Memorandum

To: Regional Director, Alaska OCS Region  
Regional Director, Gulf of Mexico OCS Region  
Regional Director, Pacific OCS Region  
Regional Supervisor for Field Operations, Alaska OCS Region  
Regional Supervisor for Field Operations, Gulf of Mexico OCS Region  
Regional Supervisor for Field Operations, Pacific OCS Region  
Chief, Office of Safety Management, Gulf of Mexico OCS Region

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Subject: National Outer Continental Shelf Inspection Program Policy and Procedures Document

The attached document depicts the national perspective on the OCS Inspection Program. It bridges the gap between the Minerals Management Service Manual Chapter, Part 650 Inspections, and the Regional Inspection Policies and Procedures Documents developed within your Regions. The former provides very general policies and an overview of the inspection program while the latter provides detailed descriptions of the implementation of the inspection program, including regional and district variations based upon logistics and unique regional considerations.

The subject document has undergone field review. It provides MMS and other interested parties with the context and a detailed view of the many new approaches to inspection MMS has developed over the past few years, as well as the more traditional methods of inspection. This policies and procedures document will be updated as necessary. It is divided into two general strategies: the Compliance Strategy and the Performance Strategy. The programs that support each of these strategies are discussed at length with supporting documentation appearing in the appendices or referenced in the text.

Please make an effort as soon as practicable to review your own regional policies and procedures documents regarding inspections to ensure continuity between these two documents. If you have any further questions or concerns please contact Doug Slitor at 703-787-1030.

Attachment

cc: Chief, Engineering and Operations Division  
Chief, Performance and Safety Branch
National OCS Inspection Program

Policies and Procedures Document

April 2000
Table of Contents

Introduction

Chapter 1—OCS Inspection Program Goal and Objectives
  • Goal
  • Objectives

Chapter 2—Legal Authorities and Organization
  • Statutory and Regulatory Inspection Authorities
  • Program Organization and Responsibility

Chapter 3—Inspection and Performance: Strategies and Tools
  • Overall Strategy
  • The Compliance Strategy
  • Compliance Tools
    1. National PINC and Guideline List
    2. Compliance Inspections
    3. Risk-based Inspection Program
    4. Civil and Criminal Penalty Program
    5. Disqualification of Operators
  • The Performance Strategy
  • Performance Tools
    1. Safety and Environmental Management Program
    2. Joint Industry/MMS Performance Measures
    3. MMS Safety Ranking
    4. Annual Performance Reviews
    5. Cooperative Reviews
    6. Alternative Compliance
    7. Regional Policies and Procedures Documents
Appendices

- Appendix 1 Memorandum of Understanding Between the Environmental Protection Agency and the Department of the Interior Concerning the Coordination of NPDES Permit Issuance with the Outer Continental Shelf Oil and Gas Lease Program
- Appendix 2 Memorandum of Understanding Among the Secretary of the Interior, Secretary of Transportation, and Administrator of the Environmental Protection Agency on Oil Spill Prevention and Control
- Appendix 3 Memorandum of Understanding Between the Department of Transportation and the Department of the Interior Regarding Outer Continental Shelf Pipelines
- Appendix 4 Memorandum of Understanding Between the Minerals Management Service, U.S. Department of the Interior and the United States Coast Guard, U.S. Department of Transportation
- Appendix 5 Sampling Phase II Team Report, July 1997
- Appendix 6 MMS Risk-based Inspection Methodology Report, Phase 2, July 1999
- Appendix 7 MMS National SAFE Award Program Procedures
- Appendix 8 Model Audit Summary for Cooperative Reviews
Introduction
The MMS Manual Part 650, Chapter 1, Offshore Inspection Program establishes both inspection policy and broad program responsibility. This Inspection Policies and Procedures Document (IPPD) further explains Minerals Management Service's (MMS) policy requirements and fully engages both nationwide and region-specific inspection program strategies. The IPPD bridges the gap between the broad inspection policy objectives in the Manual and Regional policies and procedures that include detailed procedures used by inspectors.

This document lays out policies and procedures to be implemented consistently nationwide. Regional policy documents clarify field office discretion in adapting and refining nationwide inspection procedures to accommodate regional differences in physical and environmental settings.

The major purposes of the IPPD are to:
- clearly articulate an MMS nationwide inspection program strategy
- consolidate and update inspection program procedures for all interested parties.
- provide a structure to develop and/or interpret new policies or procedures

This document not only provides the policy framework for the agency's traditional inspection approach to regulatory compliance, but it also provides context for new MMS efforts in the area of performance-based programs. MMS has developed these new programs, sometimes in concert with industry, to find innovative ways to increase OCS operational safety and continual improvement efforts by industry.
Chapter 1—OCS Inspection Program Goal and Objectives

Goal
The goal of the MMS Inspection Program is to ensure safe and clean operations. We believe that regulatory compliance alone cannot ensure safe and pollution-free operations. The operators who are out there 24 hours a day must be fully involved with a "safety first" approach to their activities to improve the OCS safety record. To this end, we have worked with the offshore oil and gas industry, through the American Petroleum Institute (API) to develop and promote the use of Recommended Practice for Development of a Safety and Environmental Management Program for Outer Continental Shelf (OCS) Operations and Facilities (API RP-75). This RP outlines specific safety enhancing business principles related to inspections, such as hazards analysis and verifying the integrity of critical safety and pollution prevention equipment. The MMS has taken a more pro-active role in working with operators and encouraging them to adopt continual improvement programs with regards to safety. It is through efforts like these that MMS is trying to increase operator awareness of the need to commit to safe operations on the OCS.

Objectives
The MMS has adopted four principal objectives to direct the efforts of the inspection program in meeting this goal. These are:

- Ensure operator compliance
- Develop and implement performance-based strategy
- Increase efficiency and effectiveness
- Apply regulations consistently and treat operators fairly

While the inspection program continues to rely heavily on operator compliance to satisfy legislatively mandated inspection requirements, we have broadened our strategy through the introduction of new inspection methods, expanded research and training, and monitored field applications of safety management concepts. The MMS strategy is to move closer to a performance approach to safety.

Ensure Compliance
MMS inspectors perform onsite inspections to ensure that all drilling, completion, workover, production, pipeline, oil pollution prevention, production measurement and verification, site security, and abandonment operations on the OCS are in compliance with all applicable regulatory requirements. The MMS inspectors also ensure compliance with selected Environmental Protection Agency (EPA) air and water quality requirements.

The MMS has converted all regulatory requirements at 30 CFR 250 into an inspection checklist called the National PINC List (PINC stands for Potential Incident of Noncompliance). At a minimum, MMS checks operator compliance annually through a variety of inspection types, including complete inspections, partial inspections, sampling inspections, and risk-based inspections.
Develop and Implement Performance-based Strategy
For decades, the MMS has used a strict regulatory compliance approach in our inspection program to ensure safe and clean operations on the OCS. While that strategy has worked well for many years, it has become clear that this approach alone will not allow MMS to reach its ultimate goal of no spills and no accidents. An annual MMS inspection is not enough oversight to reach this goal. MMS does not have the human or fiscal resources to maintain a constant vigilant presence on all facilities. However, the operators are on many of these facilities around the clock and are in a better position to monitor operations and ensure safety. The operators are ultimately responsible for safe operations not the MMS. With this point of view in mind, MMS is studying ways to enhance operator safety awareness and reward operators for sustained outstanding performance and safe operations.

