

(ii) An estimate of the oil and gas reserves in the areas proposed for leasing; and

(iii) An identification of any field, geological structure, or trap on the OCS within 3 geographic miles (5.6 kilometers) of the seaward boundary of the State.

(2) After receiving nominations for leasing an area of the OCS within 3 geographic miles of the seaward boundary of any coastal State, MMS will carry out a tentative area identification according to 30 CFR part 256, subparts D and E. At that time, the Regional Director will consult with the Governor to determine whether any tracts further considered for leasing may contain any oil or gas reservoirs that underlie both the OCS and lands subject to the jurisdiction of the State.

(3) Before a sale, if a Governor requests, the Regional Director, in accordance with 30 CFR 252.7(a)(4) and (b) and sections 8(g) and 26(e) of the Act (43 U.S.C. 1337(g) and 1352(e)), will share with the Governor information that identifies potential and/or proven common hydrocarbon bearing areas within 3 geographic miles of the seaward boundary of that State.

(4) Information received and knowledge gained by a State official under paragraph (d) of this section is subject to applicable confidentiality requirements of:

(i) The Act; and

(ii) The regulations at 30 CFR parts 250, 251, and 252.

§ 251.15 Authority for information collection.

(a) The Office of Management and Budget has approved the information collection requirements in this part under 44 U.S.C. 3501 *et seq.* and assigned OMB control number 1010-0048. The title of this information collection is "30 CFR Part 251, Geological and Geophysical (G&G) Explorations of the OCS."

(b) We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

(c) We use the information collected under this part to:

(1) Evaluate permit applications and monitor scientific research activities for environmental and safety reasons.

(2) Determine that explorations do not harm resources, result in pollution, create hazardous or unsafe conditions, or interfere with other users in the area.

(3) Approve reimbursement of certain expenses.

(4) Monitor the progress and activities carried out under an OCS G&G permit.

(5) Inspect and select G&G data and information collected under an OCS G&G permit.

(d) Respondents are Federal OCS permittees and Notice filers. Responses are mandatory or are required to obtain or retain a benefit. We will protect information considered proprietary under applicable law and under regulations at §251.14 and part 250 of this chapter.

(e) Send comments regarding any aspect of the collection of information under this part, including suggestions for reducing the burden, to the Information Collection Clearance Officer, Minerals Management Service, Mail Stop 4230, 1849 C Street, NW., Washington, DC 20240.

[62 FR 67284, Dec. 24, 1997, as amended at 65 FR 2875, Jan. 19, 2000]

PART 252—OUTER CONTINENTAL SHELF (OCS) OIL AND GAS INFORMATION PROGRAM

Sec.

252.1 Purpose.

252.2 Definitions.

252.3 Oil and gas data and information to be provided for use in the OCS Oil and Gas Information Program.

252.4 Summary Report to affected States.

252.5 Information to be made available to affected States.

252.6 Freedom of Information Act requirements.

252.7 Privileged and proprietary data and information to be made available to affected States.

AUTHORITY: OCS Lands Act, 43 U.S.C. 1331 *et seq.*, as amended, 92 Stat. 629; Freedom of Information Act, 5 U.S.C. 552; §252.3 also issued under Pub. L. 99-190 making continuing appropriations for Fiscal Year 1986, and for other purposes.

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SOURCE: 44 FR 46408, Aug. 7, 1979, unless otherwise noted.

§ 252.1 Purpose.

The purpose of this part is to implement the provisions of section 26 of the Act (43 U.S.C. 1352). This part supplements the procedures and requirements contained in parts 250 and 251 of this chapter and provides procedures and requirements for the submission of oil and gas data and information resulting from exploration, development, and production operations on the Outer Continental Shelf (OCS) to the Director, Minerals Management Service. In addition, this part establishes procedures for the Director to make available certain information to the Governors of affected States and, upon request, to the executives of affected local governments in accordance with the provisions of the Freedom of Information Act and the Act.

§ 252.2 Definitions.

When used in the regulations in this part, the following terms shall have the meanings given below:

(a) *Act* refers to the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 *et seq.*).

