November 13, 2000. Several of these comments raise substantive issues that may result in modification of the proposed rule. The comment period is reopened to allow consideration of the comments received after November 13, 2000, and to allow additional time for comment on the proposed rule. Comments must be received on on before March 27, 2002.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 Department Manual 8.1.

Dated: December 11, 2001.

Neal A. McCaleb,

Assistant Secretary, Indian Affairs.

[FR Doc. 01–31664 Filed 12–26–01; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010–AC95

Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Document Incorporated by Reference—API 510

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Proposed rule.

SUMMARY: MMS is proposing to add a document to be incorporated by reference into our regulations governing oil and gas and sulphur operations in the Outer Continental Shelf (OCS). This revision will ensure that lessees use the best available and safest technologies while operating in the OCS. The new document, API 510, is titled "Pressure Vessel Inspection Code: Maintenance Inspection, Rating, Repair, and Alteration."

DATES: We will consider all comments we receive by February 25, 2002. We will begin reviewing comments then and may not fully consider comments we receive after February 25, 2002.

ADDRESSES: Mail or hand-carry comments (three copies) to the Department of the Interior; Minerals Management Service; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170–4817; Attention: Rules Processing Team. If you wish to e-mail comments, the e-mail address is: rules.comments@mms.gov. Reference API 510 in your e-mail subject line. Include your name and return address in your e-mail message and mark your message for return receipt.

FOR FURTHER INFORMATION CONTACT: Richard Ensele, Operations Analysis Branch, at (703) 787–1583.

SUPPLEMENTARY INFORMATION: We use standards, specifications, and recommended practices developed by standard-setting organizations and the oil and gas industry for establishing requirements for activities in the OCS. This practice, known as incorporation by reference, allows us to incorporate the provisions of technical standards into the regulations without increasing the volume of the Code of Federal Regulations (CFR). The legal effect of incorporation by reference is that the material is treated as if it was published in the **Federal Register**. This material, like any other properly issued regulation, then has the force and effect of law. We hold operators/lessees accountable for complying with the documents incorporated by reference in our regulations. The regulations found at 1 CFR part 51 govern how MMS and other Federal agencies incorporate various documents by reference. Agencies can only incorporate by reference through publication in the **Federal Register**. Agencies must also gain approval from the Director of the Federal Register for each publication incorporated by reference. Incorporation by reference of a document or publication is limited to the specific edition or specific edition and supplement or addendum cited in the regulations.

The proposed rule will incorporate by reference into MMS regulations the provisions of API 510.

We have reviewed this document and have determined that the latest edition should be incorporated into the regulations to ensure the use of the best available and safest technologies.

MMS's Review Concerning Pressure Vessels

The MMS documents incorporated by reference currently include three sections of the American Society of Mechanical Engineers (ASME) 1998 Boiler and Pressure Vessel Code:

Section I— Rules for the Construction of Power Boilers;

Section IV—Rules for the Construction of Heating Boilers; and

Section VIII—Rules for the Construction of Pressure Vessels.

Each of these sections provides requirements applicable to the design, fabrication, inspection, testing, and certification of newly constructed boilers and pressure vessels. The ASME Code has been the recognized standard for the construction of new boilers and pressure vessels since the early 1900's. The ASME Code does not, however, address the maintenance inspection, rating, repair, and alteration of pressure vessels after the vessels are placed into service.

MMS has not previously included in its documents incorporated by reference a standard on pressure vessel maintenance inspection, rating, repair, and alteration. Our review of the document proposed for incorporation into MMS regulations, API 510, indicates that it would be beneficial to us and to the offshore industry to clarify requirements on pressure vessel operations, inspections, repairs, and maintenance of the pressure vessels in service on the OCS.

In December 1931, ASME and the American Petroleum Institute (API) created a joint committee to consider safe practices in the design, construction, inspection, and repair of pressure vessels used in the oil and gas industry. The resulting API/ASME Code remained in effect until discontinued in 1956. Since the need for uniform maintenance, inspection, and repair of pressure vessels continued, API published the first edition of API 510 in 1958 to satisfy this need.