The development of the Safety and Environmental Management Program (SEMP) has been the cornerstone of this new strategy. We have conducted cooperative reviews with operators of their safety management plans without penalty to the operator for any violations discovered during the review. We are considering alternative compliance strategies where some of the traditional regulatory requirements are replaced by expectations that meet or exceed the current level of safety or commitment. SEMP participation and performance data form the basis of initial decision-making on who may participate in these new and innovative approaches to meeting the overall goal of safe and clean operations.

Efficient and Effective
The MMS seeks improvement in efficiency and effectiveness of the inspection program on a continual basis. Through the analysis of historical inspection data and periodic internal and external evaluations, MMS hopes to improve its inspection program. The analysis of inspection data allows MMS to concentrate inspection resources on higher risk activities and operators and to increase effective planning of transportation logistics. Analysis of data allows MMS to notify operators of industry-wide issues or safety concerns through a Safety Alert, a Notice to Lessees (NTL), or through the MMS Safety Home Page. Internal control reviews assess the extent to which the inspection program is being implemented in accordance with approved MMS policies and procedures. External reviews make recommendations that MMS studies for their applicability to the inspection process.

Consistent and Fair
The MMS strives for consistency and fairness in meeting our statutory mandate. While policies are consistent from region to region and district to district, each of these organizational levels has some latitude to implement these policies differently because of logistics, environmental concerns, and scope of operations. MMS forms inspector work groups to review and analyze the application of INCs to ensure that we have a consistent approach. MMS meets with each operator at least annually to discuss the previous year’s operations and activities, and on other occasions when any safety or regulatory issues need clarification or need to be discussed.
Chapter 2—Legal Authorities and Organization

Statutory and Regulatory Inspection Authorities
Initially, the Bureau of Land Management conducted the OCS leasing program and collected royalties and rentals associated with Federal offshore properties while the U.S. Geological Survey had responsibility for regulating OCS operations. Upon its formation in 1982, MMS assumed these responsibilities under Secretarial Order No. 3071.

OCSLAA
The MMS derives most of its inspection authority from the OCS Lands Act Amendments of 1978 (OCSLAA) (43 U.S.C. 1347 (c)). This section requires the Secretary of the Interior to promulgate regulations to provide for scheduled annual and periodic unannounced inspections of safety equipment designed to prevent or ameliorate blowouts, fires, spills, and other major accidents. In response to this statutory requirement, the MMS promulgated regulations at 30 CFR 250.

FOGRMA
Additionally, the Federal Oil and Gas Royalty Management Act (FOGRMA) makes MMS responsible for collecting royalties due to the Federal Government from the production of oil, gas, and other minerals on offshore and onshore federal lands. In connection with FOGRMA, MMS conducts inspections to verify that offshore oil and gas production is measured accurately and all metering equipment is secure. Regulations regarding these activities can be found in 30 CFR 250.180 to 250.183.

OPA
The Oil Pollution Act of 1990 (OPA 90) and Executive Order 12777 added to MMS's authority to inspect offshore facilities to assure the presence of oil spill containment and cleanup equipment. In addition, OPA 90 amended Section 24 of the OCSLAA and MMS created additional regulations regarding our ability to assess civil and criminal penalties. Regulations governing civil and criminal penalties can be found in 30 CFR 250, Subpart N.

MOU on NPDES Requirements
In May of 1984, the MMS entered into a Memorandum of Understanding (MOU) with the Environmental Protection Agency (EPA) to conduct inspections associated with the Clean Water Act of 1970. Through this MOU, MMS established, to the maximum extent practicable, requirements for drilling procedures and equipment consistent with EPA's National Pollutant Discharge Elimination System (NPDES) effluent limitations and permit conditions. MMS monitors and inspects offshore facilities for compliance with NPDES permits. The complete copy of this MOU can be found in Appendix 1, Memorandum of Understanding Between the Environmental Protection Agency and the Department of the Interior Concerning the Coordination of NPDES Permit Issuance.
MOU on Oil Spill Response Requirements

MMS signed another MOU on behalf of DOI on February 3, 1994. This MOU is among DOI, EPA, and DOT for the purpose of dividing responsibilities associated with oil-spill prevention and control, response planning, and response equipment inspection for offshore facilities.

Executive Order 12777 delegated various responsibilities to DOI, DOT, and EPA identified in the Clean Water Act (CWA), as amended by OPA 1990. The E.O. 12777 assigned the responsibilities associated with oil-spill prevention and control, contingency planning, and response equipment inspection for offshore facilities to DOI. However, section 311(a)(11) of the CWA defines "offshore facility" to include facilities of any kind located in, on, or under navigable waters of the United States. By using this definition, the traditional DOI role of regulating facilities on the OCS is expanded by the E.O. to include inland lakes, rivers, streams, and any other inland waters. As many as four Federal agencies could have overlapping responsibilities for some coastal facilities.

This MOU makes the following delegations.

- To EPA, DOI re-delegates responsibility for non-transportation-related offshore facilities located landward of the coast line.
- To DOT, DOI re-delegates responsibility for transportation-related facilities, including pipelines, located landward of the coast line. The DOT retains jurisdiction for deepwater ports and their associated seaward pipelines.
- DOI retains jurisdiction over facilities, including pipelines, located seaward of the coastline, except for deepwater ports and associated seaward pipelines.

See Appendix 2 for the complete MOU, Memorandum of Understanding Among the Secretary of the Interior, Secretary of Transportation, and Administrator of the Environmental Protection Agency on Oil Spill Prevention and Control.

MOU on Pipeline Inspection

On December 10, 1996 the U.S. Coast Guard and the Minerals Management Service revised their existing MOU on offshore pipelines. The new MOU replaces the 1976 MOU on the same subject. The revised MOU places, to the greatest extent practicable, producer operated pipelines under Department of the Interior (DOI) responsibility and transporter operated pipelines under Department of Transportation (DOT) responsibility. Producers are companies that are engaged in the extraction and processing of hydrocarbons on the OCS. Transporters are companies that are engaged in the transportation of those hydrocarbons. As a result of this revision, some pipelines, predominantly producer operated pipelines, currently under DOT responsibility, will be under DOI responsibility.

This MOU establishes an agreement between the two agencies for DOI to act as an agent for DOT in identifying and reporting potential violations of DOT regulations at offshore platforms on the OCS. As an agent, DOI may inspect all DOT-regulated pipeline facilities on production platforms during DOI inspections. DOI may also perform coordinated DOI/DOT inspections of pipeline facilities on DOT-regulated
platforms. The inspections may include reviewing any operating or maintenance records or reports that are located at the inspected OCS platform facility. Authorities for inspections under this MOU stem from pipeline safety laws pursuant to 49 U.S.C 60101; the Deepwater Port Act of 1974; the Federal Water Pollution Control Act as amended by the Oil Pollution Act of 1990; and the Hazardous Materials Transportation Act. For further information on DOI, DOT, and joint responsibilities, consult Appendix 3, Memorandum of Understanding Between The Department of Transportation and The Department of the Interior Regarding Outer Continental Shelf Pipelines.

MOU on Regulating MODU's, Fixed, and Floating Systems
On December 16, 1998, the MMS and USCG signed an MOU outlining the responsibilities for oil and natural gas exploration, development, production, and transportation activities on the Outer Continental Shelf (OCS). The MOU updates a 1989 MOU with USCG. The update was necessary to:

- incorporate responsibilities for floating facilities such as SPARS, semisubmersibles, and hybrids.
- include responsibilities obtained under the Oil Pollution Act of 1990.
- clarify existing responsibilities by using plain language; and
- include responsibilities for civil penalties and investigations.

