, April 26, 1996), and the Office of Management and Budget (OMB) Circular A-25. Under DOI's implementing policy, BSEE is required to charge the full cost for services that provide special benefits or privileges to an identifiable non-Federal recipient above and beyond those which accrue to the public at large. At 30 CFR 250.125(a), the regulations provide that BSEE will periodically adjust fees for inflation according to changes in the Implicit Price Deflator for Gross Domestic Product (IPD-GDP), which is published quarterly by the U.S. Department of Commerce, Bureau of Economic Analysis (BEA).

The DOI finds that good cause exists under the Administrative Procedure Act (5 U.S.C. 553(b)(B)) to implement this final rule without prior public notice and comment for these inflation adjustments. The BSEE provided the public with an opportunity to comment on this procedure during the public comment period when it promulgated 30 CFR 250.125(a), and this new rule simply implements the procedure set forth in that regulation. The calculation of these adjustments is based on the change in the BEA IPD-GDP. The amount of the adjustment is not within BSEE's discretion. Accordingly, public notice and comment procedures are unnecessary.

The DOI also finds that good cause exists under 5 U.S.C. 553(d)(3) to implement this final rule with an effective date sooner than 30 days after publication. An effective date of October 1, 2013 allows BSEE to align implementation of the final rule with the

beginning of the fiscal year. This final rule will not affect the operations of the parties to which it applies. These parties will only need to increase the dollar amount of the cost recovery fee payments that are prospectively submitted to BSEE. Accordingly, waiting 30 days after publication to make this final rule effective is unnecessary.

IV. Discussion of Final Rule

In this final rule, BSEE is adjusting cost recovery service fees to account for inflation in accordance with 30 CFR 250.125(a). These cost recovery service fees were last updated on August 25, 2008, when the MMS published a final rule on Electronic Payment of Fees for Outer Continental Shelf Activities in the *Federal Register* (73 FR 49943). The 2008 update included fee adjustment through the year 2007. This final rule is based on the change in the IPD-GDP from 2007 through 2012, thus reflecting the rate of inflation over 5 years.

The inflation rate between any 2 years is calculated as the percentage difference between the measure of the level of prices for a designated year (*e.g.*, 2012) and some previous year (*e.g.*, 2007) of all new, domestically produced, final goods and services in the economy for the designated year (*e.g.*, 2012), as contained in the BEA Table 1.1.9, IPD-GDP available at http://www.bea.gov/iTable/index_nipa.cfm. The BEA Table 1.1.9 IPD-GDP shows a percentage difference between the measure of the level of prices between 2012 and 2007 of 7.87 percent. The 2013 cost recovery service fees are calculated by increasing the 2008 cost recovery service fee value by 7.87 percent. The calculated value is rounded to the nearest dollar to establish the 2013 cost recovery service fee.

While BEA may revise the inflation rate in the future, BSEE will retain this published cost recovery service fee schedule until BSEE publishes an updated cost recovery service fee schedule in the *Federal Register*.

The following table lists the cost recovery service fees that are affected by this rulemaking. The BSEE is also making a few minor revisions to the numbering of the cost recovery service fees and the 30 CFR citations in the cost recovery service fee table in 30 CFR 250.125(a).

Service—processing of the following:	30 CFR citation	2008 Fee Amount (Current)	2013 Fee Amount
(1) Suspension of Operations/ Suspension of Production (SOO/SOP) Request	§ 250.171(e).	\$1,968	\$2,123
(2) Deepwater Operations Plan	§ 250.292(p).	\$3,336	\$3,599
(3) Application for Permit to Drill (APD; Form BSEE-0123)	§ 250.410(d); § 250.513(b); § 250.1617(a).	\$1,959 for initial applications only; no fee for revisions	\$2,113 for initial applications only; no fee for revisions
(4) Application for Permit to Modify (APM; Form BSEE-0124)	§ 250.465(b); § 250.513(b); § 250.613(b); § 250.1618(a); § 250.1704(g).	\$116	\$125
(5) New Facility Production Safety System Application for facility with more than 125 components	§ 250.802(e).	\$5,030 A component is a piece of equipment or ancillary system that is protected by one or more of the safety devices required by API RP 14C (as incorporated by reference in § 250.198); \$13,238 additional fee will be charged if BSEE deems it necessary to visit a facility offshore, and \$6,884 to visit a facility in a shipyard.	\$5,426 A component is a piece of equipment or ancillary system that is protected by one or more of the safety devices required by API RP 14C (as incorporated by reference in § 250.198); \$14,280 additional fee will be charged if BSEE deems it necessary to visit a facility offshore, and \$7,426 to visit a facility in a shipyard.
(6) New Facility Production Safety System	§ 250.802(e)	\$1,218 Additional fee of \$8,313 will be charged if	\$1,314 Additional fee of \$8,967 will be charged if

