AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO



Water Data, is applicable to awards under these programs.

(c) *Contracts*. Administrative requirements for performance of research contracts will be established in the contract clauses in conformance with applicable procurement regulations and other interior or USGS acquisition policy documents. OMB Circular A–67 will also apply to some contract awards under this program.

**§ 402.14 [Reserved]**

## Subpart D—Reporting

**§ 402.15 Reporting procedures.**

(a) Grantees or contractors will be required to submit the following technical reports to the USGS address identified under the terms and conditions of each award.

(1) *Quarterly Technical Progress Report*. This report shall include a description of all work accomplished, results achieved, and any changes that affect the project's scope of work, time schedule, and personnel assignments.

(2) *Draft Technical Completion Report*. The draft report will be required for review prior to submission of the final technical completion report.

(3) *Final Technical Completion Report*. The final report and a camera-ready copy shall be submitted to the USGS within 90 days after the expiration date of the award and shall include a summary of all work accomplished, results achieved, conclusions, and recommendations. The camera-ready copy shall be prepared in a manner suitable for reproduction by a photographic process. Format will be specified in the terms and conditions of the award.

(4) *Final Report Abstract*. A complete Water-Resources Scientific Information Center Abstract Form 102 and National Technical Information Service Form 79 shall be submitted with the final report.

(b) Grantees or contractors will be required to submit financial, administrative, and closeout reports as identified under the terms of each award. Reporting requirements will conform to the procedures described in the Departmental Manual of the Department of the Interior at 505 DM 1–5.

(c) Contracts for technology-development projects may also require delivery of hardware items produced and/or specifications, drawings, test results, or other data describing the funded technology.

# CHAPTER V—BUREAU OF OCEAN ENERGY MANAGEMENT, DEPARTMENT OF THE INTERIOR

SUBCHAPTER A—MINERALS REVENUE MANAGEMENT


| *Part* | | *Page* |
|---|---|---|
| 519 | Distribution and disbursement of royalties, rentals, and bonuses | 293 |


SUBCHAPTER B—OFFSHORE


| | | |
|---|---|---|
| 550 | Oil and gas and sulphur operations in the Outer Continental Shelf | 297 |
| 551 | Geological and geophysical (G&G) explorations of the Outer Continental Shelf | 359 |
| 552 | Outer Continental Shelf (OCS) Oil and Gas Information Program | 373 |
| 553 | Oil spill financial responsibility for offshore facilities | 379 |
| 556 | Leasing of sulphur or oil and gas in the Outer Continental Shelf | 392 |
| 559 | Mineral leasing: Definitions | 421 |
| 560 | Outer Continental Shelf oil and gas leasing | 422 |
| 570 | Nondiscrimination in the Outer Continental Shelf | 428 |
| 580 | Prospecting for minerals other than oil, gas, and sulphur on the Outer Continental Shelf | 430 |
| 581 | Leasing of minerals other than oil, gas, and sulphur in the Outer Continental Shelf | 442 |
| 582 | Operations in the Outer Continental Shelf for minerals other than oil, gas and sulphur | 454 |
| 585 | Renewable energy and alternate uses of existing facilities on the Outer Continental Shelf | 472 |


SUBCHAPTER C—APPEALS


| | | |
|---|---|---|
| 590 | Appeal procedures | 556 |

# SUBCHAPTER A—MINERALS REVENUE MANAGEMENT

## PART 519—DISTRIBUTION AND DISBURSEMENT OF ROYALTIES, RENTALS, AND BONUSES

### Subpart A—General Provisions [Reserved]

### Subpart B—Oil and Gas, General [Reserved]

### Subpart C [Reserved]

### Subpart D—Oil and Gas, Offshore


Sec.
519.410 What does this subpart contain?
519.411 What definitions apply to this subpart?
519.412 How will the qualified OCS revenues be divided?
519.413 How will the coastal political subdivisions of Gulf producing States share in the qualified OCS revenues?
519.414 How will BOEM determine each Gulf producing State's share of the qualified OCS revenues?
519.415 How will bonus and royalty credits affect revenues allocated to Gulf producing States?
519.416 How will the qualified OCS revenues be allocated to coastal political subdivisions within the Gulf producing States?
519.417 How will BOEM calculate the percentage allocation of qualified OCS revenues to the coastal political subdivisions if, during any fiscal year, there are no applicable leased tracts in the 181 Area in the Eastern Gulf of Mexico Planning Area?
519.418 When will funds be disbursed to Gulf producing States and eligible coastal political subdivisions?


AUTHORITY: Section 104, Pub. L. 97–451, 96 Stat. 2451 (30 U.S.C. 1714), Pub. L. 109–432, Div C, Title I, 120 Stat. 3000.

SOURCE: 76 FR 64623, Oct. 18, 2011, unless otherwise noted.

## Subpart A—General Provisions [Reserved]

## Subpart B—Oil and Gas, General [Reserved]

## Subpart C [Reserved]

## Subpart D—Oil and Gas, Offshore

### § 519.410 What does this subpart contain?

(a) The Gulf of Mexico Energy Security Act of 2006 (GOMESA) directs the Secretary of the Interior to disburse a portion of the rentals, royalties, bonus, and other sums derived from certain Outer Continental Shelf (OCS) leases in the Gulf of Mexico (GOM) to the States of Alabama, Louisiana, Mississippi, and Texas (collectively identified as the Gulf producing States); to eligible coastal political subdivisions within those States; and to the Land and Water Conservation Fund. Shared GOMESA revenues are reserved for the following purposes:

(1) Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses.

(2) Mitigation of damage to fish, wildlife, or natural resources.

(3) Implementation of a federally-approved marine, coastal, or comprehensive conservation management plan.

(4) Mitigation of the impact of OCS activities through the funding of onshore infrastructure projects.

(5) Planning assistance and administrative costs not-to-exceed 3 percent of the amounts received.

(b) This subpart sets forth the formula and methodology BOEM will use to determine the amount of revenues to be disbursed and the amount to be allocated to each Gulf producing State and each eligible coastal political subdivision. For questions related to the revenue sharing provisions in this subpart, please contact: Program Manager, Financial Management; Office of Natural Resources Revenue; P.O. Box 25165; Denver Federal Center, Building 85; MS–61210B; Denver, CO 80225–0165, or at (303) 231–3435.

### § 519.411 What definitions apply to this subpart?

Terms in this subpart have the following meaning:

*181 Area* means the area identified in map 15, page 58, of the Proposed Final Outer Continental Shelf Oil and Gas Leasing Program for 1997–2002, dated August 1996, of the Bureau of Ocean Energy Management, available in the Office of the Director of the Bureau of Ocean Energy Management, excluding the area offered in OCS Lease Sale 181, held on December 5, 2001.

*181 Area in the Eastern Planning Area* is comprised of the area of overlap of the two geographic areas defined as the ''181 Area'' and the ''Eastern Planning Area.''

*181 South Area* means any area—

(1) Located:

(i) South of the 181 Area;

(ii) West of the Military Mission Line; and

(iii) In the Central Planning Area;

(2) Excluded from the Proposed Final Outer Continental Shelf Oil and Gas Leasing Program for 1997–2002, dated August 1996, of the Bureau of Ocean Energy Management; and

(3) Included in the areas considered for oil and gas leasing, as identified in map 8, page 37, of the document entitled, *Draft Proposed Program Outer Continental Shelf Oil and Gas Leasing Program 2007–2012*, dated February 2006.

*Applicable leased tract* means a tract that is subject to a lease under section 8 of the Outer Continental Shelf Lands Act for the purpose of drilling for, developing, and producing oil or natural gas resources, and is located fully or partially in either the 181 Area in the Eastern Planning Area, or in the 181 South Area.

*Central Planning Area* means the Central Gulf of Mexico Planning Area of the Outer Continental Shelf, as designated in the document entitled, *Draft Proposed Program Outer Continental Shelf Oil and Gas Leasing Program 2007–2012*, dated February 2006.

*Coastal political subdivision* means a political subdivision of a Gulf producing State any part of which political subdivision is:

(1) Within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the Gulf producing State as of December 20, 2006; and

(2) Not more than 200 nautical miles from the geographic center of any leased tract.

*Coastline* means the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters. This is the same definition used in section 2 of the Submerged Lands Act (43 U.S.C. 1301).

*Distance* means the minimum great circle distance.

*Eastern Planning Area* means the Eastern Gulf of Mexico Planning Area of the Outer Continental Shelf, as designated in the document entitled, *Draft Proposed Program Outer Continental Shelf Oil and Gas Leasing Program 2007–2012*, dated February 2006.

*Gulf producing State* means each of the States of Alabama, Louisiana, Mississippi, and Texas.

*Leased tract* means any tract that is subject to a lease under section 6 or 8 of the Outer Continental Shelf Lands Act for the purpose of drilling for, developing, and producing oil or natural gas resources.

*Military Mission Line* means the north-south line at 86°41′ W. longitude.

*Qualified OCS revenues* mean:

(1) The term qualified OCS revenues means, in the case of each of fiscal years 2007 through 2016, all rentals, royalties, bonus bids, and other sums received by the U.S. from leases entered into on or after December 20, 2006, located:

(i) In the 181 Area in the Eastern Planning Area; and

(ii) In the 181 South Area.

(iii) For applicable leased tracts intersected by the planning area administrative boundary line (e.g., separating the GOM Central Planning Area from the Eastern Planning Area), only the percent of revenues equivalent to the percent of surface acreage in the 181 Area in the Eastern Planning Area will be considered qualified OCS revenues.

(2) Exclusions to the term qualified OCS revenues include:

(i) Revenues from the forfeiture of a bond or other surety securing obligations other than royalties;

(ii) Civil penalties;

(iii) Royalties taken by the Secretary in-kind and not sold;

(iv) User fees; and

(v) Lease revenues explicitly circumscribed from GOMESA revenue sharing by statute or appropriations law.

### § 519.412 How will the qualified OCS revenues be divided?

For each of the fiscal years 2007 through 2016, 50 percent of the qualified OCS revenues will be placed in a special U.S. Treasury account from which 75 percent of the revenues will be disbursed to the Gulf producing States, and 25 percent will be disbursed to the Land and Water Conservation Fund. Each Gulf producing State will receive at least 10 percent of the qualified OCS revenues available for allocation to the Gulf producing States each fiscal year.

REVENUE DISTRIBUTION OF QUALIFIED OCS REVENUES UNDER GOMESA

| Recipient of qualified OCS revenues | Percentage of qualified OCS revenues (percent) |
|---|---|
| U.S. Treasury (General Fund) | 50 |
| Land and Water Conservation Fund | 12.5 |
| Gulf Producing States | 30 |
| Gulf Producing State Coastal Political Subdivisions | 7.5 |

### § 519.413 How will the coastal political subdivisions of Gulf producing States share in the qualified OCS revenues?

Of the revenues allocated to a Gulf producing State, 20 percent will be distributed to the coastal political subdivisions within that State.

### § 519.414 How will BOEM determine each Gulf producing State's share of the qualified OCS revenues?

(a) BOEM will determine the geographic centers of each applicable leased tract and, using the great circle distance method, will determine the closest distance from the geographic centers of each applicable leased tract to each Gulf producing State's coastline.

(b) Based on these distances, we will calculate the qualified OCS revenues to be disbursed to each Gulf producing State using the following procedure:

(1) For each Gulf producing State, we will calculate and total, over all applicable leased tracts, the mathematical inverses of the distances between the points on the State's coastline that are closest to the geographic centers of the applicable leased tracts and the geographic centers of the applicable leased tracts. For applicable leased tracts intersected by the planning area administrative boundary line, the geographic center used for the inverse distance determination will be the geographic center of the entire lease as if it were not intersected.

(2) For each Gulf producing State, we will divide the sum of each State's inverse distances, from all applicable leased tracts, by the sum of the inverse distances from all applicable leased tracts across all four Gulf producing States. We will multiply the result by the amount of qualified OCS revenues to be shared as shown below. In the formulas, IAL, ILA, IMS, and ITX represent the sum of the inverses of the closest distances between Alabama, Louisiana, Mississippi, and Texas and all applicable leased tracts, respectively.

Alabama Share = (IAL ÷ (IAL + ILA + IMS + ITX)) × Qualified OCS Revenues

Louisiana Share = (ILA ÷ (IAL + ILA + IMS + ITX)) × Qualified OCS Revenues

Mississippi Share = (IMS ÷ (IAL + ILA + IMS + ITX)) × Qualified OCS Revenues

Texas Share = (ITX ÷ (IAL + ILA + IMS + ITX)) × Qualified OCS Revenues

(3) If in any fiscal year, this calculation results in less than a 10 percent allocation of the qualified OCS revenues to any Gulf producing State, we will recalculate the distribution. We will allocate 10 percent of the qualified OCS revenues to the State and recalculate the other States' shares of the remaining qualified OCS revenues omitting the State receiving the 10 percent minimum share and its 10 percent share from the calculation.

### § 519.415 How will bonus and royalty credits affect revenues allocated to Gulf producing States?

If bonus and royalty credits issued under Section 104(c) of the Gulf of Mexico Energy Security Act are used to pay bonuses or royalties on leases in the 181 Area located in the Eastern Planning Area and the 181 South Area, then there will be a corresponding reduction in qualified OCS revenues available for distribution.

### § 519.416 How will the qualified OCS revenues be allocated to coastal political subdivisions within the Gulf producing States?

BOEM will calculate the percentage allocation of funds to the coastal political subdivisions in accordance with the following criteria:

(a) Twenty-five percent of the qualified OCS revenues will be allocated to a Gulf producing State's coastal political subdivisions in the proportion that each coastal political subdivision's population bears to the population of all coastal political subdivisions in the producing State;

(b) Twenty-five percent of the qualified OCS revenues will be allocated to a Gulf producing State's coastal political subdivisions in the proportion that each coastal political subdivision's miles of coastline bears to the number of miles of coastline of all coastal political subdivisions in the producing State. Except that, for the State of Louisiana, proxy coastline lengths for coastal political subdivisions without a coastline will be considered to be ⅓ the average length of the coastline of all political subdivisions within Louisiana having a coastline.

(c) Fifty percent of the revenues will be allocated to a Gulf producing State's coastal political subdivisions in amounts that are inversely proportional to the respective distances between the geographic center of each applicable leased tract and the point in each coastal political subdivision that is closest to the geographic center of each applicable leased tract. Except that, an applicable leased tract will be excluded from this calculation if any portion of the tract is located in a geographic area that was subject to a leasing moratorium on January 1, 2005, unless that tract was in production on that date.

### § 519.417 How will BOEM calculate the percentage allocation of qualified OCS revenues to the coastal political subdivisions if, during any fiscal year, there are no applicable leased tracts in the 181 Area in the Eastern Gulf of Mexico Planning Area?

If, during any fiscal year, there are no applicable leased tracts in the 181 Area in the Eastern Gulf of Mexico Planning Area, BOEM will calculate the percentage allocation of funds to the coastal political subdivisions in accordance with the following criteria:

(a) Fifty percent of the revenues will be allocated to a Gulf producing State's coastal political subdivisions in the proportion that each coastal political subdivision's population bears to the population of all coastal political subdivisions in the State; and

(b) Fifty percent of the revenues will be allocated to a Gulf producing State's coastal political subdivisions in the proportion that each coastal political subdivision's miles of coastline bears to the number of miles of coastline of all coastal political subdivisions in the State. Except that, for the State of Louisiana, proxy coastline lengths for coastal political subdivisions without a coastline will be considered to be ⅓ the average length of the coastline of all political subdivisions within Louisiana having a coastline.

### § 519.418 When will funds be disbursed to Gulf producing States and eligible coastal political subdivisions?

(a) The Office of Natural Resources Revenue (ONRR) will disburse allocated funds in the fiscal year after it collects the qualified OCS revenues. For example, ONRR will disburse funds in fiscal year 2010 from the qualified OCS revenues collected during fiscal year 2009.

(b) ONRR intends to disburse funds on or before March 31st of the year following the fiscal year of qualified OCS revenues.

# Subchapter B—OFFSHORE

## PART 550—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

### Subpart A—General


AUTHORITY AND DEFINITION OF TERMS

Sec.
550.101 Authority and applicability.
550.102 What does this part do?
550.103 Where can I find more information about the requirements in this part?
550.104 How may I appeal a decision made under BOEM regulations?
550.105 Definitions.

PERFORMANCE STANDARDS

550.115 How do I determine well producibility?
550.116 How do I determine producibility if my well is in the Gulf of Mexico?
550.117 How does a determination of well producibility affect royalty status?
550.118 [Reserved]
550.119 Will BOEM approve subsurface gas storage?
550.120–550.121 [Reserved]
550.122 What effect does subsurface storage have on the lease term?
550.123 Will BOEM allow gas storage on unleased lands?

FEES

550.125 Service fees.
550.126 Electronic payment instructions.

INSPECTION OF OPERATIONS

550.130 [Reserved]

DISQUALIFICATION

550.135 What will BOEM do if my operating performance is unacceptable?
550.136 How will BOEM determine if my operating performance is unacceptable?

SPECIAL TYPES OF APPROVALS

550.140 When will I receive an oral approval?
550.141 May I ever use alternate procedures or equipment?
550.142 How do I receive approval for departures?
550.143 How do I designate an operator?
550.144 How do I designate a new operator when a designation of operator terminates?
550.145 How do I designate an agent or a local agent?
550.146 Who is responsible for fulfilling leasehold obligations?

RIGHT-OF-USE AND EASEMENT

550.160 When will BOEM grant me a right-of-use and easement, and what requirements must I meet?
550.161 What else must I submit with my application?
550.162 May I continue my right-of-use and easement after the termination of any lease on which it is situated?
550.163 If I have a State lease, will BOEM grant me a right-of-use and easement?
550.164 If I have a State lease, what conditions apply for a right-of-use and easement?
550.165 If I have a State lease, what fees do I have to pay for a right-of-use and easement?
550.166 If I have a State lease, what surety bond must I have for a right-of-use and easement?

PRIMARY LEASE REQUIREMENTS, LEASE TERM EXTENSIONS, AND LEASE CANCELLATIONS

550.181 When may the Secretary cancel my lease and when am I compensated for cancellation?
550.182 When may the Secretary cancel a lease at the exploration stage?
550.183 When may BOEM or the Secretary extend or cancel a lease at the development and production stage?
550.184 What is the amount of compensation for lease cancellation?
550.185 When is there no compensation for a lease cancellation?

INFORMATION AND REPORTING REQUIREMENTS

550.186 What reporting information and report forms must I submit?
550.187–550.193 [Reserved]
550.194 How must I protect archaeological resources?
550.195 [Reserved]
550.196 Reimbursements for reproduction and processing costs.
550.197 Data and information to be made available to the public or for limited inspection.

REFERENCES

550.198 [Reserved]
550.199 Paperwork Reduction Act statements—information collection.


### Subpart B—Plans and Information


GENERAL INFORMATION

550.200 Definitions.
550.201 What plans and information must I submit before I conduct any activities on my lease or unit?

550.202 What criteria must the Exploration Plan (EP), Development and Production Plan (DPP), or Development Operations Coordination Document (DOCD) meet?
550.203 Where can wells be located under an EP, DPP, or DOCD?
550.204–550.205 [Reserved]
550.206 How do I submit the EP, DPP, or DOCD?

ANCILLARY ACTIVITIES

550.207 What ancillary activities may I conduct?
550.208 If I conduct ancillary activities, what notices must I provide?
550.209 What is the BOEM review process for the notice?
550.210 If I conduct ancillary activities, what reporting and data/information retention requirements must I satisfy?

CONTENTS OF EXPLORATION PLANS (EP)

550.211 What must the EP include?
550.212 What information must accompany the EP?
550.213 What general information must accompany the EP?
550.214 What geological and geophysical (G&G) information must accompany the EP?
550.215 What hydrogen sulfide ($H_2S$) information must accompany the EP?
550.216 What biological, physical, and socioeconomic information must accompany the EP?
550.217 What solid and liquid wastes and discharges information and cooling water intake information must accompany the EP?
550.218 What air emissions information must accompany the EP?
550.219 What oil and hazardous substance spills information must accompany the EP?
550.220 If I propose activities in the Alaska OCS Region, what planning information must accompany the EP?
550.221 What environmental monitoring information must accompany the EP?
550.222 What lease stipulations information must accompany the EP?
550.223 What mitigation measures information must accompany the EP?
550.224 What information on support vessels, offshore vehicles, and aircraft you will use must accompany the EP?
550.225 What information on the onshore support facilities you will use must accompany the EP?
550.226 What Coastal Zone Management Act (CZMA) information must accompany the EP?
550.227 What environmental impact analysis (EIA) information must accompany the EP?
550.228 What administrative information must accompany the EP?

REVIEW AND DECISION PROCESS FOR THE EP

550.231 After receiving the EP, what will BOEM do?
550.232 What actions will BOEM take after the EP is deemed submitted?
550.233 What decisions will BOEM make on the EP and within what timeframe?
550.234 How do I submit a modified EP or resubmit a disapproved EP, and when will BOEM make a decision?
550.235 If a State objects to the EP's coastal zone consistency certification, what can I do?

CONTENT OF DEVELOPMENT AND PRODUCTION PLANS (DPP) AND DEVELOPMENT OPERATIONS COORDINATION DOCUMENTS (DOCD)

550.241 What must the DPP or DOCD include?
550.242 What information must accompany the DPP or DOCD?
550.243 What general information must accompany the DPP or DOCD?
550.244 What geological and geophysical (G&G) information must accompany the DPP or DOCD?
550.245 What hydrogen sulfide ($H_2S$) information must accompany the DPP or DOCD?
550.246 What mineral resource conservation information must accompany the DPP or DOCD?
550.247 What biological, physical, and socioeconomic information must accompany the DPP or DOCD?
550.248 What solid and liquid wastes and discharges information and cooling water intake information must accompany the DPP or DOCD?
550.249 What air emissions information must accompany the DPP or DOCD?
550.250 What oil and hazardous substance spills information must accompany the DPP or DOCD?
550.251 If I propose activities in the Alaska OCS Region, what planning information must accompany the DPP?
550.252 What environmental monitoring information must accompany the DPP or DOCD?
550.253 What lease stipulations information must accompany the DPP or DOCD?
550.254 What mitigation measures information must accompany the DPP or DOCD?
550.255 What decommissioning information must accompany the DPP or DOCD?
550.256 What related facilities and operations information must accompany the DPP or DOCD?
550.257 What information on the support vessels, offshore vehicles, and aircraft you will use must accompany the DPP or DOCD?
550.258 What information on the onshore support facilities you will use must accompany the DPP or DOCD?

550.259 What sulphur operations information must accompany the DPP or DOCD?
550.260 What Coastal Zone Management Act (CZMA) information must accompany the DPP or DOCD?
550.261 What environmental impact analysis (EIA) information must accompany the DPP or DOCD?
550.262 What administrative information must accompany the DPP or DOCD?

REVIEW AND DECISION PROCESS FOR THE DPP OR DOCD

550.266 After receiving the DPP or DOCD, what will BOEM do?
550.267 What actions will BOEM take after the DPP or DOCD is deemed submitted?
550.268 How does BOEM respond to recommendations?
550.269 How will BOEM evaluate the environmental impacts of the DPP or DOCD?
550.270 What decisions will BOEM make on the DPP or DOCD and within what timeframe?
550.271 For what reasons will BOEM disapprove the DPP or DOCD?
550.272 If a State objects to the DPP's or DOCD's coastal zone consistency certification, what can I do?
550.273 How do I submit a modified DPP or DOCD or resubmit a disapproved DPP or DOCD?

POST-APPROVAL REQUIREMENTS FOR THE EP, DPP, AND DOCD

550.280 How must I conduct activities under the approved EP, DPP, or DOCD?
550.281 What must I do to conduct activities under the approved EP, DPP, or DOCD?
550.282 Do I have to conduct post-approval monitoring?
550.283 When must I revise or supplement the approved EP, DPP, or DOCD?
550.284 How will BOEM require revisions to the approved EP, DPP, or DOCD?
550.285 How do I submit revised and supplemental EPs, DPPs, and DOCDs?

CONSERVATION INFORMATION DOCUMENTS (CID)

550.296 When and how must I submit a CID or a revision to a CID?
550.297 What information must a CID contain?
550.298 How long will BOEM take to evaluate and make a decision on the CID?
550.299 What operations require approval of the CID?

## Subpart C—Pollution Prevention and Control

550.300–550.301 [Reserved]
550.302 Definitions concerning air quality.
550.303 Facilities described in a new or revised Exploration Plan or Development and Production Plan.
550.304 Existing facilities.