The MMS developed this MOU by working cooperatively with the Coast Guard and with the oil and gas industry. This new MOU provides a framework to improve the procedures to conduct inspections, issue civil penalties, and conduct accident investigations. By eliminating duplication of efforts between the two agencies, the MOU will simplify procedures for the oil and gas industry as well. The complete copy of this MOU can be found in Appendix 4, Memorandum of Understanding Between the Minerals Management Service and the United States Coast Guard.

Program Organization and Responsibility
Offshore Minerals Management headquarters is located in Washington D.C. and Herndon, Virginia. The organization and management of the offshore inspection program is decentralized with national policy development located in Herndon, Virginia. There are three regional offices located in Jefferson, Louisiana; Camarillo, California; and Anchorage, Alaska. The Gulf of Mexico OCS Region has 5 districts and 1 subdistrict. The Pacific OCS Region has 2 districts. The Alaska OCS Region does not have any district offices.

Headquarters is responsible for inspection policy development and management oversight of the nationwide program while regional offices implement the inspection program. The regions are responsible for detailed regional planning and the inspection program. The regions are responsible for detailed regional planning and regional operational oversight, and review and approve some plans. Inspectors and engineers from district and subdistrict offices conduct inspections and review and approve plans. District Supervisors (DS) manage the scheduling, execution, documentation, and data input of inspections. Furthermore, they are responsible for inspector training and administering corrective action for operator noncompliance. In the Pacific OCS Region, the Regional Supervisor for Offshore Field Operations handles data entry.
Chapter 3—Inspection and Performance: Strategies and Tools

Overall Strategy
The MMS employs a two-pronged approach to ensuring safe and clean operations on the OCS. The MMS relies on monitoring industry compliance with OCS regulations and also, through a variety of means, encourages industry to voluntarily adopt structured safety management programs that promote the efficiency of operations while improving safe practices.

The Compliance Strategy
Adherence to time-tested regulations and industry developed standards form the cornerstone of offshore operational safety. For decades, the MMS has been using compliance with existing regulations as the primary means of ensuring safe and clean operations. This strategy has worked well but does not take us as far as we would like in addressing organizational and human factors that contribute to safety. For this reason, we are developing alternative performance-based approaches to increasing safety offshore.

Offshore drilling and production is often a hazardous industrial activity occurring in a very confined space several hours from emergency assistance. For the most part, operators are very conscientious regarding operational safety for these very reasons. To be otherwise is bad business. But accidents can still happen to even the most conscientious operator. MMS will continue to make compliance a large part of our oversight strategy but the emphasis is shifting away from operators with proven safety track records and increasing for those that are having a difficult time maintaining safe operations.

Compliance Tools
National PINC and Guideline List
As mentioned above, MMS has developed a list of over 600 potential incidents of noncompliance (PINC’s) with the regulations governing offshore operations. This list forms the inspector’s checklist when visiting a platform or drilling rig. These PINC’s are broken into the following 10 categories.

1. Abandonment of platforms
2. Completion operations
3. Drilling operations
4. Environmental pollution
5. General activities, conditions, record keeping
6. Hydrogen sulfide
7. Measurement of liquids and gas
8. Pipelines
9. Production operations
10. Workover operations
This listing provides the inspector with the specific PINC, the legal authority for its existence, the rationale behind the PINC, the inspection procedure, and the possible enforcement actions for noncompliance. If an operator is out of compliance, they are issued an incident of noncompliance (INC). Frequently, INC’s can be corrected on the spot or prior to an inspector leaving the facility. If not, an inspector may conduct a future partial or follow-up inspection to ensure that the INC has been corrected. The INC’s form the basis of several other inspection programs including:

- Safety ranking
- Joint MMS/Industry performance measures
- Risk-based inspections
- Disqualification procedures

The MMS has an inspector workgroup that continually reviews PINC’s and their applicability. The workgroup will make recommendations to the Regional Supervisor for Field Operations to add PINC’s, remove PINC’s, change PINC’s, develop policies to increase the consistency in performing the inspection for a given PINC, and policies for the interpretation and enforcement of the PINC. See the National PINC and Guideline List publication or the MMS web site under Inspection and Enforcement for more detail.

Compliance Inspections
The MMS has designed its nationwide inspection strategy to fulfill statutory requirements for annual scheduled and unannounced inspections of facilities. MMS inspectors conduct a variety of announced and unannounced inspections of OCS facilities where inspectors check components and records to determine if an operator is in compliance with existing regulations. Refer to the Regional Policies and Procedures Document for more detailed information on inspections. MMS inspectors conduct the following types of inspections:

- drilling operations
- production operations
- production measurement, verification, and site security
- pipeline operations
- well completion operations
- well workover operations
- hydrogen sulfide (H₂S) operations
- oil spill preparedness
- air and water quality
- abandonment operations

These inspection types can either be complete or partial. During a complete inspection, the inspector will examine or have the operator test each of the devices in service on the facility. The inspector will also review all records of testing and maintenance conducted by the operator since the last inspection. A partial inspection may be a random inspection consisting of specific components to be examined or tested or it may be a follow-up to a previous inspection.
The Pacific OCS Region has a Focused Facility Inspection (FFI) program. This type of inspection covers all aspects of platform operations and management from a systemic perspective, concentrating on areas such as facility condition, safety systems, environmental aspects, documents, training, hazardous materials, electrical systems, and policies/performance. The intent of the FFI is to complement annual and periodic partial inspections. Teams conducting FFI's consist of personnel from districts, regional staff, and representatives of the U.S. Coast Guard. A district will conduct an FFI once per calendar quarter. The teams prepare FFI reports containing findings from each FFI and identifying follow-up actions for the teams. MMS provides operators with the FFI findings, including items that require corrective action. The FFI program, with its systemic nature, is intended to go beyond standard inspections and issuance of INC's, but MMS can still issue INC's if the operator does not resolve identified systems out of compliance. MMS can also make referrals to other agencies.

In the Gulf of Mexico Region, MMS also conducts sampling inspections on production facilities. A sampling inspection uses a subset of components that is a statistically valid subset of a complete inspection. Three confidence levels or tiers form the structure of the sampling program. In the first tier, MMS has targeted 18 PINC's as mandatory items that inspectors will examine or test on every facility. In general, these mandatory PINC's are concerned with the:

- presence and testing of subsurface safety valves
- fire fighting equipment and sensors
- platform emergency shut down equipment
- pollution prevention equipment
- electrical installations, and
- maintenance of safe and workman-like conditions

Since MMS inspects and tests all of these critical PINC's, the inspector leaves the platform with a 100% confidence level that these items are working correctly unless MMS issues an INC and a corrective action is pending. These 18 PINC's are re-evaluated periodically and changed as necessary.

All of the remaining components form the second tier. Here, MMS uses a 90% confidence level to randomly select a subset of production components for inspection. If a tier 2 component fails, only the component is shut-in. The overall safety of the facility is not in question because of the tier 1 inspection. This sampling methodology uses a sequential aspect to increase its flexibility. Should the facility fail the initial statistical sample, the sampling program will have already generated an additional number of components to be inspected that will statistically ensure a confidence level of 90% if the balance of the components pass inspection.

The third tier is comprised of non-component PINC's, which are generally record keeping items. MMS has lowered the confidence level on these PINC's from 90% to 70% since these are the least critical of all PINC's. This sequential sampling inspection methodology allows MMS inspectors to spend less time on complete inspections but still
be able to leave the facility with the knowledge that 100% of the most critical PINC’s have been checked, at least 90% of the remaining less critical platform components meet regulatory requirements, and that at least 70% of the record keeping requirements are met. This savings in time allows the MMS inspection workforce to reallocate their time to higher risk facilities or operators. For more information on sampling inspections, see Appendix 5, Sampling Phase II Team Report, July 1997.