Service—processing of the following:	30 CFR citation	2008 Fee Amount (Current)	2013 Fee Amount
Application for facility with 25-125 components		BSEE deems it necessary to visit a facility offshore, and \$4,766 to visit a facility in a shipyard.	BSEE deems it necessary to visit a facility offshore, and \$5,141 to visit a facility in a shipyard.
(7) New Facility Production Safety System Application for facility with fewer than 25 components	§ 250.802(e).	\$604	\$652
(8) Production Safety System Application—Modification with more than 125 components reviewed	§ 250.802(e).	\$561	\$605
(9) Production Safety System Application—Modification with 25-125 components reviewed	§ 250.802(e).	\$201	\$217
(10) Production Safety System Application—Modification with fewer than 25 components reviewed	§ 250.802(e).	\$85	\$92
(11) Platform Application—Installation—Under the Platform Verification Program	§ 250.905(l).	\$21,075	\$22,734
(12) Platform Application—Installation—Fixed Structure Under the Platform Approval Program	§ 250.905(l).	\$3,018	\$3,256
(13) Platform Application—Installation—Caisson/Well Protector	§ 250.905(l).	\$1,536	\$1,657
(14) Platform Application—Modification/Repair	§ 250.905(l).	\$3,601	\$3,884
(15) New Pipeline Application (Lease Term)	§ 250.1000(b).	\$3,283	\$3,541
(16) Pipeline Application—Modification (Lease	§ 250.1000(b).	\$1,906	\$2,056

Service—processing of the following:	30 CFR citation	2008 Fee Amount (Current)	2013 Fee Amount
Term)			
(17) Pipeline Application—Modification (ROW)	§ 250.1000(b).	\$3,865	\$4,169
(18) Pipeline Repair Notification	§ 250.1008(e).	\$360	\$388
(19) Pipeline Right-of-Way (ROW) Grant Application	§ 250.1015(a).	\$2,569	\$2,771
(20) Pipeline Conversion of Lease Term to ROW	§ 250.1015(a).	\$219	\$236
(21) Pipeline ROW Assignment	§ 250.1018(b).	\$186	\$201
(22) 500 Feet From Lease/Unit Line Production Request	§ 250.1156(a).	\$3,608	\$3,892
(23) Gas Cap Production Request	§ 250.1157.	\$4,592	\$4,953
(24) Downhole Commingling Request	§ 250.1158(a).	\$5,357	\$5,779
(25) Complex Surface Commingling and Measurement Application	§ 250.1202(a); § 250.1203(b); § 250.1204(a).	\$3,760	\$4,056
(26) Simple Surface Commingling and Measurement Application	§ 250.1202(a); § 250.1203(b); § 250.1204(a).	\$1,271	\$1,371
(27) Voluntary Unitization Proposal or Unit Expansion	§ 250.1303(d).	\$11,698	\$12,619
(28) Unitization Revision	§ 250.1303(d).	\$831	\$896
(29) Application to Remove a Platform or Other Facility	§ 250.1727.	\$4,342	\$4,684
(30) Application to Decommission a Pipeline (Lease Term)	§ 250.1751(a) or § 250.1752(a).	\$1,059	\$1,142
(31) Application to Decommission a Pipeline (ROW)	§ 250.1751(a) or § 250.1752(a).	\$2,012	\$2,170

PROCEDURAL MATTERS

Regulatory Planning and Review (Executive Order 12866)

The OMB has not designated this rule as significant under Executive Order (E.O.) 12866.