(b) *Affected local government* means the principal governing body of a locality which is in an affected State and is identified by the Governor of that State as a locality which will be significantly affected by oil and gas activities on the OCS.

(c) *Affected State* means, with respect to any program, plan, lease sale, or other activity, proposed, conducted, or approved pursuant to the provisions of the Act, any State:

(1) The laws of which are declared, pursuant to section 4(a)(2)(A) of the Act, to be the law of the United States for the portion of the OCS on which such activity is, or is proposed to be, conducted;

(2) Which is, or is proposed to be, directly connected by transportation facilities to any artificial island or installations and other devices permanently, or temporarily attached to the seabed;

(3) Which is receiving, or in accordance with the proposed activity will receive, oil for processing, refining, or

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transshipment which was extracted from the OCS and transported directly to such State by means of vessels or by a combination of means including vessels;

(4) Which is designated by the Director as a State in which there is a substantial probability of significant impact on or damage to the coastal, marine, or human environment, or a State in which there will be significant changes in the social, governmental, or economic infrastructure, resulting from the exploration, development, and production of oil and gas anywhere on the OCS; or

(5) In which the Director finds that because of such activity there is, or will be, a significant risk of serious damage, due to factors such as prevailing winds and currents, to the marine or coastal environment in the event of any oilspill, blowout, or release of oil or gas from vessels, pipelines, or other transshipment facilities.

(d) *Analyzed geological information* means data collected under a permit or a lease which have been analyzed. Analysis may include, but is not limited to, identification of lithologic and fossil content, core analyses, laboratory analyses of physical and chemical properties, logs or charts of electrical, radioactive, sonic, and other well logs, and descriptions of hydrocarbon shows or hazardous conditions.

(e) *Area adjacent to a State* means all of that portion of the OCS included within a planning area if such planning area is bordered by that State. The portion of the OCS in the Navarin Basin Planning Area is deemed to be adjacent to the State of Alaska. The States of New York and Rhode Island are deemed to be adjacent to both the Mid-Atlantic Planning Area and the North Atlantic Planning Area.

(f) *Data* means facts and statistics or samples which have not been analyzed or processed.

(g) *Development* means those activities which take place following discovery of oil or natural gas in paying quantities, including geophysical activity, drilling, platform construction, and operation of all onshore support facilities, and which are for the purpose of ultimately producing the oil and gas discovered.

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(h) *Director* means the Director of the Minerals Management Service of the U.S. Department of the Interior or a designee of the Director.

(i) *Exploration* means the process of searching for oil and natural gas, including: (1) Geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such oil or natural gas, and (2) any drilling, whether on or off known geological structures, including the drilling of a well in which a discovery of oil or natural gas in paying quantities is made and the drilling of any additional delineation well after such discovery which is needed to delineate any reservoir and to enable the lessee to determine whether to proceed with development and production.

(j) *Governor* means the Governor of a State, or the person or entity designated by, or pursuant to, State law to exercise the powers granted to a Governor pursuant to the Act.

(k) *Information*, when used without a qualifying adjective, includes analyzed geological information, processed geophysical information, interpreted geological information, and interpreted geophysical information.

(l) *Interpreted geological information* means knowledge, often in the form of schematic cross sections and maps, developed by determining the geological significance of data and analyzed geological information.

(m) *Interpreted geophysical information* means knowledge, often in the form of schematic cross sections and maps, developed by determining the geological significance of geophysical data and processed geophysical information.

(n) *Lease* means any form of authorization which is issued under section 8 or maintained under section 6 of the Act and which authorizes exploration for, and development and production of, oil or natural gas, or the land covered by such authorization, whichever is required by the context.

(o) *Lessee* means the party authorized by a lease, or an approved assignment thereof, to explore for and develop and produce the leased deposits in accordance with the regulations in part 250 of this chapter, including all parties holding such authority by or through the lessee.