Another set of boiler and pressure vessel requirements exists, which is widely used or referenced by many states and municipalities in their regulations. It is the National Board Inspection Code (NBIC). Many elements of the discontinued API/ASME Code have been included in the NBIC since its 1960 edition. It is the intention of both API and NBIC that their respective scopes not overlap. NBIC advises in its scope that "It is recognized that an American Petroleum Institute Inspection Code, API–510, exists covering the maintenance inspection, repair, alteration and re-rating procedures for pressure vessels used by the petroleum and chemical process industries, which is applicable in these special circumstances. It is the intent that this Inspection Code cover installations other than those covered by API–510 unless the jurisdiction rules otherwise."

NBIC is an excellent generic code applicable to boilers and pressure vessels in general industrial uses. API 510 is designed specifically for the petroleum and chemical process industries. Therefore, API 510 is the appropriate document to provide for the safest maintenance inspection, rating, repair, and alteration of pressure vessels in service on the OCS.

Procedural Matters

Public Comments Procedure

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by the law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Background

This proposed rulemaking will add a document to those incorporated by reference in the regulations. The addition of API 510, dealing with maintenance inspection, rating, repair, and alteration of the various pressure vessels in use on the OCS, to the documents incorporated by reference in our regulations will have a minor impact on the entire industry. The maintenance and repair of pressure vessels has been an ongoing responsibility of the industry since the OCS program's inception. The inclusion of API 510, first published in 1958, will provide for uniform maintenance and inspection practices.

Regulatory Planning and Review (Executive Order 12866)

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

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

The rule would have no significant economic impact because the documents do not contain any significant revisions that will cause lessees or operators to change their business practices. The documents will not require the retrofitting of any facilities. The documents may lead to minimal changes in operating practices, but the associated costs will be very minor.

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

(3) This rule does not alter the budgetary effects or 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 (RF) Act

The Department certifies that this rule will not have a significant economic effect on a substantial number of small entities under the RF Act (5 U.S.C. 601 *et seq.*). The provisions of this rule will not have a significant economic effect on offshore lessees and operators, including those that are classified as small businesses. The Small Business Administration (SBA) defines small business as having:

- Annual revenues of $5 million or less for exploration service and field service companies.
- Fewer than 500 employees for drilling companies and for companies that extract oil, gas, or natural gas liquids.

Under the North American Industry Classification System Code 211111, Crude Petroleum and Natural Gas Extraction, MMS estimates that a total of 1,380 firms drill oil and gas wells onshore and offshore. The group affected by this rule is the approximately 130 companies that are offshore lessees/operators. According to SBA criteria, 39 companies qualify as large firms, leaving up to 91 companies that may qualify as small firms with fewer than 500 employees. However, because of the extremely high cost and technical complexity involved in exploration and development offshore, the vast majority of lessees/operators that will be affected will be companies with larger revenues.

The API document proposed for incorporation into MMS regulations covers pressure vessels on offshore structures. Offshore structures can cost hundreds of millions of dollars to build and install. The document to be incorporated by this rule has been used by the industry for many years, and the latest edition represents the current state-of-the-art industry practices. Boilers and pressure vessels currently being built are being constructed according to the requirements in the ASME Code. Existing pressure vessel equipment is being inspected and maintained to the requirements of API 510. Additional costs, if any, are already accepted by the industry.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MMS, call toll-free (888) 734–3247.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

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

(a) Does not have an annual effect on the economy of $100 million or more. The proposed rule will not cause any significant costs to lessees or operators. The only costs will be the purchase of the new documents and minor revisions to some operating and maintenance procedures. The minor revisions to operating and maintenance procedures may result in some minor costs or may actually result in minor cost savings.

(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) Does not have significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises.

Paperwork Reduction Act (PRA) of 1995

There are no information collection requirements associated with this rule. The DOI has determined that this regulation does not contain information collection requirements pursuant to PRA (44 U.S.C. 3501 *et seq.*) We will not be submitting an information collection request to OMB.