## Subparts D– I [Reserved]

## Subpart J—Pipelines and Pipeline Rights of Way

550.1011 Bond requirements for pipeline right-of-way holders.

## Subpart K—Oil and Gas Production Requirements

WELL TESTS AND SURVEYS

550.1153 When must I conduct a static bottomhole pressure survey?

CLASSIFYING RESERVOIRS

550.1154 How do I determine if my reservoir is sensitive?
550.1155 What information must I submit for sensitive reservoirs?

OTHER REQUIREMENTS

550.1165 What must I do for enhanced recovery operations?
550.1166 What additional reporting is required for developments in the Alaska OCS Region?
550.1167 What information must I submit with forms and for approvals?

## Subparts L–M [Reserved]

## Subpart N—Outer Continental Shelf Civil Penalties

OUTER CONTINENTAL SHELF LANDS ACT CIVIL PENALTIES

550.1400 How does BOEM begin the civil penalty process?
550.1401 Index table.
550.1402 Definitions.
550.1403 What is the maximum civil penalty?
550.1404 Which violations will BOEM review for potential civil penalties?
550.1405 When is a case file developed?
550.1406 When will BOEM notify me and provide penalty information?
550.1407 How do I respond to the letter of notification?
550.1408 When will I be notified of the Reviewing Officer's decision?
550.1409 What are my appeal rights?

FEDERAL OIL AND GAS ROYALTY MANAGEMENT ACT CIVIL PENALTIES DEFINITIONS

550.1450 What definitions apply to this subpart?

PENALTIES AFTER A PERIOD TO CORRECT

550.1451 What may BOEM do if I violate a statute, regulation, order, or lease term relating to a Federal oil and gas lease?
550.1452 What if I correct the violation?
550.1453 What if I do not correct the violation?
550.1454 How may I request a hearing on the record on a Notice of Noncompliance?
550.1455 Does my request for a hearing on the record affect the penalties?
550.1456 May I request a hearing on the record regarding the amount of a civil penalty if I did not request a hearing on the Notice of Noncompliance?

PENALTIES WITHOUT A PERIOD TO CORRECT

550.1460 May I be subject to penalties without prior notice and an opportunity to correct?
550.1461 How will BOEM inform me of violations without a period to correct?
550.1462 How may I request a hearing on the record on a Notice of Noncompliance regarding violations without a period to correct?
550.1463 Does my request for a hearing on the record affect the penalties?
550.1464 May I request a hearing on the record regarding the amount of a civil penalty if I did not request a hearing on the Notice of Noncompliance?

GENERAL PROVISIONS

550.1470 How does BOEM decide what the amount of the penalty should be?
550.1471 Does the penalty affect whether I owe interest?
550.1472 How will the Office of Hearings and Appeals conduct the hearing on the record?
550.1473 How may I appeal the Administrative Law Judge's decision?
550.1474 May I seek judicial review of the decision of the Interior Board of Land Appeals?
550.1475 When must I pay the penalty?
550.1476 Can BOEM reduce my penalty once it is assessed?
550.1477 How may BOEM collect the penalty?

CRIMINAL PENALTIES

550.1480 May the United States criminally prosecute me for violations under Federal oil and gas leases?

BONDING REQUIREMENTS

550.1490 What standards must my BOEM-specified surety instrument meet?
550.1491 How will BOEM determine the amount of my bond or other surety instrument?

FINANCIAL SOLVENCY REQUIREMENTS

550.1495 How do I demonstrate financial solvency?
550.1496 How will BOEM determine if I am financially solvent?
550.1497 When will BOEM monitor my financial solvency?

## Subparts O–S [Reserved]

AUTHORITY: 30 U.S.C. 1751; 31 U.S.C. 9701; 43 U.S.C. 1334.

SOURCE: 76 FR 64623, Oct. 18, 2011, unless otherwise noted.

# Subpart A—General

AUTHORITY AND DEFINITION OF TERMS

### § 550.101 Authority and applicability.

The Secretary of the Interior (Secretary) authorized the Bureau of Ocean Energy Management (BOEM) to regulate oil, gas, and sulphur exploration, development, and production operations on the Outer Continental Shelf (OCS). Under the Secretary's authority, the Director requires that all operations:

(a) Be conducted according to the OCS Lands Act (OCSLA), the regulations in this part, BOEM orders, the lease or right-of-way, and other applicable laws, regulations, and amendments; and

(b) Conform to sound conservation practice to preserve, protect, and develop mineral resources of the OCS to:

(1) Make resources available to meet the Nation's energy needs;

(2) Balance orderly energy resource development with protection of the human, marine, and coastal environments;

(3) Ensure the public receives a fair and equitable return on the resources of the OCS;

(4) Preserve and maintain free enterprise competition; and

(5) Minimize or eliminate conflicts between the exploration, development, and production of oil and natural gas and the recovery of other resources.

### § 550.102 What does this part do?

(a) 30 CFR part 550 contains the regulations of the BOEM Offshore program that govern oil, gas, and sulphur exploration, development, and production

operations on the OCS. When you conduct operations on the OCS, you must submit requests, applications, and notices, or provide supplemental information for BOEM approval.

(b) The following table of general references shows where to look for information about these processes.

TABLE—WHERE TO FIND INFORMATION FOR CONDUCTING OPERATIONS

| For information about | Refer to |
|---|---|
| (1) Applications for permit to drill | 30 CFR 250, subpart D. |
| (2) Development and Production Plans (DPP) | 30 CFR 550, subpart B. |
| (3) Downhole commingling | 30 CFR 250, subpart K. |
| (4) Exploration Plans (EP) | 30 CFR 550, subpart B. |
| (5) Flaring | 30 CFR 250, subpart K. |
| (6) Gas measurement | 30 CFR 250, subpart L. |
| (7) Off-lease geological and geophysical permits | 30 CFR 551. |
| (8) Oil spill financial responsibility coverage | 30 CFR 553. |
| (9) Oil and gas production safety systems | 30 CFR 250, subpart H. |
| (10) Oil spill response plans | 30 CFR 254. |
| (11) Oil and gas well-completion operations | 30 CFR 250, subpart E. |
| (12) Oil and gas well-workover operations | 30 CFR 250, subpart F. |
| (13) Decommissioning Activities | 30 CFR 250, subpart Q. |
| (14) Platforms and structures | 30 CFR 250, subpart I. |
| (15) Pipelines and Pipeline Rights-of-Way | 30 CFR 250, subpart J and 30 CFR 550, subpart J. |
| (16) Sulphur operations | 30 CFR 250, subpart P. |
| (17) Training | 30 CFR 250, subpart O. |
| (18) Unitization | 30 CFR 250, subpart M. |

### § 550.103 Where can I find more information about the requirements in this part?

BOEM may issue Notices to Lessees and Operators (NTLs) that clarify, supplement, or provide more detail about certain requirements. NTLs may also outline what you must provide as required information in your various submissions to BOEM.

### § 550.104 How may I appeal a decision made under BOEM regulations?

To appeal orders or decisions issued under BOEM regulations in 30 CFR parts 550 to 582, follow the procedures in 30 CFR part 590.

### § 550.105 Definitions.

Terms used in this part will have the meanings given in the Act and as defined in this section:

*Act* means the OCS Lands Act, as amended (43 U.S.C. 1331 *et seq.*).

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

(1) The laws of which are declared, under section 4(a)(2) 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 installation or other device permanently or temporarily attached to the seabed;

(3) Which is receiving, or according to the proposed activity, will receive oil for processing, refining, or transshipment that 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 Secretary 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 Secretary 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 oil spill, blowout, or release of oil or gas from vessels, pipelines, or other transshipment facilities.

*Air pollutant* means any airborne agent or combination of agents for which the Environmental Protection Agency (EPA) has established, under section 109 of the Clean Air Act, national primary or secondary ambient air quality standards.

*Analyzed geological information* means data collected under a permit or a lease that have been analyzed. Analysis may include, but is not limited to, identification of lithologic and fossil content, core analysis, laboratory analyses of physical and chemical properties, well logs or charts, results from formation fluid tests, and descriptions of hydrocarbon occurrences or hazardous conditions.

*Ancillary activities* mean those activities on your lease or unit that you:

(1) Conduct to obtain data and information to ensure proper exploration or development of your lease or unit; and

(2) Can conduct without BOEM approval of an application or permit.

*Archaeological interest* means capable of providing scientific or humanistic understanding of past human behavior, cultural adaptation, and related topics through the application of scientific or scholarly techniques, such as controlled observation, contextual measurement, controlled collection, analysis, interpretation, and explanation.

*Archaeological resource* means any material remains of human life or activities that are at least 50 years of age and that are of archaeological interest.

*Attainment area* means, for any air pollutant, an area that is shown by monitored data or that is calculated by air quality modeling (or other methods determined by the Administrator of EPA to be reliable) not to exceed any primary or secondary ambient air quality standards established by EPA.

*Best available and safest technology (BAST)* means the best available and safest technologies that the Director determines to be economically feasible wherever failure of equipment would have a significant effect on safety, health, or the environment.

*Best available control technology (BACT)* means an emission limitation based on the maximum degree of reduction for each air pollutant subject to regulation, taking into account energy, environmental and economic impacts, and other costs. The Regional Director will verify the BACT on a case-by-case basis, and it may include reductions achieved through the application of processes, systems, and techniques for the control of each air pollutant.

*Coastal environment* means the physical, atmospheric, and biological components, conditions, and factors that interactively determine the productivity, state, condition, and quality of the terrestrial ecosystem from the shoreline inward to the boundaries of the coastal zone.

*Coastal zone* means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder) strongly influenced by each other and in proximity to the shorelands of the several coastal States. The coastal zone includes islands, transition and intertidal areas, salt marshes, wetlands, and beaches. The coastal zone extends seaward to the outer limit of the U.S. territorial sea and extends inland from the shorelines to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters, and the inward boundaries of which may be identified by the several coastal States, under the authority in section 305(b)(1) of the Coastal Zone Management Act (CZMA) of 1972.

*Competitive reservoir* means a reservoir in which there are one or more producible or producing well completions on each of two or more leases or portions of leases, with different lease operating interests, from which the lessees plan future production.

*Correlative rights* when used with respect to lessees of adjacent leases, means the right of each lessee to be afforded an equal opportunity to explore for, develop, and produce, without waste, minerals from a common source.

*Data* means facts and statistics, measurements, or samples that have not been analyzed, processed, or interpreted.

*Departures* mean approvals granted by the appropriate BSEE or BOEM representative for operating requirements/procedures other than those specified in the regulations found in this part. These requirements/procedures may be

necessary to control a well; properly develop a lease; conserve natural resources, or protect life, property, or the marine, coastal, or human environment.

*Development* means those activities that take place following discovery of minerals in paying quantities, including but not limited to geophysical activity, drilling, platform construction, and operation of all directly related onshore support facilities, and which are for the purpose of producing the minerals discovered.

*Development geological and geophysical (G&G) activities* means those G&G and related data-gathering activities on your lease or unit that you conduct following discovery of oil, gas, or sulphur in paying quantities to detect or imply the presence of oil, gas, or sulphur in commercial quantities.

*Director* means the Director of BOEM of the U.S. Department of the Interior, or an official authorized to act on the Director's behalf.

*District Manager* means the BSEE officer with authority and responsibility for operations or other designated program functions for a district within a BSEE Region.

*Easement* means an authorization for a nonpossessory, nonexclusive interest in a portion of the OCS, whether leased or unleased, which specifies the rights of the holder to use the area embraced in the easement in a manner consistent with the terms and conditions of the granting authority.

*Eastern Gulf of Mexico* means all OCS areas of the Gulf of Mexico the BOEM Director decides are adjacent to the State of Florida. The Eastern Gulf of Mexico is not the same as the Eastern Planning Area, an area established for OCS lease sales.

*Emission offsets* mean emission reductions obtained from facilities, either onshore or offshore, other than the facility or facilities covered by the proposed Exploration Plan (EP) or Development and Production Plan (DPP).

*Enhanced recovery operations* mean pressure maintenance operations, secondary and tertiary recovery, cycling, and similar recovery operations that alter the natural forces in a reservoir to increase the ultimate recovery of oil or gas.

*Existing facility*, as used in § 550.303, means an OCS facility described in an Exploration Plan or a Development and Production Plan approved before June 2, 1980.

*Exploration* means the commercial search for oil, gas, or sulphur. Activities classified as exploration include but are not limited to:

(1) Geophysical and geological (G&G) surveys using magnetic, gravity, seismic reflection, seismic refraction, gas sniffers, coring, or other systems to detect or imply the presence of oil, gas, or sulphur; and

(2) Any drilling conducted for the purpose of searching for commercial quantities of oil, gas, and sulphur, including the drilling of any additional well needed to delineate any reservoir to enable the lessee to decide whether to proceed with development and production.

*Facility*, as used in § 550.303, means all installations or devices permanently or temporarily attached to the seabed. They include mobile offshore drilling units (MODUs), even while operating in the ''tender assist'' mode (*i.e.*, with skid-off drilling units) or other vessels engaged in drilling or downhole operations. They are used for exploration, development, and production activities for oil, gas, or sulphur and emit or have the potential to emit any air pollutant from one or more sources. They include all floating production systems (FPSs), including column-stabilized-units (CSUs); floating production, storage and offloading facilities (FPSOs); tension-leg platforms (TLPs); spars, *etc*. During production, multiple installations or devices are a single facility if the installations or devices are at a single site. Any vessel used to transfer production from an offshore facility is part of the facility while it is physically attached to the facility.

*Flaring* means the burning of natural gas as it is released into the atmosphere.

*Gas reservoir* means a reservoir that contains hydrocarbons predominantly in a gaseous (single-phase) state.

*Gas-well completion* means a well completed in a gas reservoir or in the associated gas-cap of an oil reservoir.

*Geological and geophysical (G&G) explorations* means those G&G surveys on

your lease or unit that use seismic reflection, seismic refraction, magnetic, gravity, gas sniffers, coring, or other systems to detect or imply the presence of oil, gas, or sulphur in commercial quantities.

*Governor* means the Governor of a State, or the person or entity designated by, or under, State law to exercise the powers granted to such Governor under the Act.

*$H_2S$ absent* means:

(1) Drilling, logging, coring, testing, or producing operations have confirmed the absence of $H_2S$ in concentrations that could potentially result in atmospheric concentrations of 20 ppm or more of $H_2S$; or

(2) Drilling in the surrounding areas and correlation of geological and seismic data with equivalent stratigraphic units have confirmed an absence of $H_2S$ throughout the area to be drilled.

*$H_2S$ present* means drilling, logging, coring, testing, or producing operations have confirmed the presence of $H_2S$ in concentrations and volumes that could potentially result in atmospheric concentrations of 20 ppm or more of $H_2S$.

*$H_2S$ unknown* means the designation of a zone or geologic formation where neither the presence nor absence of $H_2S$ has been confirmed.

*Human environment* means the physical, social, and economic components, conditions, and factors that interactively determine the state, condition, and quality of living conditions, employment, and health of those affected, directly or indirectly, by activities occurring on the OCS.

*Interpreted geological information* means geological knowledge, often in the form of schematic cross sections, 3-dimensional representations, and maps, developed by determining the geological significance of data and analyzed geological information.

*Interpreted geophysical information* means geophysical knowledge, often in the form of schematic cross sections, 3-dimensional representations, and maps, developed by determining the geological significance of geophysical data and analyzed geophysical information.

*Lease* means an agreement that is issued under section 8 or maintained under section 6 of the Act and that authorizes exploration for, and development and production of, minerals. The term also means the area covered by that authorization, whichever the context requires.

*Lease term pipelines* mean those pipelines owned and operated by a lessee or operator that are completely contained within the boundaries of a single lease, unit, or contiguous (not cornering) leases of that lessee or operator.

*Lessee* means a person who has entered into a lease with the United States to explore for, develop, and produce the leased minerals. The term lessee also includes the BOEM-approved assignee of the lease, and the owner or the BOEM-approved assignee of operating rights for the lease.

*Major Federal action* means any action or proposal by the Secretary that is subject to the provisions of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. (2)(C) (*i.e.*, an action that will have a significant impact on the quality of the human environment requiring preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act).

*Marine environment* means the physical, atmospheric, and biological components, conditions, and factors that interactively determine the productivity, state, condition, and quality of the marine ecosystem. These include the waters of the high seas, the contiguous zone, transitional and intertidal areas, salt marshes, and wetlands within the coastal zone and on the OCS.

*Material remains* means physical evidence of human habitation, occupation, use, or activity, including the site, location, or context in which such evidence is situated.

*Maximum efficient rate (MER)* means the maximum sustainable daily oil or gas withdrawal rate from a reservoir that will permit economic development and depletion of that reservoir without detriment to ultimate recovery.

*Maximum production rate (MPR)* means the approved maximum daily rate at which oil or gas may be produced from a specified oil-well or gas-well completion.

*Minerals* include oil, gas, sulphur, geopressured-geothermal and associated resources, and all other minerals

that are authorized by an Act of Congress to be produced.

*Natural resources* include, without limiting the generality thereof, oil, gas, and all other minerals, and fish, shrimp, oysters, clams, crabs, lobsters, sponges, kelp, and other marine animal and plant life but does not include water power or the use of water for the production of power.

*Nonattainment area* means, for any air pollutant, an area that is shown by monitored data or that is calculated by air quality modeling (or other methods determined by the Administrator of EPA to be reliable) to exceed any primary or secondary ambient air quality standard established by EPA.

*Nonsensitive reservoir* means a reservoir in which ultimate recovery is not decreased by high reservoir production rates.

*Oil reservoir* means a reservoir that contains hydrocarbons predominantly in a liquid (single-phase) state.

*Oil reservoir with an associated gas cap* means a reservoir that contains hydrocarbons in both a liquid and gaseous (two-phase) state.

*Oil-well completion* means a well completed in an oil reservoir or in the oil accumulation of an oil reservoir with an associated gas cap.

*Operating rights* mean any interest held in a lease with the right to explore for, develop, and produce leased substances.

*Operator* means the person the lessee(s) designates as having control or management of operations on the leased area or a portion thereof. An operator may be a lessee, the BOEM-approved or BSEE-approved designated agent of the lessee(s), or the holder of operating rights under a BOEM-approved operating rights assignment.

*Outer Continental Shelf (OCS)* means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (43 U.S.C. 1301) whose subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

*Person* includes a natural person, an association (including partnerships, joint ventures, and trusts), a State, a political subdivision of a State, or a private, public, or municipal corporation.

*Pipelines* are the piping, risers, and appurtenances installed for transporting oil, gas, sulphur, and produced waters.

*Processed geological or geophysical information* means data collected under a permit or a lease that have been processed or reprocessed. Processing involves changing the form of data 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. Reprocessing is the additional processing other than ordinary processing used in the general course of evaluation. Reprocessing operations may include varying identified parameters for the detailed study of a specific problem area.

*Production* means those activities that take place after the successful completion of any means for the removal of minerals, including such removal, field operations, transfer of minerals to shore, operation monitoring, maintenance, and workover operations.

*Production areas* are those areas where flammable petroleum gas, volatile liquids or sulphur are produced, processed (e.g., compressed), stored, transferred (e.g., pumped), or otherwise handled before entering the transportation process.

*Projected emissions* mean emissions, either controlled or uncontrolled, from a source or sources.

*Prospect* means a geologic feature having the potential for mineral deposits.

*Regional Director* means the BOEM officer with responsibility and authority for a Region within BOEM.

*Regional Supervisor* means the BOEM officer with responsibility and authority for operations or other designated program functions within a BOEM Region.

*Right-of-use* means any authorization issued under this part to use OCS lands.

*Right-of-way pipelines* are those pipelines that are contained within:

(1) The boundaries of a single lease or unit, but are not owned and operated

by a lessee or operator of that lease or unit;

(2) The boundaries of contiguous (not cornering) leases that do not have a common lessee or operator;

(3) The boundaries of contiguous (not cornering) leases that have a common lessee or operator but are not owned and operated by that common lessee or operator; or

(4) An unleased block(s).

*Sensitive reservoir* means a reservoir in which the production rate will affect ultimate recovery.

*Significant archaeological resource* means those archaeological resources that meet the criteria of significance for eligibility to the National Register of Historic Places as defined in 36 CFR 60.4, or its successor.

*Suspension* means a granted or directed deferral of the requirement to produce (Suspension of Production (SOP)) or to conduct leaseholding operations (Suspension of Operations (SOO)).

*Venting* means the release of gas into the atmosphere without igniting it. This includes gas that is released underwater and bubbles to the atmosphere.

*Waste of oil, gas, or sulphur* means:

(1) The physical waste of oil, gas, or sulphur;

(2) The inefficient, excessive, or improper use, or the unnecessary dissipation of reservoir energy;

(3) The locating, spacing, drilling, equipping, operating, or producing of any oil, gas, or sulphur well(s) in a manner that causes or tends to cause a reduction in the quantity of oil, gas, or sulphur ultimately recoverable under prudent and proper operations or that causes or tends to cause unnecessary or excessive surface loss or destruction of oil or gas; or

(4) The inefficient storage of oil.

*Welding* means all activities connected with welding, including hot tapping and burning.

*Wellbay* is the area on a facility within the perimeter of the outermost wellheads.

*Well-completion operations* mean the work conducted to establish production from a well after the production-casing string has been set, cemented, and pressure-tested.

*Well-control fluid* means drilling mud, completion fluid, or workover fluid as appropriate to the particular operation being conducted.

*Western Gulf of Mexico* means all OCS areas of the Gulf of Mexico except those the BOEM Director decides are adjacent to the State of Florida. The Western Gulf of Mexico is not the same as the Western Planning Area, an area established for OCS lease sales.

*Workover operations* mean the work conducted on wells after the initial well-completion operation for the purpose of maintaining or restoring the productivity of a well.

*You* means a lessee, the owner or holder of operating rights, a designated operator or agent of the lessee(s), a pipeline right-of-way holder, or a State lessee granted a right-of-use and easement.

PERFORMANCE STANDARDS

### § 550.115 How do I determine well producibility?

You must follow the procedures in this section to determine well producibility if your well is not in the GOM. If your well is in the GOM you must follow the procedures in either this section or in § 550.116 of this subpart.

(a) You must write to the Regional Supervisor asking for permission to determine producibility.

(b) You must either:

(1) Allow the Regional Supervisor to witness each test that you conduct under this section; or

(2) Receive the Regional Supervisor prior approval so that you can submit either test data with your affidavit or third party test data.

(c) If the well is an oil well, you must conduct a production test that lasts at least 2 hours after flow stabilizes.

(d) If the well is a gas well, you must conduct a deliverability test that lasts at least 2 hours after flow stabilizes, or a four-point back pressure test.

### § 550.116 How do I determine producibility if my well is in the Gulf of Mexico?

If your well is in the GOM, you must follow either the procedures in § 550.115 of this subpart or the procedures in this section to determine producibility.

(a) You must write to the Regional Supervisor asking for permission to determine producibility.

(b) You must provide or make available to the Regional Supervisor, as requested, the following log, core, analyses, and test criteria that BOEM will consider collectively:

(1) A log showing sufficient porosity in the producible section.

(2) Sidewall cores and core analyses that show that the section is capable of producing oil or gas.

(3) Wireline formation test and/or mud-logging analyses that show that the section is capable of producing oil or gas.

(4) A resistivity or induction electric log of the well showing a minimum of 15 feet (true vertical thickness except for horizontal wells) of producible sand in one section.

(c) No section that you count as producible under paragraph (b)(4) of this section may include any interval that appears to be water saturated.

(d) Each section you count as producible under paragraph (b)(4) of this section must exhibit:

(1) A minimum true resistivity ratio of the producible section to the nearest clean or water-bearing sand of at least 5:1; and

(2) One of the following:

(i) Electrical spontaneous potential exceeding 20-negative millivolts beyond the shale baseline; or

(ii) Gamma ray log deflection of at least 70 percent of the maximum gamma ray deflection in the nearest clean water-bearing sand—if mud conditions prevent a 20-negative millivolt reading beyond the shale baseline.

### § 550.117 How does a determination of well producibility affect royalty status?

A determination of well producibility invokes minimum royalty status on the lease as provided in 30 CFR 1202.53.

### § 550.118 [Reserved]

### § 550.119 Will BOEM approve subsurface gas storage?

The Regional Supervisor may authorize subsurface storage of gas on the OCS, on and off-lease, for later commercial benefit. The Regional Supervisor may authorize subsurface storage of gas on the OCS, off-lease, for later commercial benefit. To receive approval you must:

(a) Show that the subsurface storage of gas will not result in undue interference with operations under existing leases; and

(b) Sign a storage agreement that includes the required payment of a storage fee or rental.