(1) These amendments are administrative and procedural. 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. A cost-benefit and economic analysis is not required.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule will not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues.

Regulatory Flexibility Act

The DOI certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The changes in the rule will affect lessees and pipeline right-of-way holders in the OCS. This includes about 130 Federal oil and gas lessees and 115 holders of pipeline rights-of-way. Small lessees that operate under this rule fall under the Small Business Administration's North American Industry Classification System (NAICS) codes 211111, Crude Petroleum and Natural Gas Extraction, and 213111, Drilling Oil and Gas Wells. For these NAICS code classifications, a small company is one with fewer than

500 employees. Based on these criteria, an estimated 69 percent of these companies are considered small.

This final rule, therefore, will affect a substantial number of small entities, but BSEE has concluded that it will not have a significant economic effect on those entities. The cost recovery service fees increase less than 8 percent as a result of this final rule. The highest adjustment, in dollar terms, is for Platform Application – Installation - Under the Platform Verification Program, which will be increased by \$1,659. This dollar amount is insignificant as compared to the considerable operational costs and liability risks associated with activities on the OCS.

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 actions of BSEE, call 1-888-734-3247. You may comment to the Small Business Administration without fear of retaliation. Allegations of discrimination/retaliation filed with the Small Business Administration will be investigated for appropriate action.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*). This rule:

- a. Will not have an annual effect on the economy of \$100 million or more.
- b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Will 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. The requirements will apply to all entities operating on the OCS.

Unfunded Mandates Reform Act of 1995

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The rule will not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) is not required.

Takings Implication Assessment (E.O. 12630)

According to E.O. 12630, the rule does not have significant takings implications. The rulemaking is not a governmental action capable of interfering with constitutionally protected property rights. A Takings Implication Assessment is not required.

Federalism (E.O. 13132)

Under the criteria in E.O. 13132, this rulemaking does not have federalism implications. This rule will not substantially and directly affect the relationship between the Federal and State governments. To the extent that State and local governments have a role in OCS activities, this rule will not affect that role. A Federalism Assessment is not required.

Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of E.O. 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation with Indian Tribes (E.O. 13175)

Under the criteria in E.O. 13175, we evaluated this rule and determined that it has no substantial effects on federally recognized Indian tribes.

Paperwork Reduction Act (PRA) of 1995

This rule does not contain new information collection requirements and a submission under the PRA is not required. Therefore, an information collection request is not being submitted to OMB for review and approval under the PRA (44 U.S.C. 3501 *et seq.*).

National Environmental Policy Act of 1969 (NEPA)

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. The BSEE has analyzed this rule under the criteria of NEPA and DOI's regulations implementing NEPA. This rule meets the criteria set forth at 43 CFR 46.210(i) for a Departmental Categorical Exclusion in that this rule is “. . . of an administrative, financial, legal, technical, or procedural nature . . .” Further, BSEE has analyzed this rule to determine if it meets any of the extraordinary circumstances that would require an environmental assessment or an environmental impact statement as set forth in 43 CFR 46.215 and concluded that this rule does not meet any of the criteria for extraordinary circumstances.

Data Quality Act

In developing this rule, we did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L.106-554, app. C § 515, 114 Stat. 2763, 2763A-153-154).

Effects on the Nation's Energy Supply (E.O. 13211)

This rulemaking is not a significant energy action under the definition in E.O. 13211.

A Statement of Energy Effects is not required.

List of Subjects:

30 CFR Part 250

Administrative practice and procedure, Continental shelf, Oil and gas exploration, Pipelines, Public lands--mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, and Sulphur.

Dated: September 23, 2013.

Tommy P. Beaudreau
Acting Assistant Secretary -- Land and Minerals Management

For the reasons stated in the preamble, the Bureau of Safety and Environmental Enforcement (BSEE) amends 30 CFR part 250 as follows:

PART 250 – OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

1. Authority citation for part 250 continues to read as follows:

Authority: 30 U.S.C. 1751; 31 U.S.C. 9701, 43 U.S.C. 1334.

