

§ 285.902 What are the general requirements for decommissioning for facilities authorized under my SAP, COP, or GAP?

(a) Except as otherwise authorized by MMS under § 285.909, within 2 years following termination of a lease or grant, you must:

(1) Remove or decommission all facilities, projects, cables, pipelines, and obstructions;

(2) Clear the seafloor of all obstructions created by activities on your lease, including your project easement, or grant, as required by the MMS.

(b) Before decommissioning the facilities under your SAP, COP, or GAP, you must submit a decommissioning application and receive approval from the MMS.

(c) The approval of the decommissioning concept in the SAP, COP, or GAP is not an approval of a decommissioning application. However, you may submit your complete decommissioning application simultaneously with the SAP, COP, or GAP so that it may undergo appropriate technical and regulatory reviews at that time.

(d) Following approval of your decommissioning application, you must submit a decommissioning notice under § 285.908 to MMS at least 60 days before commencing decommissioning activities.

(e) If you, your subcontractors, or any agent acting on your behalf discover any archaeological resource while conducting decommissioning activities, you must immediately halt bottom-disturbing activities within 1,000 feet of the discovery and report the discovery to us within 72 hours. We will inform you how to conduct investigations to determine if the resource is significant and how to protect it. You, your subcontractors, or any agent acting on your behalf must keep the location of the discovery confidential and must not take any action that may adversely affect the archaeological resource until we have made an evaluation and told you how to proceed.

(f) Provide MMS with documentation of any coordination efforts you have made with the affected States, local, and tribal governments.

§ 285.903 What are the requirements for decommissioning FERC-licensed hydrokinetic facilities?

You must comply with the decommissioning requirements in your MMS-issued lease. If you fail to comply with the decommissioning requirements of your lease then:

(a) The MMS may call for the forfeiture of your bond or other financial assurance;

(b) You remain liable for removal or disposal costs and responsible for accidents or damages that might result from such failure; and

(c) The MMS may take enforcement action under § 285.400 of this part.

§ 285.904 Can I request a departure from the decommissioning requirements?

You may request a departure from the decommissioning requirements under § 285.103.

DECOMMISSIONING APPLICATIONS

§ 285.905 When must I submit my decommissioning application?

You must submit your decommissioning application upon the earliest of the following dates:

(a) 2 years before the expiration of your lease.

(b) 90 days after completion of your commercial activities on a commercial lease.

(c) 90 days after completion of your approved activities under a limited lease on a ROW grant or RUE grant.

(d) 90 days after cancellation, relinquishment, or other termination of your lease or grant.

§ 285.906 What must my decommissioning application include?

You must provide one paper copy and one electronic copy of the application. Include the following information in the application, as applicable.

(a) Identification of the applicant including:

(1) Lease operator, ROW grant holder, or RUE grant holder;

(2) Address;

(3) Contact person and telephone number; and

(4) Shore base.

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(b) Identification and description of the facilities, cables, or pipelines you plan to remove or propose to leave in place, as provided in § 285.909.

(c) A proposed decommissioning schedule for your lease, ROW grant, or RUE grant, including the expiration or relinquishment date and proposed month and year of removal.

(d) A description of the removal methods and procedures, including the types of equipment, vessels, and moorings (*i.e.*, anchors, chains, lines, etc.) you will use.

(e) A description of your site clearance activities.

(f) Your plans for transportation and disposal (including as an artificial reef) or salvage of the removed facilities, cables, or pipelines and any required approvals.

(g) A description of those resources, conditions, and activities that could be affected by or could affect your proposed decommissioning activities. The description must be as detailed as necessary to assist MMS in complying with the NEPA and other relevant Federal laws.

(h) The results of any recent biological surveys conducted in the vicinity of the structure and recent observations of turtles or marine mammals at the structure site.

(i) Mitigation measures you will use to protect archaeological and sensitive biological features during removal activities.

(j) A description of measures you will take to prevent unauthorized discharge of pollutants, including marine trash and debris, into the offshore waters.

(k) A statement of whether or not you will use divers to survey the area after removal to determine any effects on marine life.

§ 285.907 How will MMS process my decommissioning application?

(a) Based upon your inclusion of all the information required by § 285.906, MMS will compare your decommissioning application with the decommissioning general concept in your approved SAP, COP, or GAP to determine what technical and environmental reviews are needed.

(b) You will likely have to revise your SAP, COP, or GAP, and MMS will

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begin the appropriate NEPA analysis and other regulatory reviews as required, if MMS determines that your decommissioning application would:

(1) Result in a significant change in the impacts previously identified and evaluated in your SAP, COP, or GAP;

(2) Require any additional Federal permits; or

(3) Propose activities not previously identified and evaluated in your SAP, COP, or GAP.

(c) During the review process, we may request additional information if we determine that the information provided is not sufficient to complete the review and approval process.

(d) Upon completion of the technical and environmental reviews, we may approve, approve with conditions, or disapprove your decommissioning application.

(e) If MMS disapproves your decommissioning application, you must resubmit your application to address the concerns identified by MMS.

§ 285.908 What must I include in my decommissioning notice?

(a) The decommissioning notice is distinct from your decommissioning application and may only be submitted following approval of your decommissioning application, as described in §§ 285.905 through 285.907. You must submit a decommissioning notice at least 60 days before you plan to begin decommissioning activities.

(b) Your decommissioning notice must include:

(1) A description of any changes to the approved removal methods and procedures in your approved decommissioning application, including changes to the types of vessels and equipment you will use; and

(2) An updated decommissioning schedule.

(c) We will review your decommissioning notice and may require you to resubmit a decommissioning application if MMS determines that your decommissioning activities would:

(1) Result in a significant change in the impacts previously identified and evaluated;

(2) Require any additional Federal permits; or