(p) *Outer Continental Shelf (OCS)* means all submerged lands which lie seaward and outside of the area of lands beneath navigable waters as defined in the Submerged Lands Act (67 Stat. 29) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

(q) *Permittee* means the party authorized by a permit issued pursuant to part 251 of this chapter to conduct activities on the OCS.

(r) *Processed geophysical information* means data collected under a permit or a lease which have been processed. Processing involves changing the form of data so as to facilitate interpretation. Processing operations may include, but are not limited to, applying corrections for known perturbing causes, rearranging or filtering data, and combining or transforming data elements.

(s) *Production* means those activities which take place after the successful completion of any means for the removal of oil or natural gas, including such removal, field operations, transfer of oil or natural gas to shore, operation monitoring, maintenance, and workover drilling.

(t) *Secretary* means the Secretary of the Interior or a designee of the Secretary.

[44 FR 46408, Aug. 7, 1979, as amended at 49 FR 10670, Mar. 22, 1984; 51 FR 10382, Mar. 26, 1986]

§ 252.3 Oil and gas data and information to be provided for use in the OCS Oil and Gas Information Program.

(a) Any permittee or lessee engaging in the activities of exploration for, or development and production of, oil and gas on the OCS shall provide the Director access to all data and information obtained or developed as a result of such activities, including geological data, geophysical data, analyzed geological information, processed and reprocessed geophysical information, interpreted geophysical information, and interpreted geological information. Copies of these data and information and any interpretation of these data and information shall be provided to

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the Director upon request. No permittee or lessee submitting an interpretation of data or information, where such interpretation has been submitted in good faith, shall be held responsible for any consequence of the use of or reliance upon such interpretation.

(b)(1) Whenever a lessee or permittee provides any data or information, at the request of the Director and specifically for use in the OCS Oil and Gas Information Program in a form and manner of processing which is utilized by the lessee or permittee in the normal conduct of business, the Director shall pay the reasonable cost of reproducing the data and information if the lessee or permittee requests reimbursement. The cost shall be computed and paid in accordance with the applicable provisions of paragraph (e)(1) of this section.

(2) Whenever a lessee or permittee provides any data or information, at the request of the Director and specifically for use in the OCS Oil and Gas Information Program, in a form and manner of processing not normally utilized by the lessee or permittee in the normal conduct of business, the Director shall pay the lessee or permittee, if the lessee or permittee requests reimbursement, the reasonable cost of processing and reproducing the requested data and information. The cost is to be computed and paid in accordance with the applicable provisions of paragraph (e)(2) of this section.

(c) Data or information requested by the Director shall be provided as soon as practicable, but not later than 30 days following receipt of the Director's request, unless, for good reason, the Director authorizes a longer time period for the submission of the requested data or information.

(d) The Director reserves the right to disclose any data or information acquired from a lessee or permittee to an independent contractor or agent for the purpose of reproducing, processing, reprocessing, or interpreting such data or information. When practicable, the Director shall notify the lessee(s) or permittee(s) who provided the data or information of the intent to disclose the data or information to an independent contractor or agent. The Director's notice of intent will afford the permittee(s) or lessee(s) a period of not

less than 5 working days within which to comment on the intended action. When the Director so notifies a lessee or permittee of the intent to disclose data or information to an independent contractor or agent, all other owners of such data or information shall be deemed to have been notified of the Director's intent. Prior to any such disclosure, the contractor or agent shall be required to execute a written commitment not to disclose any data or information to anyone without the express consent of the Director, and not to make any disclosure or use of the data or information other than that provided in the contract. Contracts between the Minerals Management Service and independent contractors shall be available to the lessee(s) or permittee(s) for inspection. In the event of any unauthorized use or disclosure of data or information by the contractor or agent, or by an employee thereof, the responsible contractor or agent or employee thereof shall be liable for penalties pursuant to section 24 of the Act.

(e)(1) After delivery of data or information in accordance with paragraph (b)(1) of this section and upon receipt of a request for reimbursement and a determination by the Director that the requested reimbursement is proper, the lessee or permittee shall be reimbursed for the cost of reproducing the data or information at the lessee's or permittee's lowest rate or at the lowest commercial rate established in the area, whichever is less. Requests for reimbursement must be made within 60 days of the delivery date of the data or information requested under paragraph (b)(1) of this section.