Risk-based Inspection Program

Not all operations or operators require the same degree of oversight. Through our risk-based inspection program, we can apply additional focus where it is needed most. This program uses a statistical methodology and inspector experience and knowledge to prioritize the type and frequency of inspections in the districts.

The MMS developed a comprehensive list of risk factors regarding offshore oil-and-gas operations. These risk factors were used as the basis of a series of surveys given to the inspector and district engineer workforce. Through these surveys, this workforce indicated the relative importance they placed on every risk factor. We then used these risk factors to see if the data residing in the Technical Information Management System (TIMS) could statistically support the relative degree of importance that the inspector/engineer workforce placed on these factors.

Two of the most significant factors were the history of noncompliance (i.e. INC’s) and accidents. These two factors are fairly accurate predictors of the likelihood of a facility having a future accident. This predictive capability allows MMS to focus its inspection resources on “higher probability” facilities and operations and reduces or changes the type of oversight we place on “lower probability” facilities.

From the model’s values, we place a facility in a low, medium or high risk category. Each of these categories has a minimum inspection strategy. The following table shows the risk categories and their corresponding inspection strategy.

<table>
<thead>
<tr>
<th>Risk Category</th>
<th>Inspection Frequency</th>
<th>Type of Inspections</th>
</tr>
</thead>
<tbody>
<tr>
<td>High Risk</td>
<td>&gt; 2 times per year</td>
<td>Complete annual inspection and 2 unannounced sampling inspections.</td>
</tr>
<tr>
<td>Medium Risk</td>
<td>2 times per year</td>
<td>Complete annual and 1 unannounced sampling inspection</td>
</tr>
<tr>
<td>Low Risk</td>
<td>1 time per year</td>
<td>Announced sampling inspection</td>
</tr>
</tbody>
</table>

The second part of determining the final inspection strategy of a facility comes from the inspector’s experience and knowledge. Some of the risk factors that the inspector workforce believed to be important are not collected by MMS or may be difficult to collect. A designated operator may have several different subcontractors working for them during the course of the year. It is a frequent occurrence for a contractor to actually be responsible for an operator receiving an INC. But in the eyes of the MMS, the operator is accountable for the actions of all of their contractors and therefore receive the INC.
An inspector may know of some contractors that seem to be involved in more INC's than others. This "knowledge" may be enough for the District Supervisor to change the relative risk category of the facility and increase the frequency or type of inspections. Or an inspector may have reason to believe that an operator or contractor does not have a firm grasp of OCS regulations causing the inspector to want to increase inspection frequency. Furthermore, an operator may apply to MMS to conduct certain types of short-term operations, such as welding. Inspectors consider this activity to be a higher risk. The knowledge that this activity is occurring in conjunction with other information may change the inspection frequency or type. The District Supervisor determines the final inspection strategy for each facility in their respective district. For a more detailed discussion on this topic, see Appendix 6, MMS Risk-based Inspection Methodology Report, Phase 2, July 1999.

Civil and Criminal Penalty Program
The Oil Pollution Act (OPA 90) of 1990 strengthened section 24 of the OCS Lands Act Amendments of 1978. Subtitle B of OPA 90, entitled "Penalties," increased the amount of the civil penalty from a maximum of $10,000 to a maximum of $20,000 per violation for each day of noncompliance; the maximum is now $25,000 per day. The OPA 90 also provided for periodic adjustment of the maximum penalty to reflect any changes in the Consumer Price Index. More importantly, in cases where a failure to comply with applicable regulations constitutes or constituted a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life); property; any mineral deposit; or the marine, coastal, or human environment; OPA 90 provided the Secretary of the Interior with the authority to assess a civil penalty without regard to the requirement of expiration of a period of time allowed for corrective action.

Not all regulatory violations warrant review for initiation of civil penalty proceedings. However, violations that cause injury, death, or environmental damage, or pose a threat to human life or the environment will trigger such a review. At a minimum, MMS reviews the following violations for civil penalties.

- unsafe and unworkmanlike operations involving injury to humans or pollution.
- safety devices which are bypassed or removed without a valid reason; prior approval; or lockout-tagout, flagging or monitoring.
- inoperable safety devices that are left in service without repair.

Upon determining that there is sufficient evidence that one of the conditions has been met, the Reviewing Officer will notify the person who committed the violation of this fact and the proposed penalty. The notification letter will contain the following information.

- the violation, citing the applicable provision of the OCSLA or regulation.
- the amount of the proposed penalty.
- the party's right to examine the material in the case file that is non-confidential.
the fact that the party has a right to a meeting with the Reviewing Officer prior to any finding of fact regarding the proposed penalty.

- the party's right to be represented by counsel.

See Appendix 7, OCS Civil/Criminal Penalties Program Policies and Procedures Guidebook, for a complete discussion on conditions that warrant civil or criminal penalty consideration; determining the amount of a penalty; the MMS internal review procedure, and payment and collection procedures.

**Disqualification of Operators**

In 1999, MMS amended 30 CFR Subpart A to include Section 250.12 on Disqualification and Appeals. This section states that MMS may disqualify a company from acting as the designated operator on an OCS facility or facilities, if their operating performance is unacceptable. In making this decision, MMS will consider, individually or collectively:

- accidents and their nature;
- pollution events, environmental damages and their nature;
- incidents of noncompliance;
- civil penalties;
- failure to adhere to OCS lease obligations; or
- any other relevant factors.

At the conclusion of every calendar year, the MMS aggregates data on operators regarding their compliance and accident histories. MMS weights this information based upon severity. Because this data is normalized, it allows MMS to compare operators and to evaluate their overall performance over the course of time as well as determine some minimum standards of "acceptability." An operator is performing at the "acceptable" level if their Safety Ranking Weighted Performance Index is less than 1.0.

Two general categories of performance can trigger MMS taking actions that could ultimately lead to an operator disqualification. Through periodic performance analysis, in particular the annual performance reviews, or as a result of a safety meeting that was triggered by an event that posed immediate threat or harm to the human or marine environment, MMS may find that an operator has performed at an unacceptable level.

By either method of determination, MMS will meet with the operator and counsel them on their performance. The MMS strategy to improve an operator's performance may take two different paths at this point. MMS may pursue an approach that uses a graduated series of adverse actions or MMS may choose to immediately disqualify an operator if the situation merits that kind of action. See the Designated Operator Disqualification Process flow chart on the following page. Usually, MMS will take an incremental approach, whereby intermediate steps are taken in an effort to allow an operator to improve their performance. After meeting with the operator and counseling them on improving performance, MMS may choose to invoke a directed suspension for a facility if it is deemed appropriate by the Regional Director. More often, MMS will place the operator on probation. When MMS places an operator on probation, the
Disqualification Flow Chart Legend

Industry Performance
Performance Analysis
Agency Decision
Notification of MMS Management
Path of Good Performance
Path of Neutral Performance
Path of Poor Performance
Designated Operator Disqualification Process

Industry Performance

Event

Directed Suspension (Optional)

Notify AD RD

DQ Hearing

DQ Action & Notification

Unacceptable Performance

Performance/ Safety Meeting (Counseling/ Monitoring)

Con’t Poor Perform

Probation

Notify AD RD Lessees

Performance Improvement Plan

Increased Performance Analysis

Improving Performance

Industry/ MMS Workshops

Performance Meeting (Information Sharing)

Acceptable Performance

Performance Analysis

Facility Specific DQ (RD)

District Specific Facility DQ (AD)

Region Specific Facility DQ (AD)

No New Designated Operator Assignments (Director)

OCS-wide Facility DQ (Director)

DOI Debarment (Secretary)
following four things occur.

