

and recordkeeping as necessary to determine compliance with the applicable documents incorporated by reference and the regulations under this part.

**§ 285.711 [Reserved]**

**§ 285.712 What are the CVA's or project engineer's reporting requirements?**

(a) The CVA or project engineer must prepare and submit to you and MMS all reports required by this subpart. The CVA or project engineer must also submit interim reports to you and MMS, as requested by the MMS.

(b) For each report required by this subpart, the CVA or project engineer must submit one electronic copy and one paper copy of each final report to MMS. In each report, the CVA or project engineer must:

- (1) Give details of how, by whom, and when the CVA or project engineer activities were conducted;
- (2) Describe the CVA's or project engineer's activities during the verification process;
- (3) Summarize the CVA's or project engineer's findings; and
- (4) Provide any additional comments that the CVA or project engineer deems necessary.

**§ 285.713 What must I do after the CVA or project engineer confirms conformance with the Fabrication and Installation Report on my commercial lease?**

After the CVA or project engineer files the certification report, you must notify MMS within 10 business days after commencing commercial operations.

**§ 285.714 What records relating to SAPs, COPs, and GAPS must I keep?**

(a) Until MMS releases your financial assurance under §285.534, you must compile, retain, and make available to MMS representatives, within the time specified by MMS, all of the following:

- (1) The as-built drawings;
- (2) The design assumptions and analyses;
- (3) A summary of the fabrication and installation examination records;
- (4) The inspection results from the inspections and assessments required by §§ 285.820 through 285.825; and

(5) Records of repairs not covered in the inspection report submitted under §285.824(b)(3).

(b) You must record and retain the original material test results of all primary structural materials during all stages of construction until MMS releases your financial assurance under §285.534. Primary material is material that, should it fail, would lead to a significant reduction in facility safety, structural reliability, or operating capabilities. Items such as steel brackets, deck stiffeners and secondary braces or beams would not generally be considered primary structural members (or materials).

(c) You must provide MMS with the location of these records in the certification statement, as required in §§ 285.701(c), 285.703(b), and 285.708(a)(5)(i).

**Subpart H—Environmental and Safety Management, Inspections, and Facility Assessments for Activities Conducted Under SAPs, COPs and GAPS**

**§ 285.800 How must I conduct my activities to comply with safety and environmental requirements?**

(a) You must conduct all activities on your lease or grant under this part in a manner that conforms with your responsibilities in §285.105(a), and using:

- (1) Trained personnel; and
- (2) Technologies, precautions, and techniques that will not cause undue harm or damage to natural resources, including their physical, atmospheric, and biological components.

(b) You must certify compliance with those terms and conditions identified in your approved SAP, COP, or GAP, as required under §§ 285.615(c), 285.633(b), or 285.653(c).

**§ 285.801 How must I conduct my approved activities to protect marine mammals, threatened and endangered species, and designated critical habitat?**

(a) You must not conduct any activity under your lease or grant that may affect threatened or endangered species or that may affect designated critical

**§ 285.802**

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habitat of such species until the appropriate level of consultation is conducted, as required under the ESA, as amended (16 U.S.C. 1531 *et seq.*), to ensure that your actions are not likely to jeopardize a threatened or endangered species and are not likely to destroy or adversely modify designated critical habitat.

(b) You must not conduct any activity under your lease or grant that may result in an incidental taking of marine mammals until the appropriate authorization has been issued under the Marine Mammal Protection Act of 1972 (MMPA) as amended (16 U.S.C. 1361 *et seq.*).

(c) If there is reason to believe that a threatened or endangered species may be present while you conduct your MMS approved activities or may be affected by the direct or indirect effects of your actions:

(1) You must notify us that endangered or threatened species may be present in the vicinity of the lease or grant or may be affected by your actions; and

(2) We will consult with appropriate State and Federal fish and wildlife agencies and, after consultation, shall identify whether, and under what conditions, you may proceed.

(d) If there is reason to believe that designated critical habitat of a threatened or endangered species may be affected by the direct or indirect effects of your MMS approved activities:

(1) You must notify us that designated critical habitat of a threatened or endangered species in the vicinity of the lease or grant may be affected by your actions; and

(2) We will consult with appropriate State and Federal fish and wildlife agencies and, after consultation, shall identify whether, and under what conditions, you may proceed.

(e) If there is reason to believe that marine mammals may be incidentally taken as a result of your proposed activities:

(1) You must agree to secure an authorization from National Oceanic and Atmospheric Administration (NOAA) or the U.S. Fish and Wildlife Service (FWS) for incidental taking, including taking by harassment, that may result from your actions; and

(2) You must comply with all measures required by the NOAA or FWS, including measures to affect the least practicable impact on such species and its habitat and to ensure no unmitigable adverse impact on the availability of the species for subsistence use.

(f) Submit to us:

(1) Measures designed to avoid or minimize adverse effects and any potential incidental take of the endangered or threatened species or marine mammals;

(2) Measures designed to avoid likely adverse modification or destruction of designated critical habitat of such endangered or threatened species; and

(3) Your agreement to monitor for the incidental take of the species and adverse effects on the critical habitat, and provide the results of the monitoring to MMS as required; and

(4) Your agreement to perform any relevant terms and conditions of the Incidental Take Statement that may result from the ESA consultation.

(5) Your agreement to perform any relevant mitigation measures under an MMPA incidental take authorization.

**§ 285.802 What must I do if I discover a potential archaeological resource while conducting my approved activities?**

(a) If you, your subcontractors, or any agent acting on your behalf discovers a potential archaeological resource while conducting construction activities, or any other activity related to your project, you must:

(1) Immediately halt all seafloor-disturbing activities within the area of the discovery;

(2) Notify MMS of the discovery within 72 hours; and

(3) Keep the location of the discovery confidential and not take any action that may adversely affect the archaeological resource until we have made an evaluation and instructed you on how to proceed.

(b) We may require you to conduct additional investigations to determine if the resource is eligible for listing in the National Register of Historic Places under 36 CFR 60.4. We will do this if:

(1) The site has been impacted by your project activities; or