### §§ 550.120–550.121 [Reserved]

### § 550.122 What effect does subsurface storage have on the lease term?

If you use a lease area for subsurface storage of gas, it does not affect the continuance or expiration of the lease.

### § 550.123 Will BOEM allow gas storage on unleased lands?

You may not store gas on unleased lands unless the Regional Supervisor approves a right-of-use and easement for that purpose, under §§ 550.160 through 550.166 of this subpart.

## FEES

### § 550.125 Service fees.

(a) The table in this paragraph (a) shows the fees that you must pay to BOEM for the services listed. The fees will be adjusted periodically according to the Implicit Price Deflator for Gross Domestic Product by publication of a document in the FEDERAL REGISTER. If a significant adjustment is needed to arrive at the new actual cost for any reason other than inflation, then a proposed rule containing the new fees will be published in the FEDERAL REGISTER for comment.

| Service—processing of the following: | Fee amount | 30 CFR citation |
|---|---|---|
| (1) Change in Designation of Operator | $164 | § 550.143(d). |
| (2) Right-of-Use and Easement for State lessee | $2,569 | § 550.165. |
| (3) [Reserved]. | | |
| (4) Exploration Plan (EP) | $3,442 for each surface location; no fee for revisions. | § 550.211(d). |

| Service—processing of the following: | Fee amount | 30 CFR citation |
|---|---|---|
| (5) Development and Production Plan (DPP) or Development Operations Coordination Document (DOCD). | $3,971 for each well proposed; no fee for revisions | § 550.241(e). |
| (6) [Reserved]. | | |
| (7) Conservation Information Document | $25,629 | § 550.296(a). |

(b) Payment of the fees listed in paragraph (a) of this section must accompany the submission of the document for approval or be sent to an office identified by the Regional Director. Once a fee is paid, it is nonrefundable, even if an application or other request is withdrawn. If your application is returned to you as incomplete, you are not required to submit a new fee when you submit the amended application.

(c) Verbal approvals are occasionally given in special circumstances. Any action that will be considered a verbal permit approval requires either a paper permit application to follow the verbal approval or an electronic application submittal within 72 hours. Payment must be made with the completed paper or electronic application.

### § 550.126 Electronic payment instructions.

You must file all payments electronically through *Pay.gov*. This includes, but is not limited to, all OCS applications or filing fee payments. The *Pay.gov* Web site may be accessed through a link on the BOEM Offshore Web site at: *http://www.boem.gov/offshore/* homepage or directly through *Pay.gov* at: *https://www.pay.gov/paygov/*.

(a) [Reserved]

(b) You must use credit card or automated clearing house (ACH) payments through the *Pay.gov* Web site, and you must include a copy of the *Pay.gov* confirmation receipt page with your application.

INSPECTION OF OPERATIONS

### § 550.130 [Reserved]

DISQUALIFICATION

### § 550.135 What will BOEM do if my operating performance is unacceptable?

If your operating performance is unacceptable, BOEM may disapprove or revoke your designation as operator on a single facility or multiple facilities. We will give you adequate notice and opportunity for a review by BOEM officials before imposing a disqualification.

### § 550.136 How will BOEM determine if my performance is unacceptable?

In determining if your operating performance is unacceptable, BOEM will consider, individually or collectively:

(a)–(b) [Reserved]

(c) Incidents of noncompliance;

(d) Civil penalties;

(e) Failure to adhere to OCS lease obligations; or

(f) Any other relevant factors.

SPECIAL TYPES OF APPROVALS

### § 550.140 When will I receive an oral approval?

When you apply for BOEM approval of any activity, we normally give you a written decision. The following table shows circumstances under which we may give an oral approval.

| When you . . . | We may . . . | And . . . |
|---|---|---|
| (a) Request approval orally, | Give you an oral approval, | You must then confirm the oral request by sending us a written request within 72 hours. |
| (b) Request approval in writing, | Give you an oral approval if quick action is needed, | We will send you a written approval afterward. It will include any conditions that we place on the oral approval. |

### § 550.141 May I ever use alternate procedures or equipment?

You may use alternate procedures or equipment after receiving approval as described in this section.

(a) Any alternate procedures or equipment that you propose to use must provide a level of safety and environmental protection that equals or surpasses current BOEM requirements.

(b) You must receive the Regional Supervisor's written approval before you can use alternate procedures or equipment.

(c) To receive approval, you must either submit information or give an oral presentation to the appropriate Regional Supervisor. Your presentation must describe the site-specific application(s), performance characteristics, and safety features of the proposed procedure or equipment.

### § 550.142 How do I receive approval for departures?

We may approve departures to the operating requirements. You may apply for a departure by writing to the Regional Supervisor.

### § 550.143 How do I designate an operator?

(a) You must provide the Regional Supervisor an executed Designation of Operator form (Form BOEM–1123) unless you are the only lessee and are the only person conducting lease operations. When there is more than one lessee, each lessee must submit the Designation of Operator form and the Regional Supervisor must approve the designation before the designated operator may begin operations on the leasehold.

(b) This designation is authority for the designated operator to act on your behalf and to fulfill your obligations under the Act, the lease, and the regulations in this part.

(c) You, or your designated operator, must immediately provide the Regional Supervisor a written notification of any change of address.

(d) If you change the designated operator on your lease, you must pay the service fee listed in § 550.125 of this subpart with your request for a change in designation of operator. Should there be multiple lessees, all designation of operator forms must be collected by one lessee and submitted to BOEM in a single submittal, which is subject to only one filing fee.

### § 550.144 How do I designate a new operator when a designation of operator terminates?

(a) When a Designation of Operator terminates, the Regional Supervisor must approve a new designated operator before you may continue operations. Each lessee must submit a new executed Designation of Operator form.

(b) If your Designation of Operator is terminated, or a controversy develops between you and your designated operator, you and your designated operator must protect the lessor's interests.

### § 550.145 How do I designate an agent or a local agent?

(a) You or your designated operator may designate for the Regional Supervisor's approval, or the Regional Director may require you to designate an agent empowered to fulfill your obligations under the Act, the lease, or the regulations in this part.

(b) You or your designated operator may designate for the Regional Supervisor's approval a local agent empowered to receive notices and submit requests, applications, notices, or supplemental information.

### § 550.146 Who is responsible for fulfilling leasehold obligations?

(a) When you are not the sole lessee, you and your co-lessee(s) are jointly and severally responsible for fulfilling your obligations under the provisions of 30 CFR parts 250 through 282 and 30 CFR parts 550 through 582 unless otherwise provided in these regulations.

(b) If your designated operator fails to fulfill any of your obligations under 30 CFR parts 250 through 282 and 30 CFR parts 550 through 582, the Regional Supervisor may require you or any or all of your co-lessees to fulfill those obligations or other operational obligations under the Act, the lease, or the regulations.

(c) Whenever the regulations in 30 CFR parts 250 through 282 and 30 CFR parts 550 through 582 require the lessee to meet a requirement or perform an action, the lessee, operator (if one has

been designated), and the person actually performing the activity to which the requirement applies are jointly and severally responsible for complying with the regulation.

RIGHT-OF-USE AND EASEMENT

### § 550.160 When will BOEM grant me a right-of-use and easement, and what requirements must I meet?

BOEM may grant you a right-of-use and easement on leased and unleased lands on the OCS, if you meet these requirements:

(a) You must need the right-of-use and easement to construct and maintain platforms, artificial islands, and installations and other devices at an OCS site other than an OCS lease you own, that are:

(1) Permanently or temporarily attached to the seabed; and

(2) Used for conducting exploration, development, and production activities or other operations on or off lease; or

(3) Used for other purposes approved by BOEM.

(b) You must exercise the right-of-use and easement according to the regulations of this part;

(c) You must meet the requirements at 30 CFR 556.35 (Qualification of lessees); establish a regional Company File as required by BOEM; and must meet bonding requirements;

(d) If you apply for a right-of-use and easement on a leased area, you must notify the lessee and give her/him an opportunity to comment on your application; and

(e) You must receive BOEM approval for all platforms, artificial islands, and installations and other devices permanently or temporarily attached to the seabed.

(f) You must pay a rental amount as required by paragraph (g) of this section if:

(1) You obtain a right-of-use and easement after January 12, 2004; or

(2) You ask BOEM to modify your right-of-use and easement to change the footprint of the associated platform, artificial island, or installation or device.

(g) If you meet either of the conditions in paragraph (f) of this section, you must pay a rental amount to BOEM as shown in the following table:

| If . . . | Then . . . |
|---|---|
| (1) Your right-of-use and easement site is located in water depths of less than 200 meters; | You must pay a rental of $5 per acre per year with a minimum of $450 per year. The area subject to annual rental includes the areal extent of anchor chains, pipeline risers, and other equipment associated with the platform, artificial island, installation or device. |
| (2) Your right-of-use and easement site is located in water depths of 200 meters or greater; | You must pay a rental of $7.50 per acre per year with a minimum of $675 per year. The area subject to annual rental includes the areal extent of anchor chains, pipeline risers, and other equipment associated with the platform, artificial island, or installation or device. |

(h) You may make the rental payments required by paragraph (g)(1) and (g)(2) of this section on an annual basis, for a 5-year period, or for multiples of 5 years. You must make the first payment electronically through *Pay.gov* and you must include a copy of the *Pay.gov* confirmation receipt page with your right-of-use and easement application. You must make all subsequent payments before the respective time periods begin.

(i) *Late payments.* An interest charge will be assessed on unpaid and underpaid amounts from the date the amounts are due, in accordance with the provisions found in 30 CFR 1218.54. If you fail to make a payment that is late after written notice from BOEM, BOEM may initiate cancellation of the right-of-use grant and easement.

### § 550.161 What else must I submit with my application?

With your application, you must describe the proposed use giving:

(a) Details of the proposed uses and activities including access needs and special rights of use that you may need;

(b) A description of all facilities for which you are seeking authorization;

(c) A map or plat describing primary and alternate project locations; and

(d) A schedule for constructing any new facilities, drilling or completing any wells, anticipated production rates, and productive life of existing production facilities.

### § 550.162 May I continue my right-of-use and easement after the termination of any lease on which it is situated?

If your right-of-use and easement is on a lease, you may continue to exercise the right-of-use and easement after the lease on which it is situated terminates. You must only use the right-of-use and easement for the purpose that the grant specifies. All future lessees of that portion of the OCS on which your right-of-use and easement is situated must continue to recognize the right-of-use and easement for the purpose that the grant specifies.

### § 550.163 If I have a State lease, will BOEM grant me a right-of-use and easement?

(a) BOEM may grant a lessee of a State lease located adjacent to or accessible from the OCS a right-of-use and easement on the OCS.

(b) BOEM will only grant a right-of-use and easement under this paragraph to enable a State lessee to conduct and maintain a device that is permanently or temporarily attached to the seabed (*i.e.*, a platform, artificial island, or installation). The lessee must use the device to explore for, develop, and produce oil and gas from the adjacent or accessible State lease and for other operations related to these activities.

### § 550.164 If I have a State lease, what conditions apply for a right-of-use and easement?

(a) A right-of-use and easement granted under the heading of ''Right-of-use and easement'' in this subpart is subject to BOEM regulations, 30 CFR parts 550 through 582, BSEE regulations, 30 CFR parts 250 through 282, and any terms and conditions that the BOEM Regional Director or BSEE Regional Director prescribes.

(b) For the whole or fraction of the first calendar year, and annually after that, you must pay to BOEM, in advance, an annual rental payment.

### § 550.165 If I have a State lease, what fees do I have to pay for a right-of-use and easement?

When you apply for a right-of-use and easement, you must pay:

(a) A nonrefundable filing fee as specified in § 550.125; and

(b) The first year's rental as specified in § 550.160(g).

### § 550.166 If I have a State lease, what surety bond must I have for a right-of-use and easement?

(a) Before BOEM issues you a right-of-use and easement on the OCS, you must furnish the Regional Director a surety bond for $500,000.

(b) The Regional Director may require additional security from you (*i.e.*, security above the prescribed $500,000) to cover additional costs and liabilities for regulatory compliance. This additional surety:

(1) Must be in the form of a supplemental bond or bonds meeting the requirements of 30 CFR 556.54 (General requirements for bonds) or an increase in the coverage of an existing surety bond.

(2) Covers additional costs and liabilities for regulatory compliance, including well abandonment, platform and structure removal, and site clearance from the seafloor of the right-of-use and easement.

## PRIMARY LEASE REQUIREMENTS, LEASE TERM EXTENSIONS, AND LEASE CANCELLATIONS

### § 550.181 When may the Secretary cancel my lease and when am I compensated for cancellation?

If the Secretary cancels your lease under this part or under 30 CFR part 556, you are entitled to compensation under § 550.184. Section 550.185 states conditions under which you will receive no compensation. The Secretary may cancel a lease after notice and opportunity for a hearing when:

(a) Continued activity on the lease would probably cause harm or damage to life (including fish and other aquatic life), property, any mineral deposits (in areas leased or not leased), or the marine, coastal, or human environment;

(b) The threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time;

(c) The advantages of cancellation outweigh the advantages of continuing the lease in force; and

(d) A suspension has been in effect for at least 5 years or you request termination of the suspension and lease cancellation.

### § 550.182 When may the Secretary cancel a lease at the exploration stage?

BOEM may not approve an exploration plan (EP) under 30 CFR part 550, subpart B, if the Regional Supervisor determines that the proposed activities may cause serious harm or damage to life (including fish and other aquatic life), property, any mineral deposits, the National security or defense, or to the marine, coastal, or human environment, and that the proposed activity cannot be modified to avoid the condition(s). The Secretary may cancel the lease if:

(a) The primary lease term has not expired (or if the lease term has been extended) and exploration has been prohibited for 5 years following the disapproval; or

(b) You request cancellation at an earlier time.

### § 550.183 When may BOEM or the Secretary extend or cancel a lease at the development and production stage?

(a) BOEM may extend your lease if you submit a DPP and the Regional Supervisor disapproves the plan according to the regulations in 30 CFR part 550, subpart B. Following the disapproval:

(1) BOEM will allow you to hold the lease for 5 years, or less time at your request;

(2) Any time within 5 years after the disapproval, you may reapply for approval of the same or a modified plan; and

(3) The Regional Supervisor will approve, disapprove, or require modification of the plan under 30 CFR part 550, subpart B.

(b) If the Regional Supervisor has not approved a DPP or required you to submit a DPP for approval or modification, the Secretary will cancel the lease:

(1) When the 5-year period in paragraph (a)(1) of this section expires; or

(2) If you request cancellation at an earlier time.

### § 550.184 What is the amount of compensation for lease cancellation?

When the Secretary cancels a lease under §§ 550.181, 550.182 or 550.183 of this subpart, you are entitled to receive compensation under 43 U.S.C. 1334(a)(2)(C). You must show the Director that the amount of compensation claimed is the lesser of paragraph (a) or (b) of this section:

(a) The fair value of the cancelled rights as of the date of cancellation, taking into account both:

(1) Anticipated revenues from the lease; and

(2) Costs reasonably anticipated on the lease, including:

(i) Costs of compliance with all applicable regulations and operating orders; and

(ii) Liability for cleanup costs or damages, or both, in the case of an oil spill.

(b) The excess, if any, over your revenues from the lease (plus interest thereon from the date of receipt to date of reimbursement) of:

(1) All consideration paid for the lease (plus interest from the date of payment to the date of reimbursement); and

(2) All your direct expenditures (plus interest from the date of payment to the date of reimbursement):

(i) After the issue date of the lease; and

(ii) For exploration or development, or both.

(c) Compensation for leases issued before September 18, 1978, will be equal to the amount specified in paragraph (a) of this section.

### § 550.185 When is there no compensation for a lease cancellation?

You will not receive compensation from BOEM for lease cancellation if:

(a) BOEM disapproves a DPP because you do not receive concurrence by the State under section 307(c)(3)(B)(i) or (ii) of the CZMA, and the Secretary of Commerce does not make the finding

authorized by section 307(c)(3)(B)(iii) of the CZMA;

(b) You do not submit a DPP under 30 CFR part 550, subpart B or do not comply with the approved DPP;

(c) As the lessee of a nonproducing lease, you fail to comply with the Act, the lease, or the regulations issued under the Act, and the default continues for 30 days after BOEM mails you a notice by overnight mail;

(d) The Regional Supervisor disapproves a DPP because you fail to comply with the requirements of applicable Federal law; or

(e) The Secretary forfeits and cancels a producing lease under section 5(d) of the Act (43 U.S.C. 1334(d)).

INFORMATION AND REPORTING REQUIREMENTS

**§ 550.186 What reporting information and report forms must I submit?**

(a) You must submit information and reports as BOEM requires.

(1) You may obtain copies of forms from, and submit completed forms to, the Regional Supervisor.

(2) Instead of paper copies of forms available from the Regional Supervisor, you may use your own computer-generated forms that are equal in size to BOEM's forms. You must arrange the data on your form identical to the BOEM form. If you generate your own form and it omits terms and conditions contained on the official BOEM form, we will consider it to contain the omitted terms and conditions.

(3) You may submit digital data when the Region is equipped to accept it.

(b) When BOEM specifies, you must include, for public information, an additional copy of such reports.

(1) You must mark it *Public Information*.

(2) You must include all required information, except information exempt from public disclosure under § 550.197 or otherwise exempt from public disclosure under law or regulation.

**§§ 550.187–550.193 [Reserved]**

**§ 550.194 How must I protect archaeological resources?**

(a) If the Regional Director has reason to believe that an archaeological resource may exist in the lease area, the Regional Director will require in writing that your EP, DOCD, or DPP be accompanied by an archaeological report. If the archaeological report suggests that an archaeological resource may be present, you must either:

(1) Locate the site of any operation so as not to adversely affect the area where the archaeological resource may be; or

(2) Establish to the satisfaction of the Regional Director that an archaeological resource does not exist or will not be adversely affected by operations. This requires further archaeological investigation, conducted by an archaeologist and a geophysicist, using survey equipment and techniques the Regional Director considers appropriate. You must submit the investigation report to the Regional Director for review.

(b) If the Regional Director determines that an archaeological resource is likely to be present in the lease area and may be adversely affected by operations, the Regional Director will notify you immediately. You must not take any action that may adversely affect the archaeological resource until the Regional Director has told you how to protect the resource.

(c) If you discover any archaeological resource while conducting operations in the lease or right-of-way area, you must immediately halt operations within the area of the discovery and report the discovery to the BOEM Regional Director. If investigations determine that the resource is significant, the Regional Director will tell you how to protect it.

**§ 550.195 [Reserved]**

**§ 550.196 Reimbursements for reproduction and processing costs.**

(a) BOEM will reimburse you for costs of reproducing data and information that the Regional Director requests if:

(1) You deliver geophysical and geological (G&G) data and information to BOEM for the Regional Director to inspect or select and retain;

(2) BOEM receives your request for reimbursement and the Regional Director determines that the requested reimbursement is proper; and

(3) The cost is at your lowest rate or at the lowest commercial rate established in the area, whichever is less.

(b) BOEM will reimburse you for the costs of processing geophysical information (that does not include cost of data acquisition):

(1) If, at the request of the Regional Director, you processed the geophysical data or information in a form or manner other than that used in the normal conduct of business; or

(2) If you collected the information under a permit that BOEM issued to you before October 1, 1985, and the Regional Director requests and retains the information.

(c) When you request reimbursement, you must identify reproduction and processing costs separately from acquisition costs.

(d) BOEM will not reimburse you for data acquisition costs or for the costs of analyzing or processing geological information or interpreting geological or geophysical information.

### § 550.197 Data and information to be made available to the public or for limited inspection.

BOEM will protect data and information that you submit under this part, and 30 CFR part 203, as described in this section. Paragraphs (a) and (b) of this section describe what data and information will be made available to the public without the consent of the lessee, under what circumstances, and in what time period. Paragraph (c) of this section describes what data and information will be made available for limited inspection without the consent of the lessee, and under what circumstances.

(a) All data and information you submit on BOEM forms will be made available to the public upon submission, except as specified in the following table:

| On form . . . | Data and information not immediately available are . . . | Excepted data will be made available . . . |
|---|---|---|
| (1) [Reserved] | | |
| (2) [Reserved] | | |
| (3) [Reserved] | | |
| (4) [Reserved] | | |
| (5) [Reserved] | | |
| (6) BOEM–0127, Sensitive Reservoir Information Report, | Items 124 through 168, | 2 years after the effective date of the Sensitive Reservoir Information Report. |
| (7) [Reserved] | | |
| (8) [Reserved] | | |
| (9) BOEM–0137 OCS Plan Information, | Items providing the bottomhole location, true vertical depth, and measured depth of wells, | When the well goes on production or according to the table in paragraph (b) of this section, whichever is earlier. |
| (10) BOEM–0140, Bottomhole Pressure Survey Report, | All items, | 2 years after the date of the survey. |

(b) BOEM will release lease and permit data and information that you submit and BOEM retains, but that are not normally submitted on BOEM forms, according to the following table:

| If . . . | BOEM will release . . . | At this time . . . | Special provisions . . . |
|---|---|---|---|
| (1) The Director determines that data and information are needed for specific scientific or research purposes for the Government, | Geophysical data, Geological data Interpreted G&G information, Processed G&G information, Analyzed geological information, | At any time, | BOEM will release data and information only if release would further the National interest without unduly damaging the competitive position of the lessee. |

| If . . . | BOEM will release . . . | At this time . . . | Special provisions . . . |
|---|---|---|---|
| (2) Data or information is collected with high-resolution systems (e.g., bathymetry, side-scan sonar, subbottom profiler, and magnetometer) to comply with safety or environmental protection requirements, | Geophysical data, Geological data, Interpreted G&G information, Processed geological information, Analyzed geological information, | 60 days after BOEM receives the data or information, if the Regional Supervisor deems it necessary, | BOEM will release the data and information earlier than 60 days if the Regional Supervisor determines it is needed by affected States to make decisions under subpart B. The Regional Supervisor will reconsider earlier release if you satisfy him/her that it would unduly damage your competitive position. |
| (3) Your lease is no longer in effect, | Geophysical data, Geological data, Processed G&G information Interpreted G&G information, Analyzed geological information, | When your lease terminates, | This release time applies only if the provisions in this table governing high-resolution systems and the provisions in § 552.7 do not apply. The release time applies to the geophysical data and information only if acquired postlease for a lessee's exclusive use. |
| (4) Your lease is still in effect, | Geophysical data, Processed geophysical information, Interpreted G&G information, | 10 years after you submit the data and information, | This release time applies only if the provisions in this table governing high-resolution systems and the provisions in § 552.7 do not apply. This release time applies to the geophysical data and information only if acquired postlease for a lessee's exclusive use. |
| (5) Your lease is still in effect and within the primary term specified in the lease, | Geological data, Analyzed geological information, | 2 years after the required submittal date or 60 days after a lease sale if any portion of an offered lease is within 50 miles of a well, whichever is later, | These release times apply only if the provisions in this table governing high-resolution systems and the provisions in § 552.7 do not apply. If the primary term specified in the lease is extended under the heading of "Suspensions" in this subpart, the extension applies to this provision. |
| (6) Your lease is in effect and beyond the primary term specified in the lease, | Geological data, Analyzed geological information, | 2 years after the required submittal date, | None. |
| (7) Data or information is submitted on well operations, | Descriptions of downhole locations, operations, and equipment, | When the well goes on production or when geological data is released according to §§ 550.197(b)(5) and (b)(6), whichever occurs earlier, | Directional survey data may be released earlier to the owner of an adjacent lease according to 30 CFR 250 subpart D. |
| (8) Data and information are obtained from beneath unleased land as a result of a well deviation that has not been approved by the Regional Supervisor, | Any data or information obtained, | At any time, | None. |
| (9) Except for high-resolution data and information released under paragraph (b)(2) of this section data and information acquired by a permit under 30 CFR part 551 are submitted by a lessee under part 550, 30 CFR part 203, or 30 CFR part 250, | G&G data, analyzed geological information, processed and interpreted G&G information, | Geological data and information: 10 years after BOEM issues the permit; Geophysical data: 50 years after BOEM issues the permit; Geophysical information: 25 years after BOEM issues the permit, | None. |

(c) BOEM may allow limited inspection, but only by persons with a direct interest in related BOEM decisions and issues in specific geographic areas, and

who agree in writing to its confidentiality, of G&G data and information submitted under this part or 30 CFR part 203 that BOEM uses to:

(1)-(3) [Reserved]

(4) Promote operational safety;

(5) Protect the environment; or

(6) Make field determinations.