1. The Regional Director notifies the designated operator in writing that they are on probation for a given period of time and sends a cc to all relevant lessees.

2. The designated operator may not become a designated operator for any additional leases for the period of their probation.

3. The designated operator must submit a Performance Improvement Plan to the Regional Director that will address MMS’s performance concerns and detail how they will bring the inventory of facilities in question into compliance.

4. The Regional Supervisor for Field Operations will have the discretion to increase the number of performance review meetings as necessary.

Through additional oversight, MMS will determine if an operator is improving their performance. Should their performance improve enough to satisfy the Regional Director, he will notify them that they are no longer on probation. If their performance should stay the same or worsen, then MMS may move on to a graduated series of increasingly adverse actions regarding disqualification. To be disqualified from operating means that an operator may no longer be the designated operator and the relevant lessee(s) must find an operator in good standing to act as designated operator. The disqualification steps include the following.

- a facility-specific disqualification as a designated operator
- a district-specific disqualification as a designated operator
- a region-specific disqualification as a designated operator
- OCS-wide disqualification as a designated operator

MMS has the latitude to go to any disqualification step in any order and at any time depending on the severity of the unacceptable performance. Each of these disqualification steps require the operator to prepare a new Performance Improvement Plan. If OCS-wide disqualification does not improve an operator’s performance, the MMS may seek to debar the operator from doing any business with the Federal government through the Department of Interior debarment process.

The disqualification process is a strong means to improve the performance of an unacceptable operator. But if an operator is unwilling or unable to improve their performance, this process provides the means to remove them entirely from the OCS as a designated operator. The operator may use the normal administrative channels of appealing a disqualification decision just like any other MMS decision.

The Performance Strategy

The MMS is continually studying ways to encourage operators to fully embrace safe operating practices on a daily basis. The MMS believes that the operator is best suited to ensure safety on OCS facilities since they are onsite everyday in many cases. In the past, operators have relied on periodic MMS inspections to determine if they were in compliance and operating in a safe manner. The MMS is attempting to change this
reliance by making the operator more fully aware of their daily responsibility with respect to verifying safety system integrity and operating in a safe manner.

This performance-based strategy initially centered on MMS’s challenge to industry to develop a prototype for Safety and Environmental Management Programs or SEMP. Industry rose to this challenge through the American Petroleum Institute (API) by developing Recommended Practice for Development of a Safety and Environmental Management Program for Outer Continental Shelf (OCS) Operations and Facilities or API RP 75. The key to this recommended practice is that management is responsible for the overall success of the safety and environmental management program and must provide leadership in establishing goals and performance measures, demand accountability, and provide resources.

The MMS is using two sets of performance measures to gauge the safety of operations on the OCS. The first one is comprised of MMS data and is a measure of noncompliance and accident severity. The second is an outgrowth of API RP75 and is a voluntary and anonymous accounting of data, which yields a comprehensive picture of worker exposure, injuries, and pollution events for all those operators that participated. These measures help MMS and the operators measure their performance from year to year.

By publicly acknowledging safe operators and having a willingness to try alternative compliance approaches with the safest operators, MMS is working to create an environment that encourages operators to continually strive for safer operations.

Performance Tools
Safety and Environmental Management Program (SEMP)
The MMS has developed a sound regulatory program to protect the public’s interests in the exploration and development of OCS oil and gas over the course of more than a quarter century. MMS has based this program, in large measure, on standards and recommended practices developed in association with OCS stakeholders that delimit how a “safe and prudent” operator would conduct its business. This prescriptive regulatory program has historically focused on hardware and engineering approaches to resolve offshore safety and operating issues.

The SEMP concept was created to address the role of human and organizational factors in accidents. By some estimates, human and organizational factors lie at the root of most accidents.

Through SEMP, the MMS is seeking alternative ways to complement our current regulatory efforts to protect people and the environment during oil and gas exploration and production activities taking place on the OCS. The MMS undertook this initiative following two separate, but related, studies which indicated that many OCS operators were led by the traditional, prescriptive regulatory approach of the MMS to focus more on compliance with existing rules than in systematically identifying and mitigating all risks posed by their operations. Implementation of SEMP squarely places the
responsibility for protection of people, facilities, and the environment on the shoulders of OCS operators.

The American Petroleum Institute (API) developed RP 75, Safety and Environmental Management Program, to assist in the development of a management program that is designed to promote safety and environmental protection during the performance of oil and gas and sulfur operations on the OCS. This RP addresses the identification and management of safety and environmental hazards in design, construction, start-up, operation, inspection and maintenance of new, existing, or modified drilling and production facilities.

The RP 75 addresses the following 12 management elements:

- General management program elements and principles
- Safety and environmental information
- Hazards analysis
- Management of change
- Operating procedures
- Safe work practices
- Training
- Assurance of quality and mechanical integrity of critical equipment
- Pre-startup review
- Emergency response and control
- Investigation of incidents
- Audit of safety and environmental management program elements

Many accidents on the OCS have occurred due to the lack of a consistent, identifiable responsible party imbued with the necessary authority to act. A valid SEMP plan contains an organizational structure that identifies the functional responsibilities, levels of authority, and lines of communication for activities affecting the safety and environmental management program. Identified organizations, positions, or personnel responsible for assuring that the program functions properly should have sufficient authority and access to work areas in order to identify, recommend solutions to, and verify resolution of program problems.

An operator's SEMP plan identifies policies and procedures affecting the responsibilities of company officials, representatives, employees, and contractors necessary to assure safety and environmental protection while conducting OCS operations. These policies and procedures identify positions and their associated functions and duties that are critical to implementing the program, including lines of communication for both normal operations and emergency situations.

The SEMP plan requires the operator to establish a training program to assure safe and environmentally clean operations. The training program familiarizes employees with the potential hazards that exist for offshore operations; describes and demonstrates safe and unsafe methods to conduct activities; informs employees of the applicable offshore laws and regulatory requirements; and explains the company's SEMP plan.
Many OCS accidents involving injury, extensive property damage, and loss of life have been the direct result of the actions of a contractor conducting a specific activity on the behalf of the lessee or operator. The SEMP plan requires a process to assure that contractor or service company personnel are knowledgeable of the operator's applicable safety and environmental protection policies.

The SEMP plan also contains procedures for identifying, evaluating, reporting, documenting, and instituting actions required to correct the nonconformance of a program element, activity, piece of equipment, or safety device. Additionally, it contains procedures to identify, report, and correct unsafe operations and/or conditions. In using a SEMP plan, accident prevention is an ongoing effort and potential hazards, unsafe acts, policies, or procedures should be corrected immediately. Procedures should provide for a clear opportunity for employees to report such conditions, near misses, or equipment upsets to management. Management will maintain records of actions taken to implement recommendations as a result of the review and/or analysis, and determine if the potential for similar types of situations exists in other related operations or activities. All accidents will be investigated and results documented. Management will determine the cause of an accident, and revise company policies or procedures as needed.

All elements of the SEMP plan will be subjected to a formal, documented, systematic internal review on an annual basis. Review participants would include knowledgeable representatives not having direct responsibility for the area being audited. Reviews will identify potential problem areas, deficiencies, and recommended corrective actions with definitive dates for their implementation. Reviews will also assess the overall effectiveness of the program and provide specific recommendations for improvement of programs, where appropriate. For more details, see Recommended Practice for Development of a Safety and Environmental Management Program for Outer Continental Shelf Operations and Facilities.