Federalism (Executive Order 13132)

According to Executive Order 13132, the rule does not have significant Federalism effects. This rule will not substantially and directly affect the relationship between the Federal and State Governments. This rule will simply add one additional document incorporated by reference to ensure that the industry uses the best and safest technologies. This rule does not impose costs on States or localities. Any costs incurred affect only the oil industry and will be minor.

Takings Implication Assessment (Executive Order 12630)

According to Executive Order 12630, this rule does not have significant Takings implications. A Takings Implication Assessment is not required.

Energy Supply, Distribution, or Use (Executive Order 13211)

This rule is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866. The rule does not have a significant effect on energy supply, distribution, or use because it merely adds a new standard to be incorporated by reference that will provide for uniform maintenance and inspection practices. Thus, a Statement of Energy Supply, Distribution, or Use is not required.

Civil Justice Reform (Executive Order 12988)

According to Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

National Environmental Policy Act (NEPA)

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the NEPA of 1969 is not required.

Unfunded Mandates Reform Act (UMRA) of 1995

This rule does not impose an unfunded mandate on State, local, and tribal governments or the private sector of more than $100 million per year. The rule does 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 UMRA (2 U.S.C. 1531 *et seq.*), is not required.

List of Subjects in 30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Dated: December 3, 2001.

J. Steven Griles,

Acting Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, the Minerals Management Service proposes to amend 30 CFR Part 250 as follows:

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

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

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

2. In § 250.198, in the table in paragraph (e), a new entry for document API 510 is added in alphanumeric order to read as follows:

§ 250.198 Documents incorporated by reference.

* * * * *

(e) * * *

Title of document	Incorporated by reference at
* * * * * * *	
API 510, Pressure Vessel Inspection Code: Maintenance Inspection, Rating, Repair, and Alteration, Eighth Edition, June 1997, API Stock No. C51008.	§ 250.803(b)(1), (b)(1)(i); § 250.1629(b)(1), (b)(1)(i).
* * * * * * *	

4. In § 250.803, paragraph (b)(1) and the first sentence of paragraph (b)(1)(i) are revised to read as follows:

§ 250.803 Additional production system requirements.

* * * * *

(b) * * *

(1) *Pressure and fired vessels.* Pressure and fired vessels must be designed, fabricated, and code stamped in accordance with the applicable provisions of sections I, IV, and VIII of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code. Pressure and fired vessels must have maintenance inspection, rating, repair, and alteration performed in accordance with the applicable provisions of the American Petroleum Institute's Pressure Vessel Inspection Code: Maintenance Inspection, Rating, Repair, and Alteration (API 510).

(i) Pressure safety relief valves must be designed and installed in accordance with the applicable provisions of sections I, IV, and VIII of the ASME Boiler and Pressure Vessel Code, and must have maintenance inspection, rating, repair, and alteration performed in accordance with the provisions of API 510. * * *

* * * * *

5. In § 250.1629, paragraph (b)(1) and the first sentence of paragraph (b)(1)(i) are revised to read as follows:

§ 250.1629 Additional production and fuel gas system requirements.

* * * * *

(b) * * *

(1) Pressure and fired vessels must be designed, fabricated, and code stamped in accordance with the applicable provisions of sections I, IV, and VIII of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code. Pressure and fired vessels must have maintenance inspection, rating, repair, and alteration performed in accordance with the provisions of the American Petroleum Institute's Pressure Vessel Inspection Code: Maintenance Inspection, Rating, Repair, and Alteration (API 510).

(i) Pressure safety relief valves must be designed and installed in accordance with the applicable provisions of sections I, IV, and VIII of the ASME Boiler and Pressure Vessel Code, and must have maintenance inspection, rating, repair, and alteration performed in accordance with the applicable provisions of API 510. * * *

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[FR Doc. 01–31710 Filed 12–26–01; 8:45 am]

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