(7) [Reserved]

REFERENCES

**§ 550.198 [Reserved]**

**§ 550.199 Paperwork Reduction Act statements—information collection.**

(a) OMB has approved the information collection requirements in part 550 under 44 U.S.C. 3501 *et seq*. The table in paragraph (e) of this section lists the subpart in the rule requiring the information and its title, provides the OMB control number, and summarizes the reasons for collecting the information and how BOEM uses the information. The associated BOEM forms required by this part are listed at the end of this table with the relevant information.

(b) Respondents are OCS oil, gas, and sulphur lessees and operators. The requirement to respond to the information collections in this part is mandated under the Act (43 U.S.C. 1331 *et seq*.) and the Act's Amendments of 1978 (43 U.S.C. 1801 *et seq*.). Some responses are also required to obtain or retain a benefit or may be voluntary. Proprietary information will be protected under § 550.197, Data and information to be made available to the public or for limited inspection; parts 551, 552; and the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations at 43 CFR part 2.

(c) The Paperwork Reduction Act of 1995 requires us to inform the public that an agency 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.

(d) Send comments regarding any aspect of the collections of information under this part, including suggestions for reducing the burden, to the Information Collection Clearance Officer, Bureau of Ocean Energy Management, 381 Elden Street, Herndon, VA 20170.

(e) BOEM is collecting this information for the reasons given in the following table:

| 30 CFR subpart, title and/or BOEM Form (OMB Control No.) | Reasons for collecting information and how used |
|---|---|
| (1) Subpart A, General (1010–0114), including Forms BOEM–1123, Designation of Operator and BOEM–1832, Notification of Incidents of Noncompliance. | To inform BOEM of actions taken to comply with general requirements on the OCS. To ensure that operations on the OCS meet statutory and regulatory requirements, are safe and protect the environment, and result in diligent exploration, development, and production on OCS leases. To support the unproved and proved reserve estimation, resource assessment, and fair market value determinations. |
| (2) Subpart B, Exploration and Development and Production Plans (1010–0151), including Forms BOEM–0137, OCS Plan Information Form; BOEM–0138, EP Air Quality Screening Checklist; BOEM–0139, DOCD Air Quality Screening Checklist; BOEM–0141, ROV Survey Report Form; and BOEM–0142, Environmental Impact Analysis Worksheet. | To inform BOEM, States, and the public of planned exploration, development, and production operations on the OCS. To ensure that operations on the OCS are planned to comply with statutory and regulatory requirements, will be safe and protect the human, marine, and coastal environment, and will result in diligent exploration, development, and production of leases. |
| (3) Subpart C, Pollution Prevention and Control (1010–0057) ... | To inform BOEM of measures to be taken to prevent air pollution. To ensure that appropriate measures are taken to prevent air pollution. |
| (4) Subpart J, Pipelines and Pipeline Rights-of-Way (1010–0050), including Form BOEM–2030, Outer Continental Shelf (OCS) Pipeline Right-of-Way Grant Bond. | To provide BOEM with information regarding the design, installation, and operation of pipelines on the OCS. To ensure that pipeline operations are safe and protect the human, marine, and coastal environment. |
| (5) Subpart K, Oil and Gas Production Rates (1010–0041), including Forms BOEM–0127, Sensitive Reservoir Information Report and BOEM–0140, Bottomhole Pressure Survey Report. | To inform BOEM of production rates for hydrocarbons produced on the OCS. To ensure economic maximization of ultimate hydrocarbon recovery. |
| (6) Subpart N, Remedies and Penalties ..... | The requirements in subpart N are exempt from the Paperwork Reduction Act of 1995 according to 5 CFR 1320.4. |

## Subpart B—Plans and Information

GENERAL INFORMATION

### § 550.200 Definitions.

Acronyms and terms used in this subpart have the following meanings:

(a) *Acronyms* used frequently in this subpart are listed alphabetically below:

*BOEM* means Bureau of Ocean Energy Management.

*BSEE* means Bureau of Safety and Environmental Enforcement.

*CID* means Conservation Information Document.

*CZMA* means Coastal Zone Management Act.

*DOCD* means Development Operations Coordination Document.

*DPP* means Development and Production Plan.

*DWOP* means Deepwater Operations Plan.

*EIA* means Environmental Impact Analysis.

*EP* means Exploration Plan.

*NPDES* means National Pollutant Discharge Elimination System.

*NTL* means Notice to Lessees and Operators.

*OCS* means Outer Continental Shelf.

(b) Terms used in this subpart are listed alphabetically below:

*Amendment* means a change you make to an EP, DPP, or DOCD that is pending before BOEM for a decision (see §§ 550.232(d) and 550.267(d)).

*Modification* means a change required by the Regional Supervisor to an EP, DPP, or DOCD (see § 550.233(b)(2) and § 550.270(b)(2)) that is pending before BOEM for a decision because the OCS plan is inconsistent with applicable requirements.

*New or unusual technology* means equipment or procedures that:

(1) Have not been used previously or extensively in a BOEM OCS Region;

(2) Have not been used previously under the anticipated operating conditions; or

(3) Have operating characteristics that are outside the performance parameters established by this part.

*Non-conventional production or completion technology* includes, but is not limited to, floating production systems, tension leg platforms, spars, floating production, storage, and offloading systems, guyed towers, compliant towers, subsea manifolds, and other subsea production components that rely on a remote site or host facility for utility and well control services.

*Offshore vehicle* means a vehicle that is capable of being driven on ice.

*Resubmitted OCS plan* means an EP, DPP, or DOCD that contains changes you make to an OCS plan that BOEM has disapproved (see §§ 550.234(b), 550.272(a), and 550.273(b)).

*Revised OCS plan* means an EP, DPP, or DOCD that proposes changes to an approved OCS plan, such as those in the location of a well or platform, type of drilling unit, or location of the onshore support base (see § 550.283(a)).

*Supplemental OCS plan* means an EP, DPP, or DOCD that proposes the addition to an approved OCS plan of an activity that requires approval of an application or permit (see § 550.283(b)).

### § 550.201 What plans and information must I submit before I conduct any activities on my lease or unit?

(a) *Plans and documents.* Before you conduct the activities on your lease or unit listed in the following table, you must submit, and BOEM must approve, the listed plans and documents. Your plans and documents may cover one or more leases or units.

| You must submit a(n) . . . | Before you . . . |
|---|---|
| (1) Exploration Plan (EP), | Conduct any exploration activities on a lease or unit. |
| (2) Development and Production Plan (DPP), | Conduct any development and production activities on a lease or unit in any OCS area other than the Western Gulf of Mexico. |
| (3) Development Operations Coordination Document (DOCD), | Conduct any development and production activities on a lease or unit in the Western GOM. |
| (4) BSEE approved Deepwater Operations Plan (DWOP), | Conduct post-drilling installation activities in any water depth associated with a development project that will involve the use of a non-conventional production or completion technology. |
| (5) Conservation Information Document (CID), | Commence production from development projects in water depths greater than 1,312 feet (400 meters). |
| (6) EP, DPP, or DOCD, | Conduct geological or geophysical (G&G) exploration or a development G&G activity (see definitions under § 550.105) on your lease or unit when: |

| You must submit a(n) . . . | Before you . . . |
|---|---|
| | (i) It will result in a physical penetration of the seabed greater than 500 feet (152 meters);<br>(ii) It will involve the use of explosives;<br>(iii) The Regional Director determines that it might have a significant adverse effect on the human, marine, or coastal environment; or<br>(iv) The Regional Supervisor, after reviewing a notice under § 550.209, determines that an EP, DPP, or DOCD is necessary. |

(b) *Submitting additional information.* On a case-by-case basis, the Regional Supervisor may require you to submit additional information if the Regional Supervisor determines that it is necessary to evaluate your proposed plan or document.

(c) *Limiting information.* The Regional Director may limit the amount of information or analyses that you otherwise must provide in your proposed plan or document under this subpart when:

(1) Sufficient applicable information or analysis is readily available to BOEM;

(2) Other coastal or marine resources are not present or affected;

(3) Other factors such as technological advances affect information needs; or

(4) Information is not necessary or required for a State to determine consistency with their CZMA Plan.

(d) *Referencing.* In preparing your proposed plan or document, you may reference information and data discussed in other plans or documents you previously submitted or that are otherwise readily available to BOEM.

### § 550.202 What criteria must the Exploration Plan (EP), Development and Production Plan (DPP), or Development Operations Coordination Document (DOCD) meet?

Your EP, DPP, or DOCD must demonstrate that you have planned and are prepared to conduct the proposed activities in a manner that:

(a) Conforms to the Outer Continental Shelf Lands Act as amended (Act), applicable implementing regulations, lease provisions and stipulations, and other Federal laws;

(b) Is safe;

(c) Conforms to sound conservation practices and protects the rights of the lessor;

(d) Does not unreasonably interfere with other uses of the OCS, including those involved with National security or defense; and

(e) Does not cause undue or serious harm or damage to the human, marine, or coastal environment.

### § 550.203 Where can wells be located under an EP, DPP, or DOCD?

The Regional Supervisor reviews and approves proposed well location and spacing under an EP, DPP, or DOCD. In deciding whether to approve a proposed well location and spacing, the Regional Supervisor will consider factors including, but not limited to, the following:

(a) Protecting correlative rights;

(b) Protecting Federal royalty interests;

(c) Recovering optimum resources;

(d) Number of wells that can be economically drilled for proper reservoir management;

(e) Location of drilling units and platforms;

(f) Extent and thickness of the reservoir;

(g) Geologic and other reservoir characteristics;

(h) Minimizing environmental risk;

(i) Preventing unreasonable interference with other uses of the OCS; and

(j) Drilling of unnecessary wells.

### §§ 550.204–550.205 [Reserved]

### § 550.206 How do I submit the EP, DPP, or DOCD?

(a) *Number of copies.* When you submit an EP, DPP, or DOCD to BOEM, you must provide:

(1) Four copies that contain all required information (proprietary copies);

(2) Eight copies for public distribution (public information copies) that omit information that you assert is exempt from disclosure under the Freedom of Information Act (FOIA) (5

U.S.C. 552) and the implementing regulations (43 CFR part 2); and

(3) Any additional copies that may be necessary to facilitate review of the EP, DPP, or DOCD by certain affected States and other reviewing entities.

(b) *Electronic submission*. You may submit part or all of your EP, DPP, or DOCD and its accompanying information electronically. If you prefer to submit your EP, DPP, or DOCD electronically, ask the Regional Supervisor for further guidance.

(c) *Withdrawal after submission*. You may withdraw your proposed EP, DPP, or DOCD at any time for any reason. Notify the appropriate BOEM OCS Region if you do.

ANCILLARY ACTIVITIES

### § 550.207 What ancillary activities may I conduct?

Before or after you submit an EP, DPP, or DOCD to BOEM, you may elect, the regulations in this part may require, or the Regional Supervisor may direct you to conduct ancillary activities. Ancillary activities include:

(a) Geological and geophysical (G&G) explorations and development G&G activities;

(b) Geological and high-resolution geophysical, geotechnical, archaeological, biological, physical oceanographic, meteorological, socioeconomic, or other surveys; or

(c) Studies that model potential oil and hazardous substance spills, drilling muds and cuttings discharges, projected air emissions, or potential hydrogen sulfide ($H_2S$) releases.

### § 550.208 If I conduct ancillary activities, what notices must I provide?

At least 30 calendar days before you conduct any G&G exploration or development G&G activity (see § 550.207(a)), you must notify the Regional Supervisor in writing.

(a) When you prepare the notice, you must:

(1) Sign and date the notice;

(2) Provide the names of the vessel, its operator, and the person(s) in charge; the specific type(s) of operations you will conduct; and the instrumentation/techniques and vessel navigation system you will use;

(3) Provide expected start and completion dates and the location of the activity; and

(4) Describe the potential adverse environmental effects of the proposed activity and any mitigation to eliminate or minimize these effects on the marine, coastal, and human environment.

(b) The Regional Supervisor may require you to:

(1) Give written notice to BOEM at least 15 calendar days before you conduct any other ancillary activity (see § 550.207(b) and (c)) in addition to those listed in § 550.207(a); and

(2) Notify other users of the OCS before you conduct any ancillary activity.

### § 550.209 What is the BOEM review process for the notice?

The Regional Supervisor will review any notice required under § 550.208(a) and (b)(1) to ensure that your ancillary activity complies with the performance standards listed in § 550.202(a), (b), (d), and (e). The Regional Supervisor may notify you that your ancillary activity does not comply with those standards. In such a case, the Regional Supervisor will require you to submit an EP, DPP, or DOCD and you may not start your ancillary activity until the Regional Supervisor approves the EP, DPP, or DOCD.

### § 550.210 If I conduct ancillary activities, what reporting and data/information retention requirements must I satisfy?

(a) *Reporting*. The Regional Supervisor may require you to prepare and submit reports that summarize and analyze data or information obtained or derived from your ancillary activities. When applicable, BOEM will protect and disclose the data and information in these reports in accordance with § 550.197(b).

(b) *Data and information retention*. You must retain copies of all original data and information, including navigation data, obtained or derived from your G&G explorations and development G&G activities (see § 550.207(a)), including any such data and information you obtained from previous leaseholders or unit operators. You must submit such data and information to

BOEM for inspection and possible retention upon request at any time before lease or unit termination. When applicable, BOEM will protect and disclose such submitted data and information in accordance with § 550.197(b).

CONTENTS OF EXPLORATION PLANS (EP)

### § 550.211 What must the EP include?

Your EP must include the following:

(a) *Description, objectives, and schedule.* A description, discussion of the objectives, and tentative schedule (from start to completion) of the exploration activities that you propose to undertake. Examples of exploration activities include exploration drilling, well test flaring, installing a well protection structure, and temporary well abandonment.

(b) *Location.* A map showing the surface location and water depth of each proposed well and the locations of all associated drilling unit anchors.

(c) *Drilling unit.* A description of the drilling unit and associated equipment you will use to conduct your proposed exploration activities, including a brief description of its important safety and pollution prevention features, and a table indicating the type and the estimated maximum quantity of fuels, oil, and lubricants that will be stored on the facility (see definition of ''facility'' under § 550.105(3)).

(d) *Service fee.* You must include payment of the service fee listed in § 550.125.

### § 550.212 What information must accompany the EP?

The following information must accompany your EP:

(a) General information required by § 550.213;

(b) Geological and geophysical (G&G) information required by § 550.214;

(c) Hydrogen sulfide information required by § 550.215;

(d) Biological, physical, and socioeconomic information required by § 550.216;

(e) Solid and liquid wastes and discharges information and cooling water intake information required by § 550.217;

(f) Air emissions information required by § 550.218;

(g) Oil and hazardous substance spills information required by § 550.219;

(h) Alaska planning information required by § 550.220;

(i) Environmental monitoring information required by § 550.221;

(j) Lease stipulations information required by § 550.222;

(k) Mitigation measures information required by § 550.223;

(l) Support vessels and aircraft information required by § 550.224;

(m) Onshore support facilities information required by § 550.225;

(n) Coastal zone management information required by § 550.226;

(o) Environmental impact analysis information required by § 550.227; and

(p) Administrative information required by § 550.228.

### § 550.213 What general information must accompany the EP?

The following general information must accompany your EP:

(a) *Applications and permits.* A listing, including filing or approval status, of the Federal, State, and local application approvals or permits you must obtain to conduct your proposed exploration activities.

(b) *Drilling fluids.* A table showing the projected amount, discharge rate, and chemical constituents for each type (*i.e.*, water-based, oil-based, synthetic-based) of drilling fluid you plan to use to drill your proposed exploration wells.

(c) *Chemical products.* A table showing the name and brief description, quantities to be stored, storage method, and rates of usage of the chemical products you will use to conduct your proposed exploration activities. List only those chemical products you will store or use in quantities greater than the amounts defined as Reportable Quantities in 40 CFR part 302, or amounts specified by the Regional Supervisor.

(d) *New or unusual technology.* A description and discussion of any new or unusual technology (see definition under § 550.200) you will use to carry out your proposed exploration activities. In the public information copies of your EP, you may exclude any proprietary information from this description. In that case, include a brief discussion of the general subject matter

of the omitted information. If you will not use any new or unusual technology to carry out your proposed exploration activities, include a statement so indicating.

(e) *Bonds, oil spill financial responsibility, and well control statements.* Statements attesting that:

(1) The activities and facilities proposed in your EP are or will be covered by an appropriate bond under 30 CFR part 556, subpart I;

(2) You have demonstrated or will demonstrate oil spill financial responsibility for facilities proposed in your EP according to 30 CFR part 553; and

(3) You have or will have the financial capability to drill a relief well and conduct other emergency well control operations.

(f) *Suspensions of operations.* A brief discussion of any suspensions of operations that you anticipate may be necessary in the course of conducting your activities under the EP.

(g) *Blowout scenario.* A scenario for the potential blowout of the proposed well in your EP that you expect will have the highest volume of liquid hydrocarbons. Include the estimated flow rate, total volume, and maximum duration of the potential blowout. Also, discuss the potential for the well to bridge over, the likelihood for surface intervention to stop the blowout, the availability of a rig to drill a relief well, and rig package constraints. Estimate the time it would take to drill a relief well.

(h) *Contact.* The name, address (e-mail address, if available), and telephone number of the person with whom the Regional Supervisor and any affected State(s) can communicate about your EP.

### § 550.214 What geological and geophysical (G&G) information must accompany the EP?

The following G&G information must accompany your EP:

(a) *Geological description.* A geological description of the prospect(s).

(b) *Structure contour maps.* Current structure contour maps (depth-based, expressed in feet subsea) drawn on the top of each prospective hydrocarbon-bearing reservoir showing the locations of proposed wells.

(c) *Two-dimensional (2–D) or three-dimensional (3–D) seismic lines.* Copies of migrated and annotated 2–D or 3–D seismic lines (with depth scale) intersecting at or near your proposed well locations. You are not required to conduct both 2–D and 3–D seismic surveys if you choose to conduct only one type of survey. If you have conducted both types of surveys, the Regional Supervisor may instruct you to submit the results of both surveys. You must interpret and display this information. Because of its volume, provide this information as an enclosure to only one proprietary copy of your EP.

(d) *Geological cross-sections.* Interpreted geological cross-sections showing the location and depth of each proposed well.

(e) *Shallow hazards report.* A shallow hazards report based on information obtained from a high-resolution geophysical survey, or a reference to such report if you have already submitted it to the Regional Supervisor.

(f) *Shallow hazards assessment.* For each proposed well, an assessment of any seafloor and subsurface geological and manmade features and conditions that may adversely affect your proposed drilling operations.

(g) *High-resolution seismic lines.* A copy of the high-resolution survey line closest to each of your proposed well locations. Because of its volume, provide this information as an enclosure to only one proprietary copy of your EP. You are not required to provide this information if the surface location of your proposed well has been approved in a previously submitted EP, DPP, or DOCD.

(h) *Stratigraphic column.* A generalized biostratigraphic/lithostratigraphic column from the surface to the total depth of the prospect.

(i) *Time-versus-depth chart.* A seismic travel time-versus-depth chart based on the appropriate velocity analysis in the area of interpretation and specifying the geodetic datum.

(j) *Geochemical information.* A copy of any geochemical reports you used or generated.

(k) *Future G&G activities.* A brief description of the types of G&G explorations and development G&G activities you may conduct for lease or unit purposes after your EP is approved.

### § 550.215 What hydrogen sulfide ($H_2S$) information must accompany the EP?

The following $H_2S$ information, as applicable, must accompany your EP:

(a) *Concentration.* The estimated concentration of any $H_2S$ you might encounter while you conduct your proposed exploration activities.

(b) *Classification.* Under 30 CFR 250.490(c), a request that the BSEE Regional Supervisor classify the area of your proposed exploration activities as either $H_2S$ absent, $H_2S$ present, or $H_2S$ unknown. Provide sufficient information to justify your request.

(c) *$H_2S$ Contingency Plan.* If you ask the Regional Supervisor to classify the area of your proposed exploration activities as either $H_2S$ present or $H_2S$ unknown, an $H_2S$ Contingency Plan prepared under 30 CFR 250.490(f), or a reference to an approved or submitted $H_2S$ Contingency Plan that covers the proposed exploration activities.

(d) *Modeling report.* If you modeled a potential $H_2S$ release when developing your EP, modeling report or the modeling results, or a reference to such report or results if you have already submitted it to the Regional Supervisor.

(1) The analysis in the modeling report must be specific to the particular site of your proposed exploration activities, and must consider any nearby human-occupied OCS facilities, shipping lanes, fishery areas, and other points where humans may be subject to potential exposure from an $H_2S$ release from your proposed exploration activities.

(2) If any $H_2S$ emissions are projected to affect an onshore location in concentrations greater than 10 parts per million, the modeling analysis must be consistent with the Environmental Protection Agency's (EPA) risk management plan methodologies outlined in 40 CFR part 68.

### § 550.216 What biological, physical, and socioeconomic information must accompany the EP?

If you obtain the following information in developing your EP, or if the Regional Supervisor requires you to obtain it, you must include a report, or the information obtained, or a reference to such a report or information if you have already submitted it to the Regional Supervisor, as accompanying information:

(a) *Biological environment reports.* Site-specific information on chemosynthetic communities, federally listed threatened or endangered species, marine mammals protected under the Marine Mammal Protection Act (MMPA), sensitive underwater features, marine sanctuaries, critical habitat designated under the Endangered Species Act (ESA), or other areas of biological concern.

(b) *Physical environment reports.* Site-specific meteorological, physical oceanographic, geotechnical reports, or archaeological reports (if required under § 550.194).

(c) *Socioeconomic study reports.* Socioeconomic information regarding your proposed exploration activities.

### § 550.217 What solid and liquid wastes and discharges information and cooling water intake information must accompany the EP?

The following solid and liquid wastes and discharges information and cooling water intake information must accompany your EP:

(a) *Projected wastes.* A table providing the name, brief description, projected quantity, and composition of solid and liquid wastes (such as spent drilling fluids, drill cuttings, trash, sanitary and domestic wastes, and chemical product wastes) likely to be generated by your proposed exploration activities. Describe:

(1) The methods you used for determining this information; and

(2) Your plans for treating, storing, and downhole disposal of these wastes at your drilling location(s).

(b) *Projected ocean discharges.* If any of your solid and liquid wastes will be discharged overboard, or are planned discharges from manmade islands:

(1) A table showing the name, projected amount, and rate of discharge for each waste type; and

(2) A description of the discharge method (such as shunting through a downpipe, *etc.*) you will use.

(c) *National Pollutant Discharge Elimination System (NPDES) permit.* (1) A discussion of how you will comply with the provisions of the applicable general NPDES permit that covers your proposed exploration activities; or

(2) A copy of your application for an individual NPDES permit. Briefly describe the major discharges and methods you will use for compliance.

(d) *Modeling report.* The modeling report or the modeling results (if you modeled the discharges of your projected solid or liquid wastes when developing your EP), or a reference to such report or results if you have already submitted it to the Regional Supervisor.

(e) *Projected cooling water intake.* A table for each cooling water intake structure likely to be used by your proposed exploration activities that includes a brief description of the cooling water intake structure, daily water intake rate, water intake through screen velocity, percentage of water intake used for cooling water, mitigation measures for reducing impingement and entrainment of aquatic organisms, and biofouling prevention measures.

### § 550.218 What air emissions information must accompany the EP?

The following air emissions information, as applicable, must accompany your EP:

(a) *Projected emissions.* Tables showing the projected emissions of sulphur dioxide ($SO_2$), particulate matter in the form of $PM_{10}$ and $PM_{2.5}$ when applicable, nitrogen oxides ($NO_X$), carbon monoxide (CO), and volatile organic compounds (VOC) that will be generated by your proposed exploration activities.

(1) For each source on or associated with the drilling unit (including well test flaring and well protection structure installation), you must list:

(i) The projected peak hourly emissions;

(ii) The total annual emissions in tons per year;

(iii) Emissions over the duration of the proposed exploration activities;

(iv) The frequency and duration of emissions; and

(v) The total of all emissions listed in paragraphs (a)(1)(i) through (iv) of this section.

(2) You must provide the basis for all calculations, including engine size and rating, and applicable operational information.

(3) You must base the projected emissions on the maximum rated capacity of the equipment on the proposed drilling unit under its physical and operational design.

(4) If the specific drilling unit has not yet been determined, you must use the maximum emission estimates for the type of drilling unit you will use.

(b) *Emission reduction measures.* A description of any proposed emission reduction measures, including the affected source(s), the emission reduction control technologies or procedures, the quantity of reductions to be achieved, and any monitoring system you propose to use to measure emissions.

(c) *Processes, equipment, fuels, and combustibles.* A description of processes, processing equipment, combustion equipment, fuels, and storage units. You must include the characteristics and the frequency, duration, and maximum burn rate of any well test fluids to be burned.