(2) After delivery of data or information in accordance with paragraph (b)(3) of this section, and upon receipt of a request for reimbursement and a determination by the Director that the requested reimbursement is proper, the lessee or permittee shall be reimbursed for the cost of processing or reprocessing and of reproducing the requested data or information. Requests for reimbursement must be made within 60 days of the delivery date of the data or information and shall be for only the

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costs attributable to processing or reprocessing and reproducing, as distinguished from the costs of data acquisition.

(3) Requests for reimbursement are to contain a breakdown of costs in sufficient detail to allow separation of reprocessing, processing, and reprocessing costs from acquisition and other costs.

(f) Each Federal Department or Agency shall provide the Director with any data which it has obtained pursuant to section 11 of the Act and any other information which may be necessary or useful to assist the Director in carrying out the provisions of the Act.

[44 FR 46408, Aug. 7, 1979, as amended at 51 FR 17176, May 9, 1986]

§ 252.4 Summary Report to affected States.

(a) The Director, as soon as practicable after analysis, interpretation, and compilation of oil and gas data and information developed by the Minerals Management Service or furnished by lessees, permittees, or other government agencies, shall make available to affected States and, upon request, to the executive of any affected local government, a Summary Report of data and information designed to assist them in planning for the onshore impacts of potential OCS oil and gas development and production. The Director shall consult with affected States and other interested parties to define the nature, scope, content, and timing of the Summary Report. The Director may consult with affected States and other interested parties regarding subsequent revisions in the definition of the nature, scope, content, and timing of the Summary Report. The Summary Report shall not contain data or information which the Director determines is exempt from disclosure in accordance with this part. The Summary Report shall not contain data or information the release of which the Director determines would unduly damage the competitive position of the lessee or permittee who provided the data or information which the Director has processed, analyzed, or interpreted during the development of the Summary Re-

port. The Summary Report shall include:

(1) Estimates of oil and gas reserves; estimates of the oil and gas resources that may be found within areas which the Secretary has leased or plans to offer for lease; and when available, projected rates and volumes of oil and gas to be produced from leased areas;

(2) Magnitude of the approximate projections and timing of development, if and when oil or gas, or both, is discovered;

(3) Methods of transportation to be used, including vessels and pipelines and approximate location of routes to be followed; and

(4) General location and nature of near-shore and onshore facilities expected to be utilized.

(b) When the Director determines that significant changes have occurred in the information contained in a Summary Report, the Director shall prepare and make available the new or revised information to each affected State, and, upon request, to the executive of any affected local government.

§ 252.5 Information to be made available to affected States.

(a) The Director shall prepare an index of OCS information (see 30 CFR 256.10). The index shall list all relevant actual or proposed programs, plans, reports, environmental impact statements, nominations information, environmental study reports, lease sale information, and any similar type of relevant information, including modifications, comments, and revisions prepared or directly obtained by the Director under the Act. The index shall be sent to affected States and, upon request, to any affected local government. The public shall be informed of the availability of the index.

(b) Upon request, the Director shall transmit to affected States, affected local governments, and the public a copy of any information listed in the index which is subject to the control of the Minerals Management Service, in accordance with the requirements and subject to the limitations of the Freedom of Information Act (5 U.S.C. 552) and implementing regulations. The Director shall not transmit or make

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available any information which he determines is exempt from disclosure in accordance with this part.

[44 FR 46408, Aug. 7, 1979, as amended at 54 FR 50617, Dec. 8, 1989]

§ 252.6 Freedom of Information Act requirements.

(a) The Director shall make data and information available in accordance with the requirements and subject to the limitations of the Freedom of Information Act (5 U.S.C. 552), the regulations contained in 43 CFR part 2 (Records and Testimony), the requirements of the Act, and the regulations contained in 30 CFR part 250 (Oil and Gas and Sulphur Operations in the Outer Continental Shelf) and 30 CFR part 251 (Geological and Geophysical Explorations of the Outer Continental Shelf).