Joint Industry/MMS Performance Measures
As an adjunct to the SEMP effort, the MMS and industry have cooperatively developed a set of 10 performance measure categories that resulted in 18 measures. Through this voluntary effort, MMS gathers individual data from operators and aggregates the results for everyone's benefit. The MMS makes the aggregate data available in a format consisting of a range of data showing industry high, mean, and low values for each measure. Industry can then compare their own performance data with that of the rest of industry. MMS collects this data on an annual basis during the second quarter of each year. Following is a list of the 10 performance categories.

1. Production operation employees' (company and contractor) total recordable and lost workday incident rates.
2. Drilling operations employees' (company and contractor) total recordable and lost workday incident rates.
3. Construction operation employees' (company and contractor) total recordable and lost workday incident rates.
4. Fire/explosion incident rate.
5. Blowout incident rate.
6. EPA NPDES (National Pollution Discharge Elimination System) noncompliance rate.
7. Oil spill incident rate—number of spills and volume greater or equal to 1 barrel.
8. Oil spill incident rate—number of spills and volume less than 1 barrel.
9. MMS production incidents of noncompliance rate.
10. MMS drilling, workover, completion, and well plugging and abandonment incidents of noncompliance rate.

For a further discussion of these measures including definitions and formulas, see the report *Performance Measures for Safety and Environmental Management Systems at OCS E&P Operations*.

**MMS Operator Safety Index**

The MMS also collects data for internal uses to measure each operator's relative safety performance. At the beginning of each calendar year, we query our database to extract data on compliance history, accidents, and operator size in terms of their production, number of facilities, and number of components available. The primary uses of the Operator Safety Index (OSI) is to determine MMS SAFE (Safety Award for Excellence) finalists, provides baseline data for analyzing potential disqualification of operators, and helps prioritize annual performance reviews with the operators. This formula allows MMS to compare the relative performance of large operators and smaller operators. While some of this data may be used in these reviews, most of the review centers on much more specific information at the district level.

The OSI formula has two primary components: a weighted measure of overall noncompliance and a weighted measure of accident severity. In the first part of this formula, MMS weights the INC's based upon the enforcement action taken, i.e. a warning (W) is a value of 1, a component shut-in (C) is a value of 2, a facility shut-in (S) is a value of 4, and any INC referred for a civil penalty (CP) is a value of 8. Multiplying the INC's times their weights produces a "weighted INC" total. In order to compare larger operators with smaller operators, MMS normalizes this data by the number of components inspected. This produces a "Weighted INC/Component Inspected Ratio." Typically, over 90% of the operators have a ratio of less than 1.0 or they receive less than one "weighted INC" per component inspected. The MMS believes that a total "weighted INC" value is a better indicator of the severity of an operator's noncompliance.

The second part of the OSI formula evaluates accidents that occur on the OCS. The MMS recognizes that minor accidents will occur and encourages reporting of even "near misses." These minor accidents are assigned a value of zero and are not counted in the formula. The MMS accounts for the following accidents in the OSI formula.
- serious injury (one that prevents a worker from returning to normal duty for at least 72 hours)
- fatality
- oil spills greater than or equal to 1 barrel
- fires exceeding $25,000 in asset damage
- collisions exceeding $25,000 in asset damage and due wholly, or in part, to operator error
- explosions
- blowouts

These accidents are weighted according to the Accident Severity Value Matrix on the following page. The OSI formula uses the total number of components available for each operator to "normalize" the data for comparison purposes.

Finally, we add the two ratios together to form the final weighted Operator Safety Index. This final index can then be rank-ordered providing MMS with an initial relative look at overall operator safety performance on the OCS.
### Accident Severity Value Matrix

<table>
<thead>
<tr>
<th>Severity Value</th>
<th>Injury/Fatality</th>
<th>Spills</th>
<th>*Event</th>
<th>Property Damage Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>640</td>
<td>Multiple Fatality</td>
<td></td>
<td></td>
<td>&gt;$3,000,000</td>
</tr>
<tr>
<td>320</td>
<td>Single Fatality</td>
<td>&gt;200 bbls</td>
<td></td>
<td>$1,000,000 - $3,000,000</td>
</tr>
<tr>
<td>160</td>
<td>Multiple Serious</td>
<td>100 - &lt;200 bbls</td>
<td>Category 3 Blowout—total loss of control (minimum)</td>
<td>$500,000 - $999,999</td>
</tr>
<tr>
<td>80</td>
<td>Serious</td>
<td>50 - &lt;100 bbls</td>
<td>Category 2 Blowout—mechanical failure or Explosion (minimums)</td>
<td>$100,000 - $499,999</td>
</tr>
<tr>
<td>40</td>
<td>NA</td>
<td>10 - &lt;50 bbls</td>
<td>Category 1 Blowout—diverter (minimum)</td>
<td>$25,000 - $99,999</td>
</tr>
<tr>
<td>0</td>
<td>Minor/Injuries</td>
<td>&lt;1 bbl</td>
<td>*Fire/Collision/Other (minimum)</td>
<td>NA</td>
</tr>
</tbody>
</table>

*Incidents under the Event category are minimum values and may rise according to the amount of property damage.*

Areas shaded in gray do not count toward an operator's accident severity value if property damages are less than $25,000.

**Definitions:**

- **Minor Injury**—an injury that requires more than first aid and would prevent a person from returning to normal duties for up to 72 hours.
- **Serious Injury**—an injury that would prevent a person from returning to normal duties for more than 72 hours.
- **Collision**—an event where a ship/boat collides with an offshore facility where it has been determined that the operator of the facility is partially or totally responsible or a contractor of the operator is partially or totally responsible.
- **Other**—includes crane incidents, dropped equipment, and others. The "Other" values are determined by damage amount.

**Property Damage Amount**—damages caused by blowouts, fires, collisions, or explosions. Does not include damages associated with lawsuits due to injuries or fatalities; environmental damages or spill cleanup costs.

- **Blowouts**—There are 3 categories of blowouts. Category 1 is a "diverter-controlled" event; Category 2 is a "mechanical failure" event; and Category 3 is an "uncontrolled" loss of production.

To Determine an Accident Severity Value:

The accident severity value is additive by category. For example, a Category 3 blowout that caused no property damage but spilled 30 barrels of oil and had 4 serious injuries would have an accident severity value of 160 + 160 + 40 or 360 (160 for the blowout (minimum value), 160 for multiple serious injuries, and 40 for the 30 barrels of oil spilled).
Annual Performance Reviews

The MMS believes it is important to take a pro-active stance and meet with every operator at least once a year to discuss their performance. As mentioned above, MMS uses the Safety Ranking formula as a first step in prioritizing annual performance review meetings. The regions and districts add more detailed information, such as company maintenance and training data, to form a total performance picture.

From operators performing at the highest levels, MMS solicits their ideas for best operating practices. MMS seeks to share these success stories with other operators through workshops, conferences, and other safety-related meetings. Operators who perform in the mid-range may receive some counseling and MMS may continue to monitor their performance. Finally, for the operators that may have unacceptable performance, MMS may initiate adverse actions through the disqualification process that may ultimately lead to their removal as an OCS operator.