(d) *Distance to shore.* Identification of the distance of your drilling unit from the mean high water mark (mean higher high water mark on the Pacific coast) of the adjacent State.

(e) *Non-exempt drilling units.* A description of how you will comply with § 550.303 when the projected emissions of $SO_2$, PM, $NO_X$, CO, or VOC, that will be generated by your proposed exploration activities, are greater than the respective emission exemption amounts ''E'' calculated using the formulas in § 550.303(d). When BOEM requires air quality modeling, you must use the guidelines in Appendix W of 40 CFR part 51 with a model approved by the Director. Submit the best available meteorological information and data consistent with the model(s) used.

(f) *Modeling report.* A modeling report or the modeling results (if § 550.303 requires you to use an approved air quality model to model projected air emissions in developing your EP), or a reference to such a report or results if you have already submitted it to the Regional Supervisor.

### § 550.219 What oil and hazardous substance spills information must accompany the EP?

The following information regarding potential spills of oil (see definition under 30 CFR 254.6) and hazardous substances (see definition under 40 CFR part 116) as applicable, must accompany your EP:

(a) *Oil spill response planning.* The material required under paragraph (a)(1) or (a)(2) of this section:

(1) An Oil Spill Response Plan (OSRP) for the facilities you will use to conduct your exploration activities prepared according to the requirements of 30 CFR part 254, subpart B; or

(2) Reference to your approved regional OSRP (see 30 CFR 254.3) to include:

(i) A discussion of your regional OSRP;

(ii) The location of your primary oil spill equipment base and staging area;

(iii) The name(s) of your oil spill removal organization(s) for both equipment and personnel;

(iv) The calculated volume of your worst case discharge scenario (see 30 CFR 254.26(a)), and a comparison of the appropriate worst case discharge scenario in your approved regional OSRP with the worst case discharge scenario that could result from your proposed exploration activities; and

(v) A description of the worst case discharge scenario that could result from your proposed exploration activities (see 30 CFR 254.26(b), (c), (d), and (e)).

(b) *Modeling report.* If you model a potential oil or hazardous substance spill in developing your EP, a modeling report or the modeling results, or a reference to such report or results if you have already submitted it to the Regional Supervisor.

### § 550.220 If I propose activities in the Alaska OCS Region, what planning information must accompany the EP?

If you propose exploration activities in the Alaska OCS Region, the following planning information must accompany your EP:

(a) *Emergency plans.* A description of your emergency plans to respond to a blowout, loss or disablement of a drilling unit, and loss of or damage to support craft.

(b) *Critical operations and curtailment procedures.* Critical operations and curtailment procedures for your exploration activities. The procedures must identify ice conditions, weather, and other constraints under which the exploration activities will either be curtailed or not proceed.

### § 550.221 What environmental monitoring information must accompany the EP?

The following environmental monitoring information, as applicable, must accompany your EP:

(a) *Monitoring systems.* A description of any existing and planned monitoring systems that are measuring, or will measure, environmental conditions or will provide project-specific data or information on the impacts of your exploration activities.

(b) *Incidental takes.* If there is reason to believe that protected species may be incidentally taken by planned exploration activities, you must describe how you will monitor for incidental take of:

(1) Threatened and endangered species listed under the ESA; and

(2) Marine mammals, as appropriate, if you have not already received authorization for incidental take as may be necessary under the MMPA.

(c) *Flower Garden Banks National Marine Sanctuary (FGBNMS).* If you propose to conduct exploration activities within the protective zones of the FGBNMS, a description of your provisions for monitoring the impacts of an oil spill on the environmentally sensitive resources at the FGBNMS.

**§ 550.222 What lease stipulations information must accompany the EP?**

A description of the measures you took, or will take, to satisfy the conditions of lease stipulations related to your proposed exploration activities must accompany your EP.

**§ 550.223 What mitigation measures information must accompany the EP?**

(a) If you propose to use any measures beyond those required by the regulations in this part to minimize or mitigate environmental impacts from your proposed exploration activities, a description of the measures you will use must accompany your EP.

(b) If there is reason to believe that protected species may be incidentally taken by planned exploration activities, you must include mitigation measures designed to avoid or minimize the incidental take of:

(1) Threatened and endangered species listed under the ESA; and

(2) Marine mammals, as appropriate, if you have not already received authorization for incidental take as may be necessary under the MMPA.

**§ 550.224 What information on support vessels, offshore vehicles, and aircraft you will use must accompany the EP?**

The following information on the support vessels, offshore vehicles, and aircraft you will use must accompany your EP:

(a) *General.* A description of the crew boats, supply boats, anchor handling vessels, tug boats, barges, ice management vessels, other vessels, offshore vehicles, and aircraft you will use to support your exploration activities. The description of vessels and offshore vehicles must estimate the storage capacity of their fuel tanks and the frequency of their visits to your drilling unit.

(b) *Air emissions.* A table showing the source, composition, frequency, and duration of the air emissions likely to be generated by the support vessels, offshore vehicles, and aircraft you will use that will operate within 25 miles of your drilling unit.

(c) *Drilling fluids and chemical products transportation.* A description of the transportation method and quantities of drilling fluids and chemical products (see § 550.213(b) and (c)) you will transport from the onshore support facilities you will use to your drilling unit.

(d) *Solid and liquid wastes transportation.* A description of the transportation method and a brief description of the composition, quantities, and destination(s) of solid and liquid wastes (see § 550.217(a)) you will transport from your drilling unit.

(e) *Vicinity map.* A map showing the location of your proposed exploration activities relative to the shoreline. The map must depict the primary route(s) the support vessels and aircraft will use when traveling between the onshore support facilities you will use and your drilling unit.

**§ 550.225 What information on the onshore support facilities you will use must accompany the EP?**

The following information on the onshore support facilities you will use must accompany your EP:

(a) *General.* A description of the onshore facilities you will use to provide supply and service support for your proposed exploration activities (e.g., service bases and mud company docks).

(1) Indicate whether the onshore support facilities are existing, to be constructed, or to be expanded.

(2) If the onshore support facilities are, or will be, located in areas not adjacent to the Western GOM, provide a timetable for acquiring lands (including rights-of-way and easements) and constructing or expanding the facilities. Describe any State or Federal permits or approvals (dredging, filling, *etc.*) that would be required for constructing or expanding them.

(b) *Air emissions.* A description of the source, composition, frequency, and duration of the air emissions (attributable to your proposed exploration activities) likely to be generated by the onshore support facilities you will use.

(c) *Unusual solid and liquid wastes.* A description of the quantity, composition, and method of disposal of any unusual solid and liquid wastes (attributable to your proposed exploration activities) likely to be generated by the onshore support facilities you will use. Unusual wastes are those wastes not specifically addressed in the relevant

National Pollution Discharge Elimination System (NPDES) permit.

(d) *Waste disposal.* A description of the onshore facilities you will use to store and dispose of solid and liquid wastes generated by your proposed exploration activities (see § 550.217) and the types and quantities of such wastes.

### § 550.226 What Coastal Zone Management Act (CZMA) information must accompany the EP?

The following CZMA information must accompany your EP:

(a) *Consistency certification.* A copy of your consistency certification under section 307(c)(3)(B) of the CZMA (16 U.S.C. 1456(c)(3)(B)) and 15 CFR 930.76(d) stating that the proposed exploration activities described in detail in this EP comply with (name of State(s)) approved coastal management program(s) and will be conducted in a manner that is consistent with such program(s); and

(b) *Other information.* ''Information'' as required by 15 CFR 930.76(a) and 15 CFR 930.58(a)(2)) and ''Analysis'' as required by 15 CFR 930.58(a)(3).

### § 550.227 What environmental impact analysis (EIA) information must accompany the EP?

The following EIA information must accompany your EP:

(a) *General requirements.* Your EIA must:

(1) Assess the potential environmental impacts of your proposed exploration activities;

(2) Be project specific; and

(3) Be as detailed as necessary to assist the Regional Supervisor in complying with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) and other relevant Federal laws such as the ESA and the MMPA.

(b) *Resources, conditions, and activities.* Your EIA must describe those resources, conditions, and activities listed below that could be affected by your proposed exploration activities, or that could affect the construction and operation of facilities or structures, or the activities proposed in your EP.

(1) Meteorology, oceanography, geology, and shallow geological or man-made hazards;

(2) Air and water quality;

(3) Benthic communities, marine mammals, sea turtles, coastal and marine birds, fish and shellfish, and plant life;

(4) Threatened or endangered species and their critical habitat as defined by the Endangered Species Act of 1973;

(5) Sensitive biological resources or habitats such as essential fish habitat, refuges, preserves, special management areas identified in coastal management programs, sanctuaries, rookeries, and calving grounds;

(6) Archaeological resources;

(7) Socioeconomic resources including employment, existing offshore and coastal infrastructure (including major sources of supplies, services, energy, and water), land use, subsistence resources and harvest practices, recreation, recreational and commercial fishing (including typical fishing seasons, location, and type), minority and lower income groups, and coastal zone management programs;

(8) Coastal and marine uses such as military activities, shipping, and mineral exploration or development; and

(9) Other resources, conditions, and activities identified by the Regional Supervisor.

(c) *Environmental impacts.* Your EIA must:

(1) Analyze the potential direct and indirect impacts (including those from accidents, cooling water intake structures, and those identified in relevant ESA biological opinions such as, but not limited to, those from noise, vessel collisions, and marine trash and debris) that your proposed exploration activities will have on the identified resources, conditions, and activities;

(2) Analyze any potential cumulative impacts from other activities to those identified resources, conditions, and activities potentially impacted by your proposed exploration activities;

(3) Describe the type, severity, and duration of these potential impacts and their biological, physical, and other consequences and implications;

(4) Describe potential measures to minimize or mitigate these potential impacts; and

(5) Summarize the information you incorporate by reference.

(d) *Consultation*. Your EIA must include a list of agencies and persons with whom you consulted, or with whom you will be consulting, regarding potential impacts associated with your proposed exploration activities.

(e) *References cited*. Your EIA must include a list of the references that you cite in the EIA.

### § 550.228 What administrative information must accompany the EP?

The following administrative information must accompany your EP:

(a) *Exempted information description (public information copies only)*. A description of the general subject matter of the proprietary information that is included in the proprietary copies of your EP or its accompanying information.

(b) *Bibliography*. (1) If you reference a previously submitted EP, DPP, DOCD, study report, survey report, or other material in your EP or its accompanying information, a list of the referenced material; and

(2) The location(s) where the Regional Supervisor can inspect the cited referenced material if you have not submitted it.

## REVIEW AND DECISION PROCESS FOR THE EP

### § 550.231 After receiving the EP, what will BOEM do?

(a) *Determine whether deemed submitted*. Within 15 working days after receiving your proposed EP and its accompanying information, the Regional Supervisor will review your submission and deem your EP submitted if:

(1) The submitted information, including the information that must accompany the EP (refer to the list in § 550.212), fulfills requirements and is sufficiently accurate;

(2) You have provided all needed additional information (see § 550.201(b)); and

(3) You have provided the required number of copies (see § 550.206(a)).

(b) *Identify problems and deficiencies*. If the Regional Supervisor determines that you have not met one or more of the conditions in paragraph (a) of this section, the Regional Supervisor will notify you of the problem or deficiency within 15 working days after the Regional Supervisor receives your EP and its accompanying information. The Regional Supervisor will not deem your EP submitted until you have corrected all problems or deficiencies identified in the notice.

(c) *Deemed submitted notification*. The Regional Supervisor will notify you when the EP is deemed submitted.

### § 550.232 What actions will BOEM take after the EP is deemed submitted?

(a) *State and CZMA consistency reviews*. Within 2 working days after deeming your EP submitted under § 550.231, the Regional Supervisor will use receipted mail or alternative method to send a public information copy of the EP and its accompanying information to the following:

(1) *The Governor of each affected State*. The Governor has 21 calendar days after receiving your deemed-submitted EP to submit comments. The Regional Supervisor will not consider comments received after the deadline.

(2) *The CZMA agency of each affected State*. The CZMA consistency review period under section 307(c)(3)(B)(ii) of the CZMA (16 U.S.C. 1456(c)(3)(B)(ii)) and 15 CFR 930.78 begins when the State's CZMA agency receives a copy of your deemed-submitted EP, consistency certification, and required necessary data and information (see 15 CFR 930.77(a)(1)).

(b) *BOEM compliance review*. The Regional Supervisor will review the exploration activities described in your proposed EP to ensure that they conform to the performance standards in § 550.202.

(c) *BOEM environmental impact evaluation*. The Regional Supervisor will evaluate the environmental impacts of the activities described in your proposed EP and prepare environmental documentation under the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) and the implementing regulations (40 CFR parts 1500 through 1508).

(d) *Amendments*. During the review of your proposed EP, the Regional Supervisor may require you, or you may elect, to change your EP. If you elect to amend your EP, the Regional Supervisor may determine that your EP, as

amended, is subject to the requirements of § 550.231.

### § 550.233 What decisions will BOEM make on the EP and within what timeframe?

(a) *Timeframe*. The Regional Supervisor will take one of the actions shown in the table in paragraph (b) of this section within 30 calendar days after the Regional Supervisor deems your EP submitted under § 550.231, or receives the last amendment to your proposed EP, whichever occurs later.

(b) *BOEM decision*. By the deadline in paragraph (a) of this section, the Regional Supervisor will take one of the following actions:

| The regional supervisor will . . . | If . . . | And then . . . |
|---|---|---|
| (1) Approve your EP, | It complies with all applicable requirements, | The Regional Supervisor will notify you in writing of the decision and may require you to meet certain conditions, including those to provide monitoring information. |
| (2) Require you to modify your proposed EP, | The Regional Supervisor finds that it is inconsistent with the lease, the Act, the regulations prescribed under the Act, or other Federal laws, | The Regional Supervisor will notify you in writing of the decision and describe the modifications you must make to your proposed EP to ensure it complies with all applicable requirements. |
| (3) Disapprove your EP, | Your proposed activities would probably cause serious harm or damage to life (including fish or other aquatic life); property; any mineral (in areas leased or not leased); the National security or defense; or the marine, coastal, or human environment; and you cannot modify your proposed activities to avoid such condition(s), | (i) The Regional Supervisor will notify you in writing of the decision and describe the reason(s) for disapproving your EP.<br>(ii) BOEM may cancel your lease and compensate you under 43 U.S.C. 1334(a)(2)(C) and the implementing regulations in §§ 550.182, 550.184, and 550.185 and 30 CFR 556.77. |

### § 550.234 How do I submit a modified EP or resubmit a disapproved EP, and when will BOEM make a decision?

(a) *Modified EP*. If the Regional Supervisor requires you to modify your proposed EP under § 550.233(b)(2), you must submit the modification(s) to the Regional Supervisor in the same manner as for a new EP. You need submit only information related to the proposed modification(s).

(b) *Resubmitted EP*. If the Regional Supervisor disapproves your EP under § 550.233(b)(3), you may resubmit the disapproved EP if there is a change in the conditions that were the basis of its disapproval.

(c) *BOEM review and timeframe*. The Regional Supervisor will use the performance standards in § 550.202 to either approve, require you to further modify, or disapprove your modified or resubmitted EP. The Regional Supervisor will make a decision within 30 calendar days after the Regional Supervisor deems your modified or resubmitted EP to be submitted, or receives the last amendment to your modified or resubmitted EP, whichever occurs later.

### § 550.235 If a State objects to the EP's coastal zone consistency certification, what can I do?

If an affected State objects to the coastal zone consistency certification accompanying your proposed EP within the timeframe prescribed in § 550.233(a) or § 550.234(c), you may do one of the following:

(a) *Amend your EP*. Amend your EP to accommodate the State's objection and submit the amendment to the Regional Supervisor for approval. The amendment needs to only address information related to the State's objection.

(b) *Appeal*. Appeal the State's objection to the Secretary of Commerce using the procedures in 15 CFR part 930, subpart H. The Secretary of Commerce will either:

(1) Grant your appeal by finding, under section 307(c)(3)(B)(iii) of the CZMA (16 U.S.C. 1456(c)(3)(B)(iii)), that each activity described in detail in your EP is consistent with the objectives of the CZMA, or is otherwise necessary in the interest of National security; or

(2) Deny your appeal, in which case you may amend your EP as described in paragraph (a) of this section.

(c) *Withdraw your EP*. Withdraw your EP if you decide not to conduct your proposed exploration activities.

CONTENTS OF DEVELOPMENT AND PRODUCTION PLANS (DPP) AND DEVELOPMENT OPERATIONS COORDINATION DOCUMENTS (DOCD)

### § 550.241 What must the DPP or DOCD include?

Your DPP or DOCD must include the following:

(a) *Description, objectives, and schedule*. A description, discussion of the objectives, and tentative schedule (from start to completion) of the development and production activities you propose to undertake. Examples of development and production activities include:

(1) Development drilling;

(2) Well test flaring;

(3) Installation of production platforms, satellite structures, subsea wellheads and manifolds, and lease term pipelines (see definition at § 550.105); and

(4) Installation of production facilities and conduct of production operations.

(b) *Location*. The location and water depth of each of your proposed wells and production facilities. Include a map showing the surface and bottom-hole location and water depth of each proposed well, the surface location of each production facility, and the locations of all associated drilling unit and construction barge anchors.

(c) *Drilling unit*. A description of the drilling unit and associated equipment you will use to conduct your proposed development drilling activities. Include a brief description of its important safety and pollution prevention features, and a table indicating the type and the estimated maximum quantity of fuels and oil that will be stored on the facility (see definition of ''facility (3)'' under § 550.105).

(d) *Production facilities*. A description of the production platforms, satellite structures, subsea wellheads and manifolds, lease term pipelines (see definition at § 550.105), production facilities, umbilicals, and other facilities you will use to conduct your proposed development and production activities. Include a brief description of their important safety and pollution prevention features, and a table indicating the type and the estimated maximum quantity of fuels and oil that will be stored on the facility (see definition of ''facility (3)'' under § 550.105).

(e) *Service fee*. You must include payment of the service fee listed in § 550.125.

### § 550.242 What information must accompany the DPP or DOCD?

The following information must accompany your DPP or DOCD.

(a) General information required by § 550.243;

(b) G&G information required by § 550.244;

(c) Hydrogen sulfide information required by § 550.245;

(d) Mineral resource conservation information required by § 550.246;

(e) Biological, physical, and socioeconomic information required by § 550.247;

(f) Solid and liquid wastes and discharges information and cooling water intake information required by § 550.248;

(g) Air emissions information required by § 550.249;

(h) Oil and hazardous substance spills information required by § 550.250;

(i) Alaska planning information required by § 550.251;

(j) Environmental monitoring information required by § 550.252;

(k) Lease stipulations information required by § 550.253;

(l) Mitigation measures information required by § 550.254;

(m) Decommissioning information required by § 550.255;

(n) Related facilities and operations information required by § 550.256;

(o) Support vessels and aircraft information required by § 550.257;

(p) Onshore support facilities information required by § 550.258;

(q) Sulphur operations information required by § 550.259;

(r) Coastal zone management information required by § 550.260;

(s) Environmental impact analysis information required by § 550.261; and

(t) Administrative information required by § 550.262.

### § 550.243 What general information must accompany the DPP or DOCD?

The following general information must accompany your DPP or DOCD:

(a) *Applications and permits.* A listing, including filing or approval status, of the Federal, State, and local application approvals or permits you must obtain to carry out your proposed development and production activities.

(b) *Drilling fluids.* A table showing the projected amount, discharge rate, and chemical constituents for each type (*i.e.*, water based, oil based, synthetic based) of drilling fluid you plan to use to drill your proposed development wells.

(c) *Production.* The following production information:

(1) Estimates of the average and peak rates of production for each type of production and the life of the reservoir(s) you intend to produce; and

(2) The chemical and physical characteristics of the produced oil (see definition under 30 CFR 254.6) that you will handle or store at the facilities you will use to conduct your proposed development and production activities.

(d) *Chemical products.* A table showing the name and brief description, quantities to be stored, storage method, and rates of usage of the chemical products you will use to conduct your proposed development and production activities. You need list only those chemical products you will store or use in quantities greater than the amounts defined as Reportable Quantities in 40 CFR part 302, or amounts specified by the Regional Supervisor.

(e) *New or unusual technology.* A description and discussion of any new or unusual technology (see definition under § 550.200) you will use to carry out your proposed development and production activities. In the public information copies of your DPP or DOCD, you may exclude any proprietary information from this description. In that case, include a brief discussion of the general subject matter of the omitted information. If you will not use any new or unusual technology to carry out your proposed development and production activities, include a statement so indicating.

(f) *Bonds, oil spill financial responsibility, and well control statements.* Statements attesting that:

(1) The activities and facilities proposed in your DPP or DOCD are or will be covered by an appropriate bond under 30 CFR part 556, subpart I;

(2) You have demonstrated or will demonstrate oil spill financial responsibility for facilities proposed in your DPP or DOCD, according to 30 CFR part 553; and

(3) You have or will have the financial capability to drill a relief well and conduct other emergency well control operations.

(g) *Suspensions of production or operations.* A brief discussion of any suspensions of production or suspensions of operations that you anticipate may be necessary in the course of conducting your activities under the DPP or DOCD.

(h) *Blowout scenario.* A scenario for a potential blowout of the proposed well in your DPP or DOCD that you expect will have the highest volume of liquid hydrocarbons. Include the estimated flow rate, total volume, and maximum duration of the potential blowout. Also, discuss the potential for the well to bridge over, the likelihood for surface intervention to stop the blowout, the availability of a rig to drill a relief well, and rig package constraints. Estimate the time it would take to drill a relief well.

(i) *Contact.* The name, mailing address, (e-mail address if available), and telephone number of the person with whom the Regional Supervisor and the affected State(s) can communicate about your DPP or DOCD.

### § 550.244 What geological and geophysical (G&G) information must accompany the DPP or DOCD?

The following G&G information must accompany your DPP or DOCD:

(a) *Geological description.* A geological description of the prospect(s).

(b) *Structure contour maps.* Current structure contour maps (depth-based, expressed in feet subsea) showing depths of expected productive formations and the locations of proposed wells.

(c) *Two dimensional (2–D) or three-dimensional (3–D) seismic lines.* Copies of

migrated and annotated 2–D or 3–D seismic lines (with depth scale) intersecting at or near your proposed well locations. You are not required to conduct both 2–D and 3–D seismic surveys if you choose to conduct only one type of survey. If you have conducted both types of surveys, the Regional Supervisor may instruct you to submit the results of both surveys. You must interpret and display this information. Provide this information as an enclosure to only one proprietary copy of your DPP or DOCD.

(d) *Geological cross-sections.* Interpreted geological cross-sections showing the depths of expected productive formations.

(e) *Shallow hazards report.* A shallow hazards report based on information obtained from a high-resolution geophysical survey, or a reference to such report if you have already submitted it to the Regional Supervisor.

(f) *Shallow hazards assessment.* For each proposed well, an assessment of any seafloor and subsurface geologic and manmade features and conditions that may adversely affect your proposed drilling operations.

(g) *High resolution seismic lines.* A copy of the high-resolution survey line closest to each of your proposed well locations. Because of its volume, provide this information as an enclosure to only one proprietary copy of your DPP or DOCD. You are not required to provide this information if the surface location of your proposed well has been approved in a previously submitted EP, DPP, or DOCD.

(h) *Stratigraphic column.* A generalized biostratigraphic/lithostratigraphic column from the surface to the total depth of each proposed well.

(i) *Time-versus-depth chart.* A seismic travel time-versus-depth chart based on the appropriate velocity analysis in the area of interpretation and specifying the geodetic datum.

(j) *Geochemical information.* A copy of any geochemical reports you used or generated.

(k) *Future G&G activities.* A brief description of the G&G explorations and development G&G activities that you may conduct for lease or unit purposes after your DPP or DOCD is approved.

## § 550.245 What hydrogen sulfide ($H_2S$) information must accompany the DPP or DOCD?

The following $H_2S$ information, as applicable, must accompany your DPP or DOCD:

(a) *Concentration.* The estimated concentration of any $H_2S$ you might encounter or handle while you conduct your proposed development and production activities.

(b) *Classification.* Under 30 CFR 250.490(c), a request that the Regional Supervisor classify the area of your proposed development and production activities as either $H_2S$ absent, $H_2S$ present, or $H_2S$ unknown. Provide sufficient information to justify your request.

(c) *$H_2S$ Contingency Plan.* If you request that the Regional Supervisor classify the area of your proposed development and production activities as either $H_2S$ present or $H_2S$ unknown, an $H_2S$ Contingency Plan prepared under 30 CFR 250.490(f), or a reference to an approved or submitted $H_2S$ Contingency Plan that covers the proposed development and production activities.