(b) Except as provided in § 252.7 or in parts 250 and 251 of this chapter, no data or information determined by the director to be exempt from public disclosure under paragraph (a) of this section shall be provided to any affected State or be made available to the executive of any affected local government or to the public unless the lessee, or the permittee and all persons to whom such permittee has sold such data or information under promise of confidentiality, agree to such action.

§ 252.7 Privileged and proprietary data and information to be made available to affected States.

(a)(1) The Governor of any affected State may designate an appropriate State official to inspect, at a regional location which the Director shall designate, any privileged or proprietary data or information received by the Director regarding any activity in an area adjacent to such State, except that no such inspection shall take place prior to the sale of a lease covering the area in which such activity was conducted.

(2)(i) Except as provided for in 30 CFR 250.106 and 251.14, no privileged or proprietary data or information will be transmitted to any affected State unless the lessee who provided the privileged or proprietary data or information agrees in writing to the transmittal of the data or information.

(ii) Except as provided for in 30 CFR 250.106 and 251.14, no privileged or proprietary data or information will be transmitted to any affected State unless the permittee and all persons to whom the permittee has sold the data or information under promise of confidentiality agree in writing to the transmittal of the data or information.

(3) Knowledge obtained by a State official who inspects data or information under paragraph (a)(1) or who receives data or information under paragraph (a)(2) of this section shall be subject to the requirements and limitations of the Freedom of Information Act (5 U.S.C. 552), the regulations contained in 43 CFR part 2 (Records and Testimony), the Act (92 Stat. 629), the regulations contained in 30 CFR part 250 (Oil and Gas and Sulphur Operations in the Outer Continental Shelf), the regulations contained in 30 CFR part 251 (Geological and Geophysical Explorations of the Outer Continental Shelf), and the regulations contained in this part 252 (Outer Continental Shelf Oil and Gas Information Program).

(4) Prior to the transmittal of any privileged or proprietary data or information to any State, or the grant of access to a State official to such data or information, the Secretary shall enter into a written agreement with the Governor of the State in accordance with section 26(e) of the Act (43 U.S.C. 1352). In that agreement the State shall agree, as a condition precedent to receiving or being granted access to such data or information to: (i) Protect and maintain the confidentiality of privileged or proprietary data and information in accordance with the laws and regulations listed in paragraph (a)(3) of this section; (ii) waive the defenses as set forth in paragraph (b)(2) of this section; and (iii) hold the United States harmless from any violations of the agreement to protect the confidentiality of privileged or proprietary data or information by the State or its employees or contractors.

(b)(1) Whenever any employee of the Federal Government or of any State reveals in violation of the Act or of the provisions of the regulations implementing the Act, privileged or proprietary data or information obtained pursuant to the regulations in this

chapter, the lessee or permittee who supplied such information to the Director or any other Federal official, and any person to whom such lessee or permittee has sold such data or information under the promise of confidentiality, may commence a civil action for damages in the appropriate district court of the United States against the Federal Government or such State, as the case may be. Any Federal or State employee who is found guilty of failure to comply with any of the requirements of this section shall be subject to the penalties described in section 24 of the Act (43 U.S.C. 1350).

(2) In any action commenced against the Federal Government or a State pursuant to paragraph (b)(1) of this section, the Federal Government or such State, as the case may be, may not raise as a defense any claim of sovereign immunity, or any claim that the employee who revealed the privileged or proprietary data or information which is the basis of such suit was acting outside the scope of the person's employment in revealing such data or information.

(c) If the Director finds that any State cannot or does not comply with the conditions described in the agreement entered into pursuant to paragraph (a)(4) of this section, the Director shall thereafter withhold transmittal and deny access for inspection of privileged or proprietary data or information to such State until the Director finds that such State can and will comply with those conditions.

[44 FR 46408, Aug. 7, 1979, as amended at 64 FR 72794, Dec. 28, 1999]

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