In the Pacific Region, the district offices handle the annual performance review meetings. In the Gulf of Mexico Region, MMS divides the responsibility for conducting the annual performance review meetings between the districts and the regional office as follows:

- The Gulf of Mexico regional office conducts an annual performance review with each of the top three producers and with two others randomly selected from the top ten.
- The district offices conduct annual performance review meetings with all operators that have a total of 11 or more facilities.
- The Office of Safety Management uses safety rankings on the balance of the operators (10 facilities or less) and compares their data against the industry average. Operators who exceed the industry average will not be required to meet with MMS. For the operators who rank below the industry average, MMS will conduct in-depth Annual Performance Review meetings.

MMS captures annual performance review information in a special TIMS module under the Civil Penalties component. Special reports have been designed to query the MMS TIMS database for information on compliance and accidents. This information is automatically weighted and then calculated into a final Safety Ranking Value. The Office of Safety Management in the GOM Region uses this information to determine which operators are performing above average or below average and then develops a review strategy and priority.

In general, the Annual Performance Review meetings will adhere to the following format. The MMS will discuss:

- an operator's compliance history
- any civil penalty referrals/assessments
- any organizational information or changes that may have affected compliance or performance during the preceding year.
- their SEMP with a particular emphasis on safety systems maintenance and training.
- any special topics/situations unique to the operator.
- a discussion of last year's goals and establish new goals for the next year.
The goal of MMS is to focus greater attention on a smaller group of operators in order to increase their performance to at least that of the average GOM operator. For more information on Annual Performance Review, see the Regional Policy and Procedures Guidebook.

The MMS Awards Program
In the early 1980’s, MMS created an award that was for the sole purpose of promoting interest in and recognition of operational safety and environmental protection on the OCS. This became the Safety Award for Excellence or SAFE Award. In 1999, MMS added two new awards to recognize companies and individuals. The Corporate Citizen Award (CORCIT) recognizes lessees for both outstanding operating performance and fiscal responsibility and is given on behalf of both MMS Offshore Minerals Management and MMS Royalty Management. The Corporate Leadership Award (CORLA) recognizes individuals who have made extra efforts to further benefit industry and MMS programs.

National and District SAFE Award
By 1983, recognizing exemplary performance of companies operating on the OCS had been discussed in many offices concerned with OCS operations but it took the support of the Secretary of the Interior to implement the program. MMS and others recognize that operational safety and environmental protection can only be achieved by conscientious diligence on the part of company management, employees, and every person at the work site. Operational safety and environmental protection cannot be achieved by regulations alone—they must be achieved by people working together with concern, not only for their own safety, but for the safety of others as well. MMS specifically designed the SAFE Program to recognize and call attention of others to outstanding performance on the part of companies that excel in protecting the environment and/or maintaining a safe place to work on the OCS.

Currently, the MMS presents the SAFE Award on a national and district level. MMS selects the National SAFE Award recipients from oil and gas operators who have proven to be the most outstanding in performance ratings, particular the annual MMS Safety Ranking. Three awards are given at the national level:

- Moderate OCS activity operator
- High OCS activity operator
- Contractor, drilling
- Contractor, production

To qualify in the Moderate OCS Activity category, an operator must have:
- produced at least 1 million BOE/year
- a total of at least 100 components available, and
- a total of at least 5 platforms in their inventory.

To qualify in the High OCS Activity category. A company must have:
- produced at least 15 million BOE/year
- a total of at least 1,500 components available, and
- a total of at least 50 platforms in their inventory.

The Regions and the District offices give the District SAFE Awards to companies displaying the most exemplary performance on a single platform, rig, field, unit, or throughout an entire district. Each district office may present up to four District SAFE Awards annually. Categories
include large operators, small operators (generally non-integrated, non-affiliated), and contractors performing specific operations.

**Corporate Citizen Award**

This award is given jointly by MMS Offshore Minerals Management and MMS Royalty Management. An MMS Corporate Citizen Award recipient must be judged by MMS to be among the top 5 OCS “citizens.” MMS bases the determination of who are among the top 5 upon 2 primary considerations:

- **Operational Safety**—must be among the top 10 OCS lessees according to the MMS Safety Ranking formula. This formula uses incidents of noncompliance and accidents attributed to the lessee during a calendar year.

- **Financial Reporting**—must be among the 10 best-performing OCS lessees in terms of royalty reporting and production reporting during a calendar year. The method used to identify the top performers is similar to the method used to identify the MMS Stewardship candidates.

During February of each year, MMS Offshore provides Royalty Management with its list of the 10 safest offshore operators based on data covering the previous calendar year. Royalty Management compares the safety ranking list with its list of Stewardship Award candidates for the same time period. Royalty Management identifies matches between Offshore’s 10 best and Royalty’s 10 best. The Corporate Citizen Award Selection Committee confers to identify up to five potential finalists from among the matches. The Committee then selects the winner from among the finalists based on relative ranking in the offshore performance and fiscal responsibility categories, and other factors. In March, MMS notifies the finalists by letter from the Director which invites them to the award presentation.

**Corporate Leadership Award**

Both MMS Offshore Minerals Management and MMS Royalty Management give the Corporate Leadership Award. Nominees in this category must be judged by MMS to have performed an exemplary act or service that helps MMS meet its mission objectives. Specifically, a nominee must:

- Perform an act or service that benefits either the Offshore or Royalty Management mission.
- Work directly with an MMS program office or employee.
- Volunteer to perform the beneficial act or service.

MMS identifies the candidates through nominations made by MMS Offshore or Royalty Management offices or employees. A nomination identifies the candidate, indicates the award category (i.e., corporation or corporation employee), describes how the act or service performed by the nominee benefits MMS, and verifies that the candidate meets all the other award qualifications. MMS submits nominations for a calendar year to the Corporate Leadership Award Selection Committee by January 31st of the following year. In February, the Committee selects award recipients from among the nominees. There is no limit on the number of awards that be presented each year. In March, the Director sends a letter to the award recipients with an invitation to attend the award presentation ceremony. Appendix 7 contains full documentation on the MMS Awards Program.
Accident Investigation
Investigating accidents is an important part of the MMS Inspection Program. Frequently, there is much more to an incident than what appears to be the primary cause. MMS investigates all fatalities and other serious accidents in an effort to learn the root cause or causes of the incident and share that information with industry. In the Gulf of Mexico, the Office of Safety Management has lead responsibility for assembling an accident investigation team and preparing the findings in a report. In the Pacific OCS Region, the Regional Supervisor for Field Operations has the responsibility for assigning a team to an accident investigation. Procedures for conducting an accident investigation are available in the Regional Policies and Procedures Document.

Cooperative Reviews
A cooperative review is an operator-led audit that evaluates how well the operator has implemented API RP75 or a safety and environmental management system that equates to the concepts and requirements in RP75.

Principal MMS objectives for conducting cooperative reviews are to

- develop an understanding of the methods that operators use to implement SEMP in order to benchmark differences and to identify successes.
- encourage program auditing early in the implementation stage to identify and build on successes and to correct weaknesses.
- work with operators to identify weaknesses in their safety management programs and develop recommendations for improvement.
- learn how SEMP has changed how companies conduct their operations.
- facilitate the exchange of best practice information among the operators.
- acquaint MMS personnel with SEMP principles, show them being used in offshore operations, and learn methods to evaluate their implementation.
- collect information for determining whether and how MMS may integrate safety auditing into its inspection program.
- encourage greater cooperation between the Regions and Headquarters on SEMP efforts.
- to discern specific information regarding a particular company that MMS may not know much about. For example, the size of the company and the types of facilities in their inventory.