(d) *Modeling report.* (1) If you have determined or estimated that the concentration of any $H_2S$ you may encounter or handle while you conduct your development and production activities will be greater than 500 parts per million (ppm), you must:

(i) Model a potential worst case $H_2S$ release from the facilities you will use to conduct your proposed development and production activities; and

(ii) Include a modeling report or modeling results, or a reference to such report or results if you have already submitted it to the Regional Supervisor.

(2) The analysis in the modeling report must be specific to the particular site of your development and production activities, and must consider any nearby human-occupied OCS facilities, shipping lanes, fishery areas, and other points where humans may be subject to potential exposure from an $H_2S$ release from your proposed activities.

(3) If any $H_2S$ emissions are projected to affect an onshore location in concentrations greater than 10 ppm, the modeling analysis must be consistent with the EPA's risk management plan

methodologies outlined in 40 CFR part 68.

### § 550.246 What mineral resource conservation information must accompany the DPP or DOCD?

The following mineral resource conservation information, as applicable, must accompany your DPP or DOCD:

(a) *Technology and reservoir engineering practices and procedures.* A description of the technology and reservoir engineering practices and procedures you will use to increase the ultimate recovery of oil and gas (e.g., secondary, tertiary, or other enhanced recovery practices). If you will not use enhanced recovery practices initially, provide an explanation of the methods you considered and the reasons why you are not using them.

(b) *Technology and recovery practices and procedures.* A description of the technology and recovery practices and procedures you will use to ensure optimum recovery of oil and gas or sulphur.

(c) *Reservoir development.* A discussion of exploratory well results, other reservoir data, proposed well spacing, completion methods, and other relevant well plan information.

### § 550.247 What biological, physical, and socioeconomic information must accompany the DPP or DOCD?

If you obtain the following information in developing your DPP or DOCD, or if the Regional Supervisor requires you to obtain it, you must include a report, or the information obtained, or a reference to such a report or information if you have already submitted it to the Regional Supervisor, as accompanying information:

(a) *Biological environment reports.* Site-specific information on chemosynthetic communities, federally listed threatened or endangered species, marine mammals protected under the MMPA, sensitive underwater features, marine sanctuaries, critical habitat designated under the ESA, or other areas of biological concern.

(b) *Physical environment reports.* Site-specific meteorological, physical oceanographic, geotechnical reports, or archaeological reports (if required under § 550.194).

(c) *Socioeconomic study reports.* Socioeconomic information related to your proposed development and production activities.

### § 550.248 What solid and liquid wastes and discharges information and cooling water intake information must accompany the DPP or DOCD?

The following solid and liquid wastes and discharges information and cooling water intake information must accompany your DPP or DOCD:

(a) *Projected wastes.* A table providing the name, brief description, projected quantity, and composition of solid and liquid wastes (such as spent drilling fluids, drill cuttings, trash, sanitary and domestic wastes, produced waters, and chemical product wastes) likely to be generated by your proposed development and production activities. Describe:

(1) The methods you used for determining this information; and

(2) Your plans for treating, storing, and downhole disposal of these wastes at your facility location(s).

(b) *Projected ocean discharges.* If any of your solid and liquid wastes will be discharged overboard or are planned discharges from manmade islands:

(1) A table showing the name, projected amount, and rate of discharge for each waste type; and

(2) A description of the discharge method (such as shunting through a downpipe, adding to a produced water stream, *etc.*) you will use.

(c) *National Pollutant Discharge Elimination System (NPDES) permit.* (1) A discussion of how you will comply with the provisions of the applicable general NPDES permit that covers your proposed development and production activities; or

(2) A copy of your application for an individual NPDES permit. Briefly describe the major discharges and methods you will use for compliance.

(d) *Modeling report.* A modeling report or the modeling results (if you modeled the discharges of your projected solid or liquid wastes in developing your DPP or DOCD), or a reference to such report or results if you have already submitted it to the Regional Supervisor.

(e) *Projected cooling water intake.* A table for each cooling water intake structure likely to be used by your proposed development and production activities that includes a brief description of the cooling water intake structure, daily water intake rate, water intake through-screen velocity, percentage of water intake used for cooling water, mitigation measures for reducing impingement and entrainment of aquatic organisms, and biofouling prevention measures.

### § 550.249 What air emissions information must accompany the DPP or DOCD?

The following air emissions information, as applicable, must accompany your DPP or DOCD:

(a) *Projected emissions.* Tables showing the projected emissions of sulphur dioxide ($SO_2$), particulate matter in the form of $PM_{10}$ and $PM_{2.5}$ when applicable, nitrogen oxides ($NO_X$), carbon monoxide (CO), and volatile organic compounds (VOC) that will be generated by your proposed development and production activities.

(1) For each source on or associated with the facility you will use to conduct your proposed development and production activities, you must list:

(i) The projected peak hourly emissions;

(ii) The total annual emissions in tons per year;

(iii) Emissions over the duration of the proposed development and production activities;

(iv) The frequency and duration of emissions; and

(v) The total of all emissions listed in paragraph (a)(1)(i) through (iv) of this section.

(2) If your proposed production and development activities would result in an increase in the emissions of an air pollutant from your facility to an amount greater than the amount specified in your previously approved DPP or DOCD, you must show the revised emission rates for each source as well as the incremental change for each source.

(3) You must provide the basis for all calculations, including engine size and rating, and applicable operational information.

(4) You must base the projected emissions on the maximum rated capacity of the equipment and the maximum throughput of the facility you will use to conduct your proposed development and production activities under its physical and operational design.

(5) If the specific drilling unit has not yet been determined, you must use the maximum emission estimates for the type of drilling unit you will use.

(b) *Emission reduction measures.* A description of any proposed emission reduction measures, including the affected source(s), the emission reduction control technologies or procedures, the quantity of reductions to be achieved, and any monitoring system you propose to use to measure emissions.

(c) *Processes, equipment, fuels, and combustibles.* A description of processes, processing equipment, combustion equipment, fuels, and storage units. You must include the frequency, duration, and maximum burn rate of any flaring activity.

(d) *Distance to shore.* Identification of the distance of the site of your proposed development and production activities from the mean high water mark (mean higher high water mark on the Pacific coast) of the adjacent State.

(e) *Non-exempt facilities.* A description of how you will comply with § 550.303 when the projected emissions of $SO_2$, PM, $NO_X$, CO, or VOC that will be generated by your proposed development and production activities are greater than the respective emission exemption amounts ''E'' calculated using the formulas in § 550.303(d). When BOEM requires air quality modeling, you must use the guidelines in Appendix W of 40 CFR part 51 with a model approved by the Director. Submit the best available meteorological information and data consistent with the model(s) used.

(f) *Modeling report.* A modeling report or the modeling results (if § 550.303 requires you to use an approved air quality model to model projected air emissions in developing your DPP or DOCD), or a reference to such report or results if you have already submitted it to the Regional Supervisor.

### § 550.250 What oil and hazardous substance spills information must accompany the DPP or DOCD?

The following information regarding potential spills of oil (see definition under 30 CFR 254.6) and hazardous substances (see definition under 40 CFR part 116), as applicable, must accompany your DPP or DOCD:

(a) *Oil spill response planning*. The material required under paragraph (a)(1) or (a)(2) of this section:

(1) An Oil Spill Response Plan (OSRP) for the facilities you will use to conduct your proposed development and production activities prepared according to the requirements of 30 CFR part 254, subpart B; or

(2) Reference to your approved regional OSRP (see 30 CFR 254.3) to include:

(i) A discussion of your regional OSRP;

(ii) The location of your primary oil spill equipment base and staging area;

(iii) The name(s) of your oil spill removal organization(s) for both equipment and personnel;

(iv) The calculated volume of your worst case discharge scenario (see 30 CFR 254.26(a)), and a comparison of the appropriate worst case discharge scenario in your approved regional OSRP with the worst case discharge scenario that could result from your proposed development and production activities; and

(v) A description of the worst case oil spill scenario that could result from your proposed development and production activities (see 30 CFR 254.26(b), (c), (d), and (e)).

(b) *Modeling report*. If you model a potential oil or hazardous substance spill in developing your DPP or DOCD, a modeling report or the modeling results, or a reference to such report or results if you have already submitted it to the Regional Supervisor.

### § 550.251 If I propose activities in the Alaska OCS Region, what planning information must accompany the DPP?

If you propose development and production activities in the Alaska OCS Region, the following planning information must accompany your DPP:

(a) *Emergency plans*. A description of your emergency plans to respond to a blowout, loss or disablement of a drilling unit, and loss of or damage to support craft; and

(b) *Critical operations and curtailment procedures*. Critical operations and curtailment procedures for your development and production activities. The procedures must identify ice conditions, weather, and other constraints under which the development and production activities will either be curtailed or not proceed.

### § 550.252 What environmental monitoring information must accompany the DPP or DOCD?

The following environmental monitoring information, as applicable, must accompany your DPP or DOCD:

(a) *Monitoring systems*. A description of any existing and planned monitoring systems that are measuring, or will measure, environmental conditions or will provide project-specific data or information on the impacts of your development and production activities.

(b) *Incidental takes*. If there is reason to believe that protected species may be incidentally taken by planned development and production activities, you must describe how you will monitor for incidental take of:

(1) Threatened and endangered species listed under the ESA; and

(2) Marine mammals, as appropriate, if you have not already received authorization for incidental take of marine mammals as may be necessary under the MMPA.

(c) *Flower Garden Banks National Marine Sanctuary (FGBNMS)*. If you propose to conduct development and production activities within the protective zones of the FGBNMS, a description of your provisions for monitoring the impacts of oil spill on the environmentally sensitive resources of the FGBNMS.

### § 550.253 What lease stipulations information must accompany the DPP or DOCD?

A description of the measures you took, or will take, to satisfy the conditions of lease stipulations related to

your proposed development and production activities must accompany your DPP or DOCD.

### § 550.254 What mitigation measures information must accompany the DPP or DOCD?

(a) If you propose to use any measures beyond those required by the regulations in this part to minimize or mitigate environmental impacts from your proposed development and production activities, a description of the measures you will use must accompany your DPP or DOCD.

(b) If there is reason to believe that protected species may be incidentally taken by planned development and production activities, you must include mitigation measures designed to avoid or minimize that incidental take of:

(1) Threatened and endangered species listed under the ESA; and

(2) Marine mammals, as appropriate, if you have not already received authorization for incidental take as may be necessary under the MMPA.

### § 550.255 What decommissioning information must accompany the DPP or DOCD?

A brief description of how you intend to decommission your wells, platforms, pipelines, and other facilities, and clear your site(s) must accompany your DPP or DOCD.

### § 550.256 What related facilities and operations information must accompany the DPP or DOCD?

The following information regarding facilities and operations directly related to your proposed development and production activities must accompany your DPP or DOCD.

(a) *OCS facilities and operations.* A description and location of any of the following that directly relate to your proposed development and production activities:

(1) Drilling units;

(2) Production platforms;

(3) Right-of-way pipelines (including those that transport chemical products and produced water); and

(4) Other facilities and operations located on the OCS (regardless of ownership).

(b) *Transportation system.* A discussion of the transportation system that you will use to transport your production to shore, including:

(1) Routes of any new pipelines;

(2) Information concerning barges and shuttle tankers, including the storage capacity of the transport vessel(s), and the number of transfers that will take place per year;

(3) Information concerning any intermediate storage or processing facilities;

(4) An estimate of the quantities of oil, gas, or sulphur to be transported from your production facilities; and

(5) A description and location of the primary onshore terminal.

### § 550.257 What information on the support vessels, offshore vehicles, and aircraft you will use must accompany the DPP or DOCD?

The following information on the support vessels, offshore vehicles, and aircraft you will use must accompany your DPP or DOCD:

(a) *General.* A description of the crew boats, supply boats, anchor handling vessels, tug boats, barges, ice management vessels, other vessels, offshore vehicles, and aircraft you will use to support your development and production activities. The description of vessels and offshore vehicles must estimate the storage capacity of their fuel tanks and the frequency of their visits to the facilities you will use to conduct your proposed development and production activities.

(b) *Air emissions.* A table showing the source, composition, frequency, and duration of the air emissions likely to be generated by the support vessels, offshore vehicles, and aircraft you will use that will operate within 25 miles of the facilities you will use to conduct your proposed development and production activities.

(c) *Drilling fluids and chemical products transportation.* A description of the transportation method and quantities of drilling fluids and chemical products (see § 550.243(b) and (d)) you will transport from the onshore support facilities you will use to the facilities you will use to conduct your proposed development and production activities.

(d) *Solid and liquid wastes transportation.* A description of the transportation method and a brief description

of the composition, quantities, and destination(s) of solid and liquid wastes (see § 550.248(a)) you will transport from the facilities you will use to conduct your proposed development and production activities.

(e) *Vicinity map.* A map showing the location of your proposed development and production activities relative to the shoreline. The map must depict the primary route(s) the support vessels and aircraft will use when traveling between the onshore support facilities you will use and the facilities you will use to conduct your proposed development and production activities.

### § 550.258 What information on the onshore support facilities you will use must accompany the DPP or DOCD?

The following information on the onshore support facilities you will use must accompany your DPP or DOCD:

(a) *General.* A description of the onshore facilities you will use to provide supply and service support for your proposed development and production activities (e.g., service bases and mud company docks).

(1) Indicate whether the onshore support facilities are existing, to be constructed, or to be expanded; and

(2) For DPPs only, provide a timetable for acquiring lands (including rights-of-way and easements) and constructing or expanding any of the onshore support facilities.

(b) *Air emissions.* A description of the source, composition, frequency, and duration of the air emissions (attributable to your proposed development and production activities) likely to be generated by the onshore support facilities you will use.

(c) *Unusual solid and liquid wastes.* A description of the quantity, composition, and method of disposal of any unusual solid and liquid wastes (attributable to your proposed development and production activities) likely to be generated by the onshore support facilities you will use. Unusual wastes are those wastes not specifically addressed in the relevant National Pollution Discharge Elimination System (NPDES) permit.

(d) *Waste disposal.* A description of the onshore facilities you will use to store and dispose of solid and liquid wastes generated by your proposed development and production activities (see § 550.248(a)) and the types and quantities of such wastes.

### § 550.259 What sulphur operations information must accompany the DPP or DOCD?

If you are proposing to conduct sulphur development and production activities, the following information must accompany your DPP or DOCD:

(a) *Bleedwater.* A discussion of the bleedwater that will be generated by your proposed sulphur activities, including the measures you will take to mitigate the potential toxic or thermal impacts on the environment caused by the discharge of bleedwater.

(b) *Subsidence.* An estimate of the degree of subsidence expected at various stages of your sulphur development and production activities, and a description of the measures you will take to mitigate the effects of subsidence on existing or potential oil and gas production, production platforms, and production facilities, and to protect the environment.

### § 550.260 What Coastal Zone Management Act (CZMA) information must accompany the DPP or DOCD?

The following CZMA information must accompany your DPP or DOCD:

(a) *Consistency certification.* A copy of your consistency certification under section 307(c)(3)(B) of the CZMA (16 U.S.C. 1456(c)(3)(B)) and 15 CFR 930.76(c) stating that the proposed development and production activities described in detail in this DPP or DOCD comply with (name of State(s)) approved coastal management program(s) and will be conducted in a manner that is consistent with such program(s); and

(b) *Other information.* ''Information'' as required by 15 CFR 930.76(a) and 15 CFR 930.58(a)(2)) and ''Analysis'' as required by 15 CFR 930.58(a)(3).

### § 550.261 What environmental impact analysis (EIA) information must accompany the DPP or DOCD?

The following EIA information must accompany your DPP or DOCD:

(a) *General requirements.* Your EIA must:

(1) Assess the potential environmental impacts of your proposed development and production activities;

(2) Be project specific; and

(3) Be as detailed as necessary to assist the Regional Supervisor in complying with the NEPA of 1969 (42 U.S.C. 4321 *et seq.*) and other relevant Federal laws such as the ESA and the MMPA.

(b) *Resources, conditions, and activities.* Your EIA must describe those resources, conditions, and activities listed below that could be affected by your proposed development and production activities, or that could affect the construction and operation of facilities or structures or the activities proposed in your DPP or DOCD.

(1) Meteorology, oceanography, geology, and shallow geological or manmade hazards;

(2) Air and water quality;

(3) Benthic communities, marine mammals, sea turtles, coastal and marine birds, fish and shellfish, and plant life;

(4) Threatened or endangered species and their critical habitat;

(5) Sensitive biological resources or habitats such as essential fish habitat, refuges, preserves, special management areas identified in coastal management programs, sanctuaries, rookeries, and calving grounds;

(6) Archaeological resources;

(7) Socioeconomic resources (including the approximate number, timing, and duration of employment of persons engaged in onshore support and construction activities), population (including the approximate number of people and families added to local onshore areas), existing offshore and onshore infrastructure (including major sources of supplies, services, energy, and water), types of contractors or vendors that may place a demand on local goods and services, land use, subsistence resources and harvest practices, recreation, recreational and commercial fishing (including seasons, location, and type), minority and lower income groups, and CZMA programs;

(8) Coastal and marine uses such as military activities, shipping, and mineral exploration or development; and

(9) Other resources, conditions, and activities identified by the Regional Supervisor.

(c) *Environmental impacts.* Your EIA must:

(1) Analyze the potential direct and indirect impacts (including those from accidents, cooling water intake structures, and those identified in relevant ESA biological opinions such as, but not limited to, those from noise, vessel collisions, and marine trash and debris) that your proposed development and production activities will have on the identified resources, conditions, and activities;

(2) Describe the type, severity, and duration of these potential impacts and their biological, physical, and other consequences and implications;

(3) Describe potential measures to minimize or mitigate these potential impacts;

(4) Describe any alternatives to your proposed development and production activities that you considered while developing your DPP or DOCD, and compare the potential environmental impacts; and

(5) Summarize the information you incorporate by reference.

(d) *Consultation.* Your EIA must include a list of agencies and persons with whom you consulted, or with whom you will be consulting, regarding potential impacts associated with your proposed development and production activities.

(e) *References cited.* Your EIA must include a list of the references that you cite in the EIA.

### § 550.262 What administrative information must accompany the DPP or DOCD?

The following administrative information must accompany your DPP or DOCD:

(a) *Exempted information description (public information copies only).* A description of the general subject matter of the proprietary information that is included in the proprietary copies of your DPP or DOCD or its accompanying information.

(b) *Bibliography.*

(1) If you reference a previously submitted EP, DPP, DOCD, study report, survey report, or other material in your DPP or DOCD or its accompanying information, a list of the referenced material; and

(2) The location(s) where the Regional Supervisor can inspect the cited referenced material if you have not submitted it.

REVIEW AND DECISION PROCESS FOR THE DPP OR DOCD

### § 550.266 After receiving the DPP or DOCD, what will BOEM do?

(a) *Determine whether deemed submitted.* Within 25 working days after receiving your proposed DPP or DOCD and its accompanying information, the Regional Supervisor will deem your DPP or DOCD submitted if:

(1) The submitted information, including the information that must accompany the DPP or DOCD (refer to the list in § 550.242), fulfills requirements and is sufficiently accurate;

(2) You have provided all needed additional information (see § 550.201(b)); and

(3) You have provided the required number of copies (see § 550.206(a)).

(b) *Identify problems and deficiencies.* If the Regional Supervisor determines that you have not met one or more of the conditions in paragraph (a) of this section, the Regional Supervisor will notify you of the problem or deficiency within 25 working days after the Regional Supervisor receives your DPP or DOCD and its accompanying information. The Regional Supervisor will not deem your DPP or DOCD submitted until you have corrected all problems or deficiencies identified in the notice.

(c) *Deemed submitted notification.* The Regional Supervisor will notify you when your DPP or DOCD is deemed submitted.

### § 550.267 What actions will BOEM take after the DPP or DOCD is deemed submitted?

(a) *State, local government, CZMA consistency, and other reviews.* Within 2 working days after the Regional Supervisor deems your DPP or DOCD submitted under § 550.266, the Regional Supervisor will use receipted mail or alternative method to send a public information copy of the DPP or DOCD and its accompanying information to the following:

(1) *The Governor of each affected State.* The Governor has 60 calendar days after receiving your deemed-submitted DPP or DOCD to submit comments and recommendations. The Regional Supervisor will not consider comments and recommendations received after the deadline.

(2) *The executive of any affected local government who requests a copy.* The executive of any affected local government has 60 calendar days after receipt of your deemed-submitted DPP or DOCD to submit comments and recommendations. The Regional Supervisor will not consider comments and recommendations received after the deadline. The executive of any affected local government must forward all comments and recommendations to the respective Governor before submitting them to the Regional Supervisor.

(3) *The CZMA agency of each affected State.* The CZMA consistency review period under section 307(c)(3)(B)(ii) of the CZMA (16 U.S.C.1456(c)(3)(B)(ii)) and 15 CFR 930.78 begins when the States CZMA agency receives a copy of your deemed-submitted DPP or DOCD, consistency certification, and required necessary data/information (see 15 CFR 930.77(a)(1)).

(b) *General public.* Within 2 working days after the Regional Supervisor deems your DPP or DOCD submitted under § 550.266, the Regional Supervisor will make a public information copy of the DPP or DOCD and its accompanying information available for review to any appropriate interstate regional entity and the public at the appropriate BOEM Regional Public Information Office. Any interested Federal agency or person may submit comments and recommendations to the Regional Supervisor. Comments and recommendations must be received by the Regional Supervisor within 60 calendar days after the DPP or DOCD including its accompanying information is made available.

(c) *BOEM compliance review.* The Regional Supervisor will review the development and production activities in your proposed DPP or DOCD to ensure that they conform to the performance standards in § 550.202.

(d) *Amendments.* During the review of your proposed DPP or DOCD, the Regional Supervisor may require you, or you may elect, to change your DPP or DOCD. If you elect to amend your DPP

or DOCD, the Regional Supervisor may determine that your DPP or DOCD, as amended, is subject to the requirements of § 550.266.

### § 550.268 How does BOEM respond to recommendations?

(a) *Governor*. The Regional Supervisor will accept those recommendations from the Governor that provide a reasonable balance between the National interest and the well-being of the citizens of each affected State. The Regional Supervisor will explain in writing to the Governor the reasons for rejecting any of his or her recommendations.

(b) *Local governments and the public*. The Regional Supervisor may accept recommendations from the executive of any affected local government or the public.

(c) *Availability*. The Regional Supervisor will make all comments and recommendations available to the public upon request.

### § 550.269 How will BOEM evaluate the environmental impacts of the DPP or DOCD?

The Regional Supervisor will evaluate the environmental impacts of the activities described in your proposed DPP or DOCD and prepare environmental documentation under the National Environmental Policy Act (NEPA) (42 U.S.C.4321 *et seq.*) and the implementing regulations (40 CFR parts 1500 through 1508).

(a) *Environmental impact statement (EIS) declaration*. At least once in each OCS planning area (other than the Western and Central GOM Planning Areas), the Director will declare that the approval of a proposed DPP is a major Federal action, and BOEM will prepare an EIS.

(b) *Leases or units in the vicinity*. Before or immediately after the Director determines that preparation of an EIS is required, the Regional Supervisor may require lessees and operators of leases or units in the vicinity of the proposed development and production activities for which DPPs have not been approved to submit information about preliminary plans for their leases or units.

(c) *Draft EIS*. The Regional Supervisor will send copies of the draft EIS to the Governor of each affected State and to the executive of each affected local government who requests a copy. Additionally, when BOEM prepares a DPP EIS, and the Federally-approved CZMA program for an affected State requires a DPP NEPA document for use in determining consistency, the Regional Supervisor will forward a copy of the draft EIS to the State's CZMA agency. The Regional Supervisor will also make copies of the draft EIS available to any appropriate Federal agency, interstate regional entity, and the public.

### § 550.270 What decisions will BOEM make on the DPP or DOCD and within what timeframe?

(a) *Timeframe*. The Regional Supervisor will act on your deemed-submitted DPP or DOCD as follows:

(1) The Regional Supervisor will make a decision within 60 calendar days after the latest of the day that:

(i) The comment period provided in § 550.267(a)(1), (a)(2), and (b) closes;

(ii) The final EIS for a DPP is released or adopted; or

(iii) The last amendment to your proposed DOCD is received by the Regional Supervisor.

(2) Notwithstanding paragraph (a)(1) of this section, BOEM will not approve your DPP or DOCD until either:

(i) All affected States with approved CZMA programs concur, or have been conclusively presumed to concur, with your DPP or DOCD consistency certification under section 307(c)(3)(B)(i) and (ii) of the CZMA (16 U.S.C. 1456(c)(3)(B)(i) and (ii)); or

(ii) The Secretary of Commerce has made a finding authorized by section 307(c)(3)(B)(iii) of the CZMA (16 U.S.C. 1456(c)(3)(B)(iii)) that each activity described in the DPP or DOCD is consistent with the objectives of the CZMA, or is otherwise necessary in the interest of National security.