2. Revise the table in § 250.125(a) to read as follows:

§ 250.125 Service fees.

(a) * * *

Service—processing of the following:	Fee Amount	30 CFR citation
(1) Suspension of Operations/Suspension of Production (SOO/SOP) Request	\$2,123	§ 250.171(e).
(2) Deepwater Operations Plan	\$3,599	§ 250.292(p).
(3) Application for Permit to Drill (APD; Form BSEE-0123)	\$2,113 <u>for initial applications only; no fee for revisions.</u>	§ 250.410(d); § 250.513(b); § 250.1617(a).
(4) Application for Permit to Modify (APM; Form BSEE-0124)	\$125	§ 250.465(b); § 250.513(b); § 250.613(b); § 250.1618(a); § 250.1704(g).
(5) New Facility Production Safety System Application for facility with more than 125 components	\$5,426 A component is a piece of equipment or ancillary system that is protected by one or more of the safety devices required by API RP 14C (as incorporated by reference in § 250.198); \$14,280 additional fee will be charged if BSEE deems it necessary to visit a facility offshore, and \$7,426 to visit a facility in a shipyard.	§ 250.802(e).
(6) New Facility Production Safety System Application for facility with 25-125 components	\$1,314 Additional fee of \$8,967 will be charged if BSEE deems it necessary to visit a facility offshore, and \$5,141 to visit a facility in a shipyard.	§ 250.802(e).
(7) New Facility Production Safety System Application for	\$652	§ 250.802(e).

facility with fewer than 25 components		
(8) Production Safety System Application—Modification with more than 125 components reviewed	\$605	§ 250.802(e).
(9) Production Safety System Application—Modification with 25-125 components reviewed	\$217	§ 250.802(e).
(10) Production Safety System Application—Modification with fewer than 25 components reviewed	\$92	§ 250.802(e).
(11) Platform Application—Installation—Under the Platform Verification Program	\$22,734	§ 250.905(l).
(12) Platform Application—Installation—Fixed Structure Under the Platform Approval Program	\$3,256	§ 250.905(l).
(13) Platform Application—Installation—Caisson/Well Protector	\$1,657	§ 250.905(l)
(14) Platform Application—Modification/Repair	\$3,884	§ 250.905(l).
(15) New Pipeline Application (Lease Term)	\$3,541	§ 250.1000(b).
(16) Pipeline Application—Modification (Lease Term)	\$2,056	§ 250.1000(b).
(17) Pipeline Application—Modification (ROW)	\$4,169	§ 250.1000(b).
(18) Pipeline Repair Notification	\$388	§ 250.1008(e).
(19) Pipeline Right-of-Way (ROW) Grant Application	\$2,771	§ 250.1015(a).
(20) Pipeline Conversion of Lease Term to ROW	\$236	§ 250.1015(a).
(21) Pipeline ROW Assignment	\$201	§ 250.1018(b).
(22) 500 Feet From Lease/Unit Line Production Request	\$3,892	§ 250.1156(a).
(23) Gas Cap Production Request	\$4,953	§ 250.1157.
(24) Downhole Commingling Request	\$5,779	§ 250.1158(a).
(25) Complex Surface	\$4,056	§ 250.1202(a); § 250.1203(b);

Commingling and Measurement Application		§ 250.1204(a).
(26) Simple Surface Commingling and Measurement Application	\$1,371	§ 250.1202(a); § 250.1203(b); § 250.1204(a).
(27) Voluntary Unitization Proposal or Unit Expansion	\$12,619	§ 250.1303(d).
(28) Unitization Revision	\$896	§ 250.1303(d).
(29) Application to Remove a Platform or Other Facility	\$4,684	§ 250.1727.
(30) Application to Decommission a Pipeline (Lease Term)	\$1,142	§ 250.1751(a) or § 250.1752(a).
(31) Application to Decommission a Pipeline (ROW)	\$2,170	§ 250.1751(a) or § 250.1752(a).

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