If a company is interested in a cooperative review, they should send a letter to MMS stating that they have implemented SEMP or RP75 and would like to be considered for a cooperative review. Companies should be encouraged to begin auditing as soon as possible; they should not wait until their plans are "perfect." Doing an audit early in the implementation stage gives the company an opportunity to have an outside evaluation of its process in order to make mid-course correction before imperfections become embedded in the system. It can provide internal benchmarks so that those things it does well can be used as examples in making corrections.

The following are prerequisites that must be met for an operator and MMS to conduct a cooperative review.
• MMS must be a full participant in the review. MMS employees must be team members and participate at the same level as company employees.
• The effort should be a true audit. Briefings with little hands-on examination of the safety program is not productive.
• Team members should have some training on audit techniques. This is particularly true of MMS team members who may be involved with the inspection program.
• The MMS role during the audit as a regulator must be made clear prior to the audit. The company must be made to understand that MMS would cite observed violations that were criminal or could lead to civil penalties. However, it is MMS’s intent during cooperative reviews to avoid, where possible, citing for violations of the regulations. This is to encourage open and frank communication and disclosure of information. The company should provide MMS some assurance that other deficiencies that may have merited an INC during a normal inspection will be corrected. The audit team may decide to include them in the report if these types of violations illustrate a systematic weakness or show a pattern of deficiency in the company’s SEMP plan.
• The company must have a structured audit plan for the cooperative review.

The audit process has three distinct phases: planning, audit activities, and reporting and follow-up. These activities should be designed to allow the team to hit the ground running. Since MMS is there by invitation, it may be difficult to insist that certain activities be included. MMS may be able to persuade the company that an audit should follow certain principles if it is to be successful and easy to conduct. The following items should be discussed with the company if they are not already part of the process.

Planning
• There should always be an audit plan. The plan should outline, at a minimum, the objectives of the audit, the resources to be used, the division of labor, and the report structure.
• The team requires strong leadership. Team leaders should be a leader first and a team member second. This is particularly true if the audit plan is elementary. The team leader should be trained in basic audit techniques and ideally have conducted audits previously. The team needs to meet before the actual audit begins.
• Work should be formally assigned. Everyone should have a clear understanding of who is doing what. This will ensure that all the elements of the audit plan are covered and will avoid treating any of it as an afterthought.
• While it is helpful that the team be involved in developing the audit protocols, the team should at least assess the quality and completeness of the protocols prior to the beginning of the audit, especially if this is the company’s first audit. This is the opportunity to understand the terminology and to identify sources of materials and information. Even if the protocols have been used previously, a face-to-face understanding of its contents is essential for any new team.

Audit Activities
During the initial meeting, team members should get an understanding of how the company runs the health, safety, and environment (HSE) activities. If possible, get an organization chart that shows the HSE function. The team should also understand how the company implemented SEMP.
The Team Leader must allow adequate time for document and material review and interviews of office personnel. Team members should:

- review the SEMP plan and how it relates to any other programs.
- review any individual documents that implement the various elements.
- interview office personnel who are responsible for implementing the HSE program and any of its elements. If possible, the team should have the responsible official walk them through the program and describe how it was implemented, how the field personnel were involved, and what they should know.
- confirm that the written safety management program is aligned with actual field experience and understanding. This can be ascertained through record reviews, interviews, and observation.
- conduct an exit interview with the supervisor of the facility where the onsite work occurred.
- reconcile any discrepancies between what was learned in the office and what was found in the field.

**Reporting and Follow-up**

Reporting the findings may take several forms. The presentation of the findings should have been discussed in the audit plan. There is generally an oral closeout with selected management. In some cases, MMS team members will make a presentation while in others the team leader will do the entire presentation. Some teams leave a draft report with the company while others will provide a draft later. The company should normally be given an opportunity to comment on the draft before it goes final.

After the report has been written, MMS team members should give all working papers and audit notes to the team. As a general rule, these are the property of the company. Some company legal counsels may request it as a condition of participation, even for their own employees. There are also instances where leads documented in the notes dead end and without further annotation may be taken out of context by others, creating potentially embarrassing situations for the company.

If possible, all team members should participate in writing the report. MMS team members should not retain a copy of the draft report and should not ask for the final report. If the company volunteers to provide a copy of the final, MMS can accept, provided the company understands the FOIA implications.

MMS expects the company to inform them of their actions concerning the findings. During the closeout, MMS should elicit assurances from the company that MMS will be provided with the actions that the company will take to address the deficiencies which did not receive INC's and the audit report findings, as well as progress reports, if applicable. These should go to the MMS team members who should provide them to the Regional Supervisor.

A previously designated MMS team member should write an after action/lessons learned report within a month of his/her return to the duty station. This report is for internal use and copies should be provided to the Regional Supervisor and the MMS SEMP coordinator. **Appendix 8 contains additional information on cooperative reviews.**
Alternative Compliance
Through their performance record, some operators show that they are conducting OCS operations at a high level of safety and awareness. They have had outstanding safety records for more than one year in succession. These operators also have SEMP in place that have undergone cooperative reviews with MMS personnel and have found to be a viable working system. For these operators, MMS may entertain requested departures from traditional regulatory compliance. The operator and MMS will have to agree on how the operator will meet the intent or goals of the OCS regulations from which they wish to depart but the MMS may approve alternative approaches for these operators.

The following chart represents the current decision process for addressing alternative compliance requests. These requests shall be evaluated to ensure that the alternative compliance affords a degree of protection, safety, or performance equal to or better than that intended to be achieved by the regulations currently in place. These requests should address systems alternatives and should not be considered departure or waiver requests.
Request for Alternative Compliance (AC) is sent to RS FO.

Request would include outline of AC and rationale.

RS requests meeting with operator to discuss details of AC and RS forwards AC request to OSM for review and recommendation.

Different regions may use other sections/districts to handle the review and recommendation.

OSM reviews Operator performance.

OSM determines necessary reviews. OSM looks at Compliance History, Significant Events.

Purpose is to determine equal or greater level of safety from AC. Input from other regions and HQ may be requested. Industry groups (API, OOC, etc.) may be contacted.

OSM review operator's rationale for AC.

OSM may determine rationale is insufficient and may request additional information. If the rationale is in order, then OSM may recommend to RS to conduct field verification audit to determine presence and adequacy of AC system. (If already in place and ready for use.)

Operator may submit additional information to support rationale for AC.

OSM recommends to RS to either request additional information OR conduct field verification audit.

OSM conducts field verification audit and determines adequacy of AC processes.

OSM makes recommendations based on supporting evidence of performance history, AC rationale and field audit. An operator must have performance that is better than industry rates in all applicable areas. An operator must also show supporting evidence of the rationale for AC justification.

Operator corrects inadequacies identified in field verification audit.

AC field processes are determined to be inadequate.

RS notifies operator of AC denial/disapproval and reasons for denial.

Operator drops AC project.

RS recommends to RS to approve request for AC.

Stipulations will include the periodic audit of AC processes to determine effectiveness of system. Approval may be limited to a specific trial period (e.g., 6 months)

RS notifies operator of AC approval and stipulations regarding AC.

OSM conducts periodic audits.

AC field processes are determined to be adequate.
Regional Policies and Procedures Documents

The National Policies and Procedures document provides the overall structure for the MMS
Inspection Program. While the regions subscribe to these policies, and in general, these
procedures, each region is unique in many important ways. It is these unique characteristics
that require the regions and their districts to implement these policies in different ways
according to geographic considerations, transportation logistics, funding, environmental
considerations, magnitude of operations, and complexity of operations. To find details on
region-specific inspection policies and procedures, refer to the appropriate Regional Policies
and Procedures document available through the regional offices.