(b) *BOEM decision*. By the deadline in paragraph (a) of this section, the Regional Supervisor will take one of the following actions:

| The regional supervisor will . . . | If . . . | And then . . . |
|---|---|---|
| (1) Approve your DPP or DOCD, | It complies with all applicable requirements, | The Regional Supervisor will notify you in writing of the decision and may require you to meet certain conditions, including those to provide monitoring information. |
| (2) Require you to modify your proposed DPP or DOCD, | It fails to make adequate provisions for safety, environmental protection, or conservation of natural resources or otherwise does not comply with the lease, the Act, the regulations prescribed under the Act, or other Federal laws, | The Regional Supervisor will notify you in writing of the decision and describe the modifications you must make to your proposed DPP or DOCD to ensure it complies with all applicable requirements. |
| (3) Disapprove your DPP or DOCD, | Any of the reasons in § 550.271 apply, | (i) The Regional Supervisor will notify you in writing of the decision and describe the reason(s) for disapproving your DPP or DOCD; and<br>(ii) BOEM may cancel your lease and compensate you under 43 U.S.C. 1351(h)(2)(C) and the implementing regulations in §§ 550.183 through 550.185 and 30 CFR 556.77. |

### § 550.271 For what reasons will BOEM disapprove the DPP or DOCD?

The Regional Supervisor will disapprove your proposed DPP or DOCD if one of the four reasons in this section applies:

(a) *Non-compliance.* The Regional Supervisor determines that you have failed to demonstrate that you can comply with the requirements of the Outer Continental Shelf Lands Act, as amended (Act), implementing regulations, or other applicable Federal laws.

(b) *No consistency concurrence.* (1) An affected State has not yet issued a final decision on your coastal zone consistency certification (see 15 CFR 930.78(a)); or

(2) An affected State objects to your coastal zone consistency certification, and the Secretary of Commerce, under section 307(c)(3)(B)(iii) of the CZMA (16 U.S.C. 1456(c)(3)(B)(iii)), has not found that each activity described in the DPP or DOCD is consistent with the objectives of the CZMA or is otherwise necessary in the interest of National security.

(3) If the Regional Supervisor disapproved your DPP or DOCD for the sole reason that an affected State either has not yet issued a final decision on, or has objected to, your coastal zone consistency certification (see paragraphs (b)(1) and (2) in this section), the Regional Supervisor will approve your DPP or DOCD upon receipt of concurrence by the affected State, at the time concurrence of the affected State is conclusively presumed, or when the Secretary of Commerce makes a finding authorized by section 307(c)(3)(B)(iii) of the CZMA (16 U.S.C. 1456(c)(3)(B)(iii)) that each activity described in your DPP or DOCD is consistent with the objectives of the CZMA, or is otherwise necessary in the interest of National security. In that event, you do not need to resubmit your DPP or DOCD for approval under § 550.273(b).

(c) *National security or defense conflicts.* Your proposed activities would threaten National security or defense.

(d) *Exceptional circumstances.* The Regional Supervisor determines because of exceptional geological conditions, exceptional resource values in the marine or coastal environment, or other exceptional circumstances that all of the following apply:

(1) Implementing your DPP or DOCD would cause serious harm or damage to life (including fish and other aquatic life), property, any mineral deposits (in areas leased or not leased), the National security or defense, or the marine, coastal, or human environment;

(2) The threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time; and

(3) The advantages of disapproving your DPP or DOCD outweigh the advantages of development and production.

### § 550.272 If a State objects to the DPP's or DOCD's coastal zone consistency certification, what can I do?

If an affected State objects to the coastal zone consistency certification

accompanying your proposed or disapproved DPP or DOCD, you may do one of the following:

(a) *Amend or resubmit your DPP or DOCD*. Amend or resubmit your DPP or DOCD to accommodate the State's objection and submit the amendment or resubmittal to the Regional Supervisor for approval. The amendment or resubmittal needs to only address information related to the State's objections.

(b) *Appeal*. Appeal the State's objection to the Secretary of Commerce using the procedures in 15 CFR part 930, subpart H. The Secretary of Commerce will either:

(1) Grant your appeal by finding under section 307(c)(3)(B)(iii) of the CZMA (16 U.S.C.1456(c)(3)(B)(iii)) that each activity described in detail in your DPP or DOCD is consistent with the objectives of the CZMA, or is otherwise necessary in the interest of National security; or

(2) Deny your appeal, in which case you may amend or resubmit your DPP or DOCD, as described in paragraph (a) of this section.

(c) *Withdraw your DPP or DOCD*. Withdraw your DPP or DOCD if you decide not to conduct your proposed development and production activities.

### § 550.273 How do I submit a modified DPP or DOCD or resubmit a disapproved DPP or DOCD?

(a) *Modified DPP or DOCD*. If the Regional Supervisor requires you to modify your proposed DPP or DOCD under § 550.270(b)(2), you must submit the modification(s) to the Regional Supervisor in the same manner as for a new DPP or DOCD. You need submit only information related to the proposed modification(s).

(b) *Resubmitted DPP or DOCD*. If the Regional Supervisor disapproves your DPP or DOCD under § 550.270(b)(3), and except as provided in § 550.271(b)(3), you may resubmit the disapproved DPP or DOCD if there is a change in the conditions that were the basis of its disapproval.

(c) *BOEM review and timeframe*. The Regional Supervisor will use the performance standards in § 550.202 to either approve, require you to further modify, or disapprove your modified or resubmitted DPP or DOCD. The Regional Supervisor will make a decision within 60 calendar days after the Regional Supervisor deems your modified or resubmitted DPP or DOCD to be submitted, or receives the last amendment to your modified or resubmitted DPP or DOCD, whichever occurs later.

## POST-APPROVAL REQUIREMENTS FOR THE EP, DPP, AND DOCD

### § 550.280 How must I conduct activities under the approved EP, DPP, or DOCD?

(a) *Compliance*. You must conduct all of your lease and unit activities according to your approved EP, DPP, or DOCD and any approval conditions. If you fail to comply with your approved EP, DPP, or DOCD:

(1) You may be subject to BOEM enforcement action, including civil penalties; and

(2) The lease(s) involved in your EP, DPP, or DOCD may be forfeited or cancelled under 43 U.S.C. 1334(c) or (d). If this happens, you will not be entitled to compensation under § 550.185(b) and 30 CFR 556.77.

(b) *Emergencies*. Nothing in this subpart or in your approved EP, DPP, or DOCD relieves you of, or limits your responsibility to take appropriate measures to meet emergency situations. In an emergency situation, the Regional Supervisor may approve or require departures from your approved EP, DPP, or DOCD.

### § 550.281 What must I do to conduct activities under the approved EP, DPP, or DOCD?

(a) *Approvals and permits*. Before you conduct activities under your approved EP, DPP, or DOCD you must obtain the following approvals and or permits, as applicable, from the District Manager or BSEE Regional Supervisor:

(1) Approval of applications for permits to drill (APDs) (see 30 CFR 250.410);

(2) Approval of production safety systems (see 30 CFR 250.800);

(3) Approval of new platforms and other structures (or major modifications to platforms and other structures) (see 30 CFR 250.905);

(4) Approval of applications to install lease term pipelines (see 30 CFR 250.1007); and

(5) Other permits, as required by applicable law.

(b) *Conformance.* The activities proposed in these applications and permits must conform to the activities described in detail in your approved EP, DPP, or DOCD.

(c) *Separate State CZMA consistency review.* APDs, and other applications for licenses, approvals, or permits to conduct activities under your approved EP, DPP, or DOCD including those identified in paragraph (a) of this section, are not subject to separate State CZMA consistency review.

(d) *Approval restrictions for permits for activities conducted under EPs.* The Regional Supervisor will not approve any APDs or other applications for licenses, approvals, or permits under your approved EP until either:

(1) All affected States with approved coastal zone management programs concur, or are conclusively presumed to concur, with the coastal zone consistency certification accompanying your EP under section 307(c)(3)(B)(i) and (ii) of the CZMA (16 U.S.C. 1456(c)(3)(B)(i) and (ii)); or

(2) The Secretary of Commerce finds, under section 307(c)(3)(B)(iii) of the CZMA (16 U.S.C.1456(c)(3)(B)(iii)) that each activity covered by the EP is consistent with the objectives of the CZMA or is otherwise necessary in the interest of National security;

(3) If an affected State objects to the coastal zone consistency certification accompanying your approved EP after BOEM has approved your EP, you may either:

(i) Revise your EP to accommodate the State's objection and submit the revision to the Regional Supervisor for approval; or

(ii) Appeal the State's objection to the Secretary of Commerce using the procedures in 15 CFR part 930, subpart H. The Secretary of Commerce will either:

(A) Grant your appeal by making the finding described in paragraph (d)(2) of this section; or

(B) Deny your appeal, in which case you may revise your EP as described in paragraph (d)(3)(i) of this section.

### § 550.282 Do I have to conduct post-approval monitoring?

After approving your EP, DPP, or DOCD, the Regional Supervisor may direct you to conduct monitoring programs, including monitoring in accordance with the ESA and the MMPA. You must retain copies of all monitoring data obtained or derived from your monitoring programs and make them available to the BOEM upon request. The Regional Supervisor may require you to:

(a) *Monitoring plans.* Submit monitoring plans for approval before you begin the work; and

(b) *Monitoring reports.* Prepare and submit reports that summarize and analyze data and information obtained or derived from your monitoring programs. The Regional Supervisor will specify requirements for preparing and submitting these reports.

### § 550.283 When must I revise or supplement the approved EP, DPP, or DOCD?

(a) *Revised OCS plans.* You must revise your approved EP, DPP, or DOCD when you propose to:

(1) Change the type of drilling rig (e.g., jack-up, platform rig, barge, submersible, semisubmersible, or drillship), production facility (e.g., caisson, fixed platform with piles, tension leg platform), or transportation mode (e.g., pipeline, barge);

(2) Change the surface location of a well or production platform by a distance more than that specified by the Regional Supervisor;

(3) Change the type of production or significantly increase the volume of production or storage capacity;

(4) Increase the emissions of an air pollutant to an amount that exceeds the amount specified in your approved EP, DPP, or DOCD;

(5) Significantly increase the amount of solid or liquid wastes to be handled or discharged;

(6) Request a new $H_2S$ area classification, or increase the concentration of $H_2S$ to a concentration greater than that specified by the Regional Supervisor;

(7) Change the location of your onshore support base either from one

State to another or to a new base or a base requiring expansion; or

(8) Change any other activity specified by the Regional Supervisor.

(b) *Supplemental OCS plans*. You must supplement your approved EP, DPP, or DOCD when you propose to conduct activities on your lease(s) or unit that require approval of a license or permit which is not described in your approved EP, DPP, or DOCD. These types of changes are called supplemental OCS plans.

### § 550.284 How will BOEM require revisions to the approved EP, DPP, or DOCD?

(a) *Periodic review*. The Regional Supervisor will periodically review the activities you conduct under your approved EP, DPP, or DOCD and may require you to submit updated information on your activities. The frequency and extent of this review will be based on the significance of any changes in available information and onshore or offshore conditions affecting, or affected by, the activities in your approved EP, DPP, or DOCD.

(b) *Results of review*. The Regional Supervisor may require you to revise your approved EP, DPP, or DOCD based on this review. In such cases, the Regional Supervisor will inform you of the reasons for the decision.

### § 550.285 How do I submit revised and supplemental EPs, DPPs, and DOCDs?

(a) *Submittal*. You must submit to the Regional Supervisor any revisions and supplements to approved EPs, DPPs, or DOCDs for approval, whether you initiate them or the Regional Supervisor orders them.

(b) *Information*. Revised and supplemental EPs, DPPs, and DOCDs need include only information related to or affected by the proposed changes, including information on changes in expected environmental impacts.

(c) *Procedures*. All supplemental EPs, DPPs, and DOCDs, and those revised EPs, DPPs, and DOCDs that the Regional Supervisor determines are likely to result in a significant change in the impacts previously identified and evaluated, are subject to all of the procedures under §§ 550.231 through 550.235 for EPs and §§ 550.266 through 550.273 for DPPs and DOCDs.

### §§ 550.286–550.295 [Reserved]

## CONSERVATION INFORMATION DOCUMENTS (CID)

### § 550.296 When and how must I submit a CID or a revision to a CID?

(a) You must submit one original and two copies of a CID to the appropriate OCS Region at the same time you first submit your DOCD or DPP for any development of a lease or leases located in water depths greater than 400 meters (1,312 feet). You must also submit a CID for a Supplemental DOCD or DPP when requested by the Regional Supervisor. The submission of your CID must be accompanied by payment of the service fee listed in § 550.125.

(b) If you decide not to develop a reservoir you committed to develop in your CID, you must submit one original and two copies of a revision to the CID to the appropriate OCS Region. The revision to the CID must be submitted within 14 calendar days after making your decision not to develop the reservoir and before the reservoir is bypassed. The Regional Supervisor will approve or disapprove any such revision to the original CID. If the Regional Supervisor disapproves the revision, you must develop the reservoir as described in the original CID.

### § 550.297 What information must a CID contain?

(a) You must base the CID on wells drilled before your CID submittal that define the extent of the reservoirs. You must notify BOEM of any well that is drilled to total depth during the CID evaluation period and you may be required to update your CID.

(b) You must include all of the following information if available. Information must be provided for each hydrocarbon-bearing reservoir that is penetrated by a well that would meet the producibility requirements of § 550.115 or § 550.116:

(1) General discussion of the overall development of the reservoir;

(2) Summary spreadsheets of well log data and reservoir parameters (*i.e.*, sand tops and bases, fluid contacts, net

pay, porosity, water saturations, pressures, formation volume factor);

(3) Appropriate well logs, including digital well log (*i.e.*, gamma ray, resistivity, neutron, density, sonic, caliper curves) curves in an acceptable digital format;

(4) Sidewall core/whole core and pressure-volume-temperature analysis;

(5) Structure maps, with the existing and proposed penetration points and subsea depths for all wells penetrating the reservoirs, fluid contacts (or the lowest or highest known levels in the absence of actual contacts), reservoir boundaries, and the scale of the map;

(6) Interpreted structural cross sections and corresponding interpreted seismic lines or block diagrams, as necessary, that include all current wellbores and planned wellbores on the leases or units to be developed, the reservoir boundaries, fluid contacts, depth scale, stratigraphic positions, and relative biostratigraphic ages;

(7) Isopach maps of each reservoir showing the net feet of pay for each well within the reservoir identified at the penetration point, along with the well name, labeled contours, and scale;

(8) Estimates of original oil and gas in-place and anticipated recoverable oil and gas reserves, all reservoir parameters, and risk factors and assumptions;

(9) Plat map at the same scale as the structure maps with existing and proposed well paths, as well as existing and proposed penetrations;

(10) Wellbore schematics indicating proposed perforations;

(11) Proposed wellbore utility chart showing all existing and proposed wells, with proposed completion intervals indicated for each borehole;

(12) Appropriate pressure data, specified by date, and whether estimated or measured;

(13) Description of reservoir development strategies;

(14) Description of the enhanced recovery practices you will use or, if you do not plan to use such practices, an explanation of the methods you considered and reasons you do not intend to use them;

(15) For each reservoir you do not intend to develop:

(i) A statement explaining the reason(s) you will not develop the reservoir, and

(ii) Economic justification, including costs, recoverable reserve estimate, production profiles, and pricing assumptions; and

(16) Any other appropriate data you used in performing your reservoir evaluations and preparing your reservoir development strategies.

### § 550.298 How long will BOEM take to evaluate and make a decision on the CID?

(a) The Regional Supervisor will make a decision within 150 calendar days of receiving your CID. If BOEM does not act within 150 calendar days, your CID is considered approved.

(b) BOEM may suspend the 150-calendar-day evaluation period if there is missing, inconclusive, or inaccurate data, or when a well reaches total depth during the evaluation period. BOEM may also suspend the evaluation period when a well penetrating a hydrocarbon-bearing structure reaches total depth during the evaluation period and the data from that well is needed for the CID. You will receive written notification from the Regional Supervisor describing the additional information that is needed, and the evaluation period will resume once BOEM receives the requested information.

(c) The Regional Supervisor will approve or deny your CID request based on your commitment to develop economically producible reservoirs according to sound conservation, engineering, and economic practices.

### § 550.299 What operations require approval of the CID?

You may not begin production before you receive BOEM approval of the CID.

## Subpart C—Pollution Prevention and Control

### §§ 550.300–550.301 [Reserved]

### § 550.302 Definitions concerning air quality.

For purposes of §§ 550.303 and 550.304 of this part:

*Air pollutant* means any combination of agents for which the Environmental Protection Agency (EPA) has established, pursuant to section 109 of the Clean Air Act, national primary or secondary ambient air quality standards.

*Attainment area* means, for any air pollutant, an area which is shown by monitored data or which is calculated by air quality modeling (or other methods determined by the Administrator of EPA to be reliable) not to exceed any primary or secondary ambient air quality standards established by EPA.

*Best available control technology (BACT)* means an emission limitation based on the maximum degree of reduction for each air pollutant subject to regulation, taking into account energy, environmental and economic impacts, and other costs. The BACT shall be verified on a case-by-case basis by the Regional Supervisor and may include reductions achieved through the application of processes, systems, and techniques for the control of each air pollutant.

*Emission offsets* mean emission reductions obtained from facilities, either onshore or offshore, other than the facility or facilities covered by the proposed Exploration Plan or Development and Production Plan.

*Existing facility* is an OCS facility described in an Exploration Plan or a Development and Production Plan submitted or approved prior to June 2, 1980.

*Facility* means any installation or device permanently or temporarily attached to the seabed which is used for exploration, development, and production activities for oil, gas, or sulphur and which emits or has the potential to emit any air pollutant from one or more sources. All equipment directly associated with the installation or device shall be considered part of a single facility if the equipment is dependent on, or affects the processes of, the installation or device. During production, multiple installations or devices will be considered to be a single facility if the installations or devices are directly related to the production of oil, gas, or sulphur at a single site. Any vessel used to transfer production from an offshore facility shall be considered part of the facility while physically attached to it.

*Nonattainment area* means, for any air pollutant, an area which is shown by monitored data or which is calculated by air quality modeling (or other methods determined by the Administrator of EPA to be reliable) to exceed any primary or secondary ambient air quality standard established by EPA.

*Projected emissions* mean emissions, either controlled or uncontrolled, from a source(s).

*Source* means an emission point. Several sources may be included within a single facility.

*Temporary facility* means activities associated with the construction of platforms offshore or with facilities related to exploration for or development of offshore oil and gas resources which are conducted in one location for less than 3 years.

*Volatile organic compound (VOC)* means any organic compound which is emitted to the atmosphere as a vapor. The unreactive compounds are exempt from the above definition.

### § 550.303 Facilities described in a new or revised Exploration Plan or Development and Production Plan.

(a) *New plans.* All Exploration Plans and Development and Production Plans shall include the information required to make the necessary findings under paragraphs (d) through (i) of this section, and the lessee shall comply with the requirements of this section as necessary.

(b) *Applicability of § 550.303 to existing facilities.* (1) The Regional Supervisor may review any Exploration Plan or Development and Production Plan to determine whether any facility described in the plan should be subject to review under this section and has the potential to significantly affect the air quality of an onshore area. To make these decisions, the Regional Supervisor shall consider the distance of the facility from shore, the size of the facility, the number of sources planned for the facility and their operational status, and the air quality status of the onshore area.

(2) For a facility identified by the Regional Supervisor in paragraph (b)(1) of this section, the Regional Supervisor

shall require the lessee to refer to the information required in § 550.218 or § 550.249 of this part and to submit only that information required to make the necessary findings under paragraphs (d) through (i) of this section. The lessee shall submit this information within 120 days of the Regional Supervisor's determination or within a longer period of time at the discretion of the Regional Supervisor. The lessee shall comply with the requirements of this section as necessary.

(c) *Revised facilities.* All revised Exploration Plans and Development and Production Plans shall include the information required to make the necessary findings under paragraphs (d) through (i) of this section. The lessee shall comply with the requirements of this section as necessary.

(d) *Exemption formulas.* To determine whether a facility described in a new, modified, or revised Exploration Plan or Development and Production Plan is exempt from further air quality review, the lessee shall use the highest annual-total amount of emissions from the facility for each air pollutant calculated in § 550.249(a) or § 550.218(a) of this part and compare these emissions to the emission exemption amount ''E'' for each air pollutant calculated using the following formulas: $E=3400D^{2/3}$ for carbon monoxide (CO); and E=33.3D for total suspended particulates (TSP), sulphur dioxide ($SO_2$), nitrogen oxides ($NO_X$), and VOC (where E is the emission exemption amount expressed in tons per year, and D is the distance of the proposed facility from the closest onshore area of a State expressed in statute miles). If the amount of these projected emissions is less than or equal to the emission exemption amount ''E'' for the air pollutant, the facility is exempt from further air quality review required under paragraphs (e) through (i) of this section.

(e) *Significance levels.* For a facility not exempt under paragraph (d) of this section for air pollutants other than VOC, the lessee shall use an approved air quality model to determine whether the projected emissions of those air pollutants from the facility result in an onshore ambient air concentration above the following significance levels:

SIGNIFICANCE LEVELS—AIR POLLUTANT CONCENTRATIONS

[μg/m³]

| Air pollutant | Averaging time (hours) | | | | |
|---|---|---|---|---|---|
| | Annual | 24 | 8 | 3 | 1 |
| $SO_2$ | 1 | 5 | | 25 | |
| TSP | 1 | 5 | | | |
| $NO_2$ | 1 | | | | |
| CO | | | 500 | | 2,000 |

(f) *Significance determinations.* (1) The projected emissions of any air pollutant other than VOC from any facility which result in an onshore ambient air concentration above the significance level determined under paragraph (e) of this section for that air pollutant, shall be deemed to significantly affect the air quality of the onshore area for that air pollutant.

(2) The projected emissions of VOC from any facility which is not exempt under paragraph (d) of this section for that air pollutant shall be deemed to significantly affect the air quality of the onshore area for VOC.

(g) *Controls required.* (1) The projected emissions of any air pollutant other than VOC from any facility, except a temporary facility, which significantly affect the quality of a nonattainment area, shall be fully reduced. This shall be done through the application of BACT and, if additional reductions are necessary, through the application of additional emission controls or through the acquisition of offshore or onshore offsets.

(2) The projected emissions of any air pollutant other than VOC from any facility which significantly affect the air quality of an attainment or unclassifiable area shall be reduced through the application of BACT.

(i) (A) Except for temporary facilities, the lessee also shall use an approved air quality model to determine whether the emissions of TSP or $SO_2$ that remain after the application of BACT cause the following maximum allowable increases over the baseline concentrations established in 40 CFR 52.21 to be exceeded in the attainment or unclassifiable area:

MAXIMUM ALLOWABLE CONCENTRATION INCREASES

[μg/m³]

| Air pollutant | Averaging times | | |
|---|---|---|---|
| | Annual mean [1] | 24-hour maximum | 3-hour maximum |
| Class I: | | | |
| TSP | 5 | 10 | |
| $SO_2$ | 2 | 5 | 25 |
| Class II: | | | |
| TSP | 19 | 37 | |
| $SO_2$ | 20 | 91 | 512 |
| Class III: | | | |
| TSP | 37 | 75 | |
| $SO_2$ | 40 | 182 | 700 |

[1] For TSP—geometric; For $SO_2$—arithmetic.

(B) No concentration of an air pollutant shall exceed the concentration permitted under the national secondary ambient air quality standard or the concentration permitted under the national primary air quality standard, whichever concentration is lowest for the air pollutant for the period of exposure. For any period other than the annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one onshore location.

(ii) If the maximum allowable increases are exceeded, the lessee shall apply whatever additional emission controls are necessary to reduce or offset the remaining emissions of TSP or $SO_2$ so that concentrations in the onshore ambient air of an attainment or unclassifiable area do not exceed the maximum allowable increases.

(3)(i) The projected emissions of VOC from any facility, except a temporary facility, which significantly affect the onshore air quality of a nonattainment area shall be fully reduced. This shall be done through the application of BACT and, if additional reductions are necessary, through the application of additional emission controls or through the acquisition of offshore or onshore offsets.

(ii) The projected emissions of VOC from any facility which significantly affect the onshore air quality of an attainment area shall be reduced through the application of BACT.

