

FOR RELEASE: October 20, 1993 CONTACT: Tom DeRocco
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MMS ANNOUNCES PUBLIC MEETINGS ON OPA 90
FINANCIAL RESPONSIBILITY (#30051)

The Department of the Interior's Minerals Management Service (MMS) announced today a schedule of meetings to gather information and data pertinent to the development of regulations implementing financial responsibility requirements of the Oil Pollution Act of 1990 (OPA '90).

The meeting dates are as follows:

- 1) November 2, 1993, 8:30 a.m. to 5 p.m., New Orleans, Louisiana at the MMS Regional Office, 1420 S. Clearview Parkway
- 2) November 4, 1993, 8:30 a.m. to 5 p.m., Houston, Texas in the Doubletree Hotel at Allen Center, 400 Dallas Street at Bagby
- 3) November 30, 1993, 8:30 a.m. to 5 p.m., San Francisco, California in the Ramada Hotel at the Fisherman's Wharf
- 4) During 1994, two other meetings will take place: one in the Eastern U.S. and a second gathering for Anchorage, Alaska

"The intention of the law was to strengthen oil spill prevention, response capabilities, and cleanup efforts in addition to ensuring the payment of damages resulting from oil spills, should they occur," MMS Director Tom Fry explained.

On August 25, 1993, MMS published an Advance Notice of Proposed Rulemaking (ANPR) advising all operators of facilities handling oil and oil products located in, on, or under the navigable waters of the United States that they will need to provide evidence of financial responsibility.

"When we announced the ANPR in August," declared Fry, "I said that those most affected should have an opportunity to help us write the rules consistent with the statute. These public meetings provide that opportunity."

Fry also noted that the comment period was extended to December 24, 1993.

-MMS-

August 25, 1993

Summary
of Advance Notice of Proposed Rulemaking (ANPR)
for OPA 90 Oil Spill Financial Responsibility Requirements
for Offshore Facilities

This ANPR announces that the Minerals Management Service (MMS) is in the process of developing new regulations to implement the oil spill financial responsibility requirements of the Oil Pollution Act of 1990 (OPA 90) for offshore facilities. In addition, it summarizes the legislative authority for the proposed regulations and solicits information and opinions from all affected parties and the general public on issues and proposed solutions to potential problems presented by the OPA 90 requirements.

Publication of an ANPR in the Federal Register is the first step in the formal rulemaking process. The purpose of the ANPR is to identify the major issues and to collect sufficient information on these issues to prepare balanced regulations within the boundaries of the law; and to prepare a Determination of Effects of the Rule (DOER) and, if required, a Regulatory Impact Analysis (RIA) and a Small Entity Flexibility Analysis (SEFA). The next step in the formal rulemaking process is the publication in the Federal Register of a Notice of Proposed Rule (NPR) in mid-1995. Each of these steps in the consideration of public comments and concerns.

The referenced OPA 90 requirements:

- ∅ Expand the Department of the Interior/MMS oil spill financial responsibility authority from just the Federal OCS waters to all the navigable waters of the United States, States and Territories. Note that "navigable water" traditionally has been interpreted to include the oceans, coastal waters, rivers and streams, most lakes, and wetlands.
- ∅ Broadly defines the categories of activities that fit the definition of "offshore facilities" to include a pipeline or other facility located in, on, or under navigable water. Such facilities as a marina which fuels boats from a floating dock, any fuel tank in a wetland, or an oil tank farm with pipelines running under a stream MAY all be affected by this rule.

- ∅ Increase oil spill financial responsibility required of OCS operators from \$35 million to \$150 million, and for the first time places this \$150 million requirement on all operators of "offshore facilities" in all navigable waters.
- ∅ Increase civil penalties for failure to comply from \$10 thousand per incident to \$25 thousand per incident per day.

The major issues the questions in the ANPR address are:

- ∅ Types and locations of "offshore facilities" subject to the OPA 90 financial responsibility requirements;
- ∅ Methods available to evidence OPA 90 financial responsibility;
- ∅ Interaction of States, Territories and Federal governments to enforce OPA 90 financial responsibility;
- ∅ Possible defenses for the responsible party, the guarantors, and other financial backers; and
- ∅ Economic effects of OPA 90 financial responsibility requirements on individuals and companies, and the effect on oil productions and distribution.

These major issues are presented in much greater detail in the ANPR to ensure that:

- ∅ All parties that may be affected by new regulations implementing OPA 90 financial responsibility requirements under Sections 1016, 1018, and 1019 are made fully aware of the issues;
- ∅ The issues are fully ventilated; and
- ∅ Potential effects are fully described and regulations are developed to implement the statute effectively with minimal unnecessary burdens.

Subject: PR-10/20/93 OPA '90 Public mtgs(#30051)