(4)(i) If projected emissions from a facility significantly affect the onshore air quality of both a nonattainment and an attainment or unclassifiable area, the regulatory requirements applicable to projected emissions significantly affecting a nonattainment area shall apply.

(ii) If projected emissions from a facility significantly affect the onshore air quality of more than one class of attainment area, the lessee must reduce projected emissions to meet the maximum allowable increases specified for each class in paragraph (g)(2)(i) of this section.

(h) *Controls required on temporary facilities.* The lessee shall apply BACT to reduce projected emissions of any air pollutant from a temporary facility which significantly affects the air quality of an onshore area of a State.

(i) *Emission offsets.* When emission offsets are to be obtained, the lessee must demonstrate that the offsets are equivalent in nature and quantity to the projected emissions that must be reduced after the application of BACT; a binding commitment exists between the lessee and the owner or owners of the source or sources; the appropriate air quality control jurisdiction has been notified of the need to revise the State Implementation Plan to include the information regarding the offsets;

and the required offsets come from sources which affect the air quality of the area significantly affected by the lessee's offshore operations.

(j) *Review of facilities with emissions below the exemption amount.* If, during the review of a new, modified, or revised Exploration Plan or Development and Production Plan, the Regional Supervisor determines or an affected State submits information to the Regional Supervisor which demonstrates, in the judgment of the Regional Supervisor, that projected emissions from an otherwise exempt facility will, either individually or in combination with other facilities in the area, significantly affect the air quality of an onshore area, then the Regional Supervisor shall require the lessee to submit additional information to determine whether emission control measures are necessary. The lessee shall be given the opportunity to present information to the Regional Supervisor which demonstrates that the exempt facility is not significantly affecting the air quality of an onshore area of the State.

(k) *Emission monitoring requirements.* The lessee shall monitor, in a manner approved or prescribed by the Regional Supervisor, emissions from the facility. The lessee shall submit this information monthly in a manner and form approved or prescribed by the Regional Supervisor.

(l) *Collection of meteorological data.* The Regional Supervisor may require the lessee to collect, for a period of time and in a manner approved or prescribed by the Regional Supervisor, and submit meteorological data from a facility.

**§ 550.304 Existing facilities.**

(a) *Process leading to review of an existing facility.* (1) An affected State may request that the Regional Supervisor supply basic emission data from existing facilities when such data are needed for the updating of the State's emission inventory. In submitting the request, the State must demonstrate that similar offshore and onshore facilities in areas under the State's jurisdiction are also included in the emission inventory.

(2) The Regional Supervisor may require lessees of existing facilities to submit basic emission data to a State submitting a request under paragraph (a)(1) of this section.

(3) The State submitting a request under paragraph (a)(1) of this section may submit information from its emission inventory which indicates that emissions from existing facilities may be significantly affecting the air quality of the onshore area of the State. The lessee shall be given the opportunity to present information to the Regional Supervisor which demonstrates that the facility is not significantly affecting the air quality of the State.

(4) The Regional Supervisor shall evaluate the information submitted under paragraph (a)(3) of this section and shall determine, based on the basic emission data, available meteorological data, and the distance of the facility or facilities from the onshore area, whether any existing facility has the potential to significantly affect the air quality of the onshore area of the State.

(5) If the Regional Supervisor determines that no existing facility has the potential to significantly affect the air quality of the onshore area of the State submitting information under paragraph (a)(3) of this section, the Regional Supervisor shall notify the State of and explain the reasons for this finding.

(6) If the Regional Supervisor determines that an existing facility has the potential to significantly affect the air quality of an onshore area of the State submitting information under paragraph (a)(3) of this section, the Regional Supervisor shall require the lessee to refer to the information requirements under § 550.218 or § 550.249 of this part and submit only that information required to make the necessary findings under paragraphs (b) through (e) of this section. The lessee shall submit this information within 120 days of the Regional Supervisor's determination or within a longer period of time at the discretion of the Regional Supervisor. The lessee shall comply with the requirements of this section as necessary.

(b) *Exemption formulas.* To determine whether an existing facility is exempt from further air quality review, the

lessee shall use the highest annual total amount of emissions from the facility for each air pollutant calculated in § 550.218(a) or § 550.249(a) of this part and compare these emissions to the emission exemption amount ''E'' for each air pollutant calculated using the following formulas: $E = 3400D^{2/3}$ for CO; and E = 33.3D for TSP, $SO_2$, $NO_X$, and VOC (where E is the emission exemption amount expressed in tons per year, and D is the distance of the facility from the closest onshore area of the State expressed in statute miles). If the amount of projected emissions is less than or equal to the emission exemption amount ''E'' for the air pollutant, the facility is exempt for that air pollutant from further air quality review required under paragraphs (c) through (e) of this section.

(c) *Significance levels.* For a facility not exempt under paragraph (b) of this section for air pollutants other than VOC, the lessee shall use an approved air quality model to determine whether projected emissions of those air pollutants from the facility result in an onshore ambient air concentration above the following significance levels:

SIGNIFICANCE LEVELS—AIR POLLUTANT CONCENTRATIONS

[μG/M³]

| Air pollutant | Averaging time (hours) | | | | |
|---|---|---|---|---|---|
| | Annual | 24 | 8 | 3 | 1 |
| $SO_2$ | 1 | 5 | ..... | 25 | |
| TSP | 1 | 5 | ..... | ..... | |
| $NO_2$ | 1 | ..... | ..... | ..... | |
| CO | ..... | ..... | 500 | ..... | 2,000 |

(d) *Significance determinations.*

(1) The projected emissions of any air pollutant other than VOC from any facility which result in an onshore ambient air concentration above the significance levels determined under paragraph (c) of this section for that air pollutant shall be deemed to significantly affect the air quality of the onshore area for that air pollutant.

(2) The projected emissions of VOC from any facility which is not exempt under paragraph (b) of this section for that air pollutant shall be deemed to significantly affect the air quality of the onshore area for VOC.

(e) *Controls required.* (1) The projected emissions of any air pollutant which significantly affect the air quality of an onshore area shall be reduced through the application of BACT.

(2) The lessee shall submit a compliance schedule for the application of BACT. If it is necessary to cease operations to allow for the installation of emission controls, the lessee may apply for a suspension of operations under the provisions of 30 CFR 250.174.

(f) *Review of facilities with emissions below the exemption amount.* If, during the review of the information required under paragraph (a)(6) of this section, the Regional Supervisor determines or an affected State submits information to the Regional Supervisor which demonstrates, in the judgment of the Regional Supervisor, that projected emissions from an otherwise exempt facility will, either individually or in combination with other facilities in the area, significantly affect the air quality of an onshore area, then the Regional Supervisor shall require the lessee to submit additional information to determine whether control measures are necessary. The lessee shall be given the opportunity to present information to the Regional Supervisor which demonstrates that the exempt facility is not significantly affecting the air quality of an onshore area of the State.

(g) *Emission monitoring requirements.* The lessee shall monitor, in a manner approved or prescribed by the Regional Supervisor, emissions from the facility following the installation of emission controls. The lessee shall submit this information monthly in a manner and form approved or prescribed by the Regional Supervisor.

(h) *Collection of meteorological data.* The Regional Supervisor may require the lessee to collect, for a period of

time and in a manner approved or prescribed by the Regional Supervisor, and submit meteorological data from a facility.

## Subparts D–I [Reserved]

## Subpart J—Pipelines and Pipeline Rights-of-Way

### § 550.1011 Bond requirements for pipeline right-of-way holders.

(a) When you apply for, or are the holder of, a right-of-way, you must:

(1) Provide and maintain a $300,000 bond (in addition to the bond coverage required in 30 CFR part 256 and 30 CFR part 556) that guarantees compliance with all the terms and conditions of the rights-of-way you hold in an OCS area; and

(2) Provide additional security if the Regional Director determines that a bond in excess of $300,000 is needed.

(b) For the purpose of this paragraph, there are three areas:

(1) The Gulf of Mexico and the area offshore the Atlantic Coast;

(2) The areas offshore the Pacific Coast States of California, Oregon, Washington, and Hawaii; and

(3) The area offshore the Coast of Alaska.

(c) If, as the result of a default, the surety on a right-of-way grant bond makes payment to the Government of any indebtedness under a grant secured by the bond, the face amount of such bond and the surety's liability shall be reduced by the amount of such payment.

(d) After a default, a new bond in the amount of $300,000 shall be posted within 6 months or such shorter period as the Regional Supervisor may direct. Failure to post a new bond shall be grounds for forfeiture of all grants covered by the defaulted bond.

## Subpart K—Oil and Gas Production Requirements.

WELL TESTS AND SURVEYS

### § 550.1153 When must I conduct a static bottomhole pressure survey?

(a) You must conduct a static bottomhole pressure survey under the following conditions:

| If you have . . . | Then you must conduct . . . |
|---|---|
| (1) A new producing reservoir, | A static bottomhole pressure survey within 90 days after the date of first continuous production. |
| (2) A reservoir with three or more producing completions, | Annual static bottomhole pressure surveys in a sufficient number of key wells to establish an average reservoir pressure. The Regional Supervisor may require that bottomhole pressure surveys be performed on specific wells. |

(b) Your bottomhole pressure survey must meet the following requirements:

(1) You must shut-in the well for a minimum period of 4 hours to ensure stabilized conditions; and

(2) The bottomhole pressure survey must consist of a pressure measurement at mid-perforation, and pressure measurements and gradient information for at least four gradient stops coming out of the hole.

(c) You must submit to the Regional Supervisor the results of all static bottomhole pressure surveys on Form BOEM–140, Bottomhole Pressure Survey Report, within 60 days after the date of the survey.

(d) The Regional Supervisor may grant a departure from the requirement to run a static bottomhole pressure survey. To request a departure, you must submit a justification, along with Form BOEM–140, Bottomhole Pressure Survey Report, showing a calculated bottomhole pressure or any measured data.

CLASSIFYING RESERVOIRS

### § 550.1154 How do I determine if my reservoir is sensitive?

(a) You must determine whether each reservoir is sensitive. You must classify the reservoir as sensitive if:

(1) Under initial conditions it is an oil reservoir with an associated gas cap;

(2) At any time there are near-critical fluids; or

(3) The reservoir is undergoing enhanced recovery.

(b) For the purposes of this subpart, near-critical fluids are:

(1) Those fluids that occur in high temperature, high-pressure reservoirs where it is not possible to define the liquid-gas contact; or

(2) Fluids in reservoirs that are near bubble point or dew point conditions.

(c) The Regional Supervisor may reclassify a reservoir when available information warrants reclassification.

(d) If available information indicates that a reservoir previously classified as non-sensitive is now sensitive, you must submit a request to the Regional Supervisor to reclassify the reservoir. You must include supporting information, as listed in the table in § 550.1167, with your request.

(e) If information indicates that a reservoir previously classified as sensitive is now non-sensitive, you may submit a request to the Regional Supervisor to reclassify the reservoir. You must include supporting information, as listed in the table in § 550.1167, with your request.

### § 550.1155 What information must I submit for sensitive reservoirs?

You must submit to the Regional Supervisor an original and two copies of Form BOEM–0127; one of the copies must be a public information copy in accordance with §§ 550.186 and 550.197, and marked ''Public Information.'' You must also submit two copies of the supporting information, as listed in the table in § 550.1167. You must submit this information:

(a) Within 45 days after beginning production from the reservoir or discovering that it is sensitive;

(b) At least once during the calendar year, but you do not need to resubmit unrevised structure maps (§ 550.1167(a)(2)) or previously submitted well logs (§ 550.1167(c)(1));

(c) Within 45 days after you revise reservoir parameters; and

(d) Within 45 days after the Regional Supervisor classifies the reservoir as sensitive under § 550.1154(c).

OTHER REQUIREMENTS

### § 550.1165 What must I do for enhanced recovery operations?

(a) [Reserved]

(b) Before initiating enhanced recovery operations, you must submit a proposed plan to the BSEE Regional Supervisor and receive approval for pressure maintenance, secondary or tertiary recovery, cycling, and similar recovery operations intended to increase the ultimate recovery of oil and gas from a reservoir. The proposed plan must include, for each project reservoir, a geologic and engineering overview, Form BOEM–0127 (submitted to BOEM) and supporting data as required in § 550.1167, 30 CFR 250.1167, and any additional information required by the BSEE Regional Supervisor.

(c) [Reserved]

### § 550.1166 What additional reporting is required for developments in the Alaska OCS Region?

(a)–(b) [Reserved]

(c) Every time you are required to submit Form BOEM–0127 under § 550.1155, you must request an MER for each producing sensitive reservoir in the Alaska OCS Region, unless otherwise instructed by the Regional Supervisor.

### § 550.1167 What information must I submit with forms and for approvals?

You must submit the supporting information listed in the following table with the form identified in column 1 and for the approval required under this subpart identified in column 2:

| | SRI BOEM–0127 (2 copies) | Reservoir reclassification |
|---|---|---|
| (a) Maps: | | |
| (1) Base map with surface, bottomhole, and completion locations with respect to the unit or lease line and the orientation of representative seismic lines or cross-sections | ..... | |
| (2) Structure maps with penetration point and subsea depth for each well penetrating the reservoirs, highlighting subject wells; reservoir boundaries; and original and current fluid levels | √ | √ |

| | SRI BOEM–0127 (2 copies) | Reservoir reclassification |
|---|---|---|
| (3) Net sand isopach with total net sand penetrated for each well, identified at the penetration point | * | |
| (4) Net hydrocarbon isopach with net feet of pay for each well, identified at the penetration point | * | |
| (b) Seismic data: | | |
| (1) Representative seismic lines, including strike and dip lines that confirm the structure; indicate polarity | | |
| (2) Amplitude extraction of seismic horizon, if applicable | | √ |
| (c) Logs: | | |
| (1) Well log sections with tops and bottoms of the reservoir(s) and proposed or existing perforations | √ | √ |
| (2) Structural cross-sections showing the subject well and nearby wells | | √ |
| (d) Engineering data: | | |
| (1) Estimated recoverable reserves for each well completion in the reservoir; total recoverable reserves for each reservoir; method of calculation; reservoir parameters used in volumetric and decline curve analysis | √ | |
| (2) Well schematics showing current and proposed conditions | | |
| (3) The drive mechanism of each reservoir | √ | √ |
| (4) Pressure data, by date, and whether they are estimated or measured | | √ |
| (5) Production data and decline curve analysis indicative of the reservoir performance | | √ |
| (6) Reservoir simulation with the reservoir parameters used, history matches, and prediction runs (include proposed development scenario) | | * |
| (e) General information: | | |
| (1) Detailed economic analysis | | |
| (2) Reservoir name and whether or not it is competitive as defined under § 250.105 | √ | √ |
| (3) Operator name, lessee name(s), block, lease number, royalty rate, and unit number (if applicable) of all relevant leases | | |
| (4) Geologic overview of project | | √ |
| (5) Explanation of why the proposed completion scenario will maximize ultimate recovery | | |
| (6) List of all wells in subject reservoirs that have ever produced or been used for injection | | √ |

√ Required.
* Additional items the Regional Supervisor may request.
Note: All maps must be at a standard scale and show lease and unit lines. The Regional Supervisor may waive submittal of some of the required data on a case-by-case basis.

(f) Depending on the type of approval requested, you must submit the appropriate payment of the service fee(s) listed in § 550.125, according to the instructions in § 550.126.

## Subparts L–M [Reserved]

## Subpart N—Outer Continental Shelf Civil Penalties

OUTER CONTINENTAL SHELF LANDS ACT CIVIL PENALTIES

### § 550.1400 How does BOEM begin the civil penalty process?

This subpart explains BOEM's civil penalty procedures whenever a lessee, operator or other person engaged in oil, gas, sulphur or other minerals operations in the OCS has a violation. Whenever BOEM determines, on the basis of available evidence, that a violation occurred and a civil penalty review is appropriate, it will prepare a case file. BOEM will appoint a Reviewing Officer.

### § 550.1401 Index table.

The following table is an index of the sections in this subpart:


| | |
|---|---|
| (a) Definitions | § 550.1402 |
| (b) What is the maximum civil penalty? | § 550.1403 |

| | |
|---|---|
| (c) Which violations will BOEM review for potential civil penalties? | § 550.1404 |
| (d) When is a case file developed? | § 550.1405 |
| (e) When will BOEM notify me and provide penalty information? | § 550.1406 |
| (f) How do I respond to the letter of notification? | § 550.1407 |
| (g) When will I be notified of the Reviewing Officer's decision? | § 550.1408 |
| (h) What are my appeal rights? | § 550.1409 |


**§ 550.1402 Definitions.**

Terms used in this subpart have the following meaning:

*Case file* means a BOEM document file containing information and the record of evidence related to the alleged violation.

*Civil penalty* means a fine. It is a BOEM regulatory enforcement tool used in addition to Notices of Incidents of Noncompliance and directed suspensions of production or other operations.

*Reviewing Officer* means a BOEM employee assigned to review case files and assess civil penalties.

*Violation* means failure to comply with the Outer Continental Shelf Lands Act (OCSLA) or any other applicable laws, with any regulations issued under the OCSLA, or with the terms or provisions of leases, licenses, permits, rights-of-way, or other approvals issued under the OCSLA.

*Violator* means a person responsible for a violation.

**§ 550.1403 What is the maximum civil penalty?**

The maximum civil penalty is $40,000 per day per violation.

**§ 550.1404 Which violations will BOEM review for potential civil penalties?**

BOEM will review each of the following violations for potential civil penalties:

(a) Violations that you do not correct within the period BOEM grants;

(b)–(c) [Reserved]

(d) Violations of the oil spill financial responsibility requirements at 30 CFR part 553.

**§ 550.1405 When is a case file developed?**

BOEM will develop a case file during its investigation of the violation, and forward it to a Reviewing Officer if any of the conditions in § 550.1404 exist. The Reviewing Officer will review the case file and determine if a civil penalty is appropriate. The Reviewing Officer may administer oaths and issue subpoenas requiring witnesses to attend meetings, submit depositions, or produce evidence.

**§ 550.1406 When will BOEM notify me and provide penalty information?**

If the Reviewing Officer determines that a civil penalty should be assessed, the Reviewing Officer will send the violator a letter of notification. The letter of notification will include:

(a) The amount of the proposed civil penalty;

(b) Information on the violation(s); and

(c) Instruction on how to obtain a copy of the case file, schedule a meeting, submit information, or pay the penalty.

**§ 550.1407 How do I respond to the letter of notification?**

You have 30 calendar days after you receive the Reviewing Officer's letter to either:

(a) Request, in writing, a meeting with the Reviewing Officer;

(b) Submit additional information; or

(c) Pay the proposed civil penalty.

**§ 550.1408 When will I be notified of the Reviewing Officer's decision?**

At the end of the 30 calendar days or after the meeting and submittal of additional information, the Reviewing Officer will review the case file, including all information you submitted, and send you a decision. The decision will include the amount of any final civil penalty, the basis for the civil penalty, and instructions for paying or appealing the civil penalty.

**§ 550.1409 What are my appeal rights?**

(a) When you receive the Reviewing Officer's final decision, you have 60 days to either pay the penalty or file

an appeal in accordance with 30 CFR part 590, subpart A.

(b) If you file an appeal, you must either:

(1) Submit a surety bond in the amount of the penalty to the appropriate Leasing Office in the Region where the penalty was assessed, following instructions that the Reviewing Officer will include in the final decision; or

(2) Notify the appropriate Leasing Office, in the Region where the penalty was assessed, that you want your lease-specific/area-wide bond on file to be used as the bond for the penalty amount.

(c) If you choose the alternative in paragraph (b)(2) of this section, the BOEM Regional Director may require additional security (*i.e.*, security in excess of your existing bond) to ensure sufficient coverage during an appeal. In that event, the Regional Director will require you to post the supplemental bond with the regional office in the same manner as under § 556.53(d) through (f) of this chapter. If the Regional Director determines the appeal should be covered by a lease-specific abandonment account then you must establish an account that meets the requirements of § 556.56.

(d) If you do not either pay the penalty or file a timely appeal, BOEM will take one or more of the following actions:

(1) We will collect the amount you were assessed, plus interest, late payment charges, and other fees as provided by law, from the date you received the Reviewing Officer's final decision until the date we receive payment;

(2) We may initiate additional enforcement, including, if appropriate, cancellation of the lease, right-of-way, license, permit, or approval, or the forfeiture of a bond under this part; or

(3) We may bar you from doing further business with the Federal Government according to Executive Orders 12549 and 12689, and section 2455 of the Federal Acquisition Streamlining Act of 1994, 31 U.S.C. 6101. The Department of the Interior's regulations implementing these authorities are found at 43 CFR part 12, subpart D.

FEDERAL OIL AND GAS ROYALTY MANAGEMENT ACT CIVIL PENALTIES DEFINITIONS

### § 550.1450 What definitions apply to this subpart?

The terms used in this subpart have the same meaning as in 30 U.S.C. 1702.

PENALTIES AFTER A PERIOD TO CORRECT

### § 550.1451 What may BOEM do if I violate a statute, regulation, order, or lease term relating to a Federal oil and gas lease?

(a) If we believe that you have not followed any requirement of a statute, regulation, order, or lease term for any Federal oil or gas lease, we may send you a Notice of Noncompliance informing you what the violation is and what you need to do to correct it to avoid civil penalties under 30 U.S.C. 1719(a) and (b).

(b) We will serve the Notice of Noncompliance by registered mail or personal service using the most current address on file as maintained by the BOEM Leasing Office in your respective Region.

### § 550.1452 What if I correct the violation?

The matter will be closed if you correct all of the violations identified in the Notice of Noncompliance within 20 days after you receive the Notice (or within a longer time period specified in the Notice).

### § 550.1453 What if I do not correct the violation?

(a) We may send you a Notice of Civil Penalty if you do not correct all of the violations identified in the Notice of Noncompliance within 20 days after you receive the Notice of Noncompliance (or within a longer time period specified in that Notice). The Notice of Civil Penalty will tell you how much penalty you must pay. The penalty may be up to $500 per day, beginning with the date of the Notice of Noncompliance, for each violation identified in the Notice of Noncompliance for as long as you do not correct the violations.

(b) If you do not correct all of the violations identified in the Notice of Noncompliance within 40 days after

you receive the Notice of Noncompliance (or 20 days following the expiration of a longer time period specified in that Notice), we may increase the penalty to up to $5,000 per day, beginning with the date of the Notice of Noncompliance, for each violation for as long as you do not correct the violations.

### § 550.1454 How may I request a hearing on the record on a Notice of Noncompliance?

You may request a hearing on the record on a Notice of Noncompliance by filing a request within 30 days of the date you received the Notice of Noncompliance with the Hearings Division (Departmental), Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy Street, Arlington, Virginia 22203. You may do this regardless of whether you correct the violations identified in the Notice of Noncompliance.

### § 550.1455 Does my request for a hearing on the record affect the penalties?

(a) If you do not correct the violations identified in the Notice of Noncompliance, the penalties will continue to accrue even if you request a hearing on the record.

(b) You may petition the Hearings Division (Departmental) of the Office of Hearings and Appeals, to stay the accrual of penalties pending the hearing on the record and a decision by the Administrative Law Judge under § 550.1472.

(1) You must file your petition within 45 calendar days of receiving the Notice of Noncompliance.

(2) To stay the accrual of penalties, you must post a bond or other surety instrument, or demonstrate financial solvency, using the standards and requirements as prescribed in §§ 550.1490 through 550.1497, for the principal amount of any unpaid amounts due that are the subject of the Notice of Noncompliance, including interest thereon, plus the amount of any penalties accrued before the date a stay becomes effective.

(3) The Hearings Division will grant or deny the petition under 43 CFR 4.21(b).

### § 550.1456 May I request a hearing on the record regarding the amount of a civil penalty if I did not request a hearing on the Notice of Noncompliance?

(a) You may request a hearing on the record to challenge only the amount of a civil penalty when you receive a Notice of Civil Penalty, if you did not previously request a hearing on the record under § 550.1454. If you did not request a hearing on the record on the Notice of Noncompliance under § 550.1454, you may not contest your underlying liability for civil penalties.

(b) You must file your request within 10 days after you receive the Notice of Civil Penalty with the Hearings Division (Departmental), Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy Street, Arlington, Virginia 22203.

## PENALTIES WITHOUT A PERIOD TO CORRECT

### § 550.1460 May I be subject to penalties without prior notice and an opportunity to correct?

The Federal Oil and Gas Royalty Management Act sets out several specific violations for which penalties accrue without an opportunity to first correct the violation.

(a) [Reserved]

(b) Under 30 U.S.C. 1719(d), you may be subject to civil penalties of up to $25,000 per day for each day each violation continues if you:

(1) Knowingly or willfully prepare, maintain, or submit false, inaccurate, or misleading reports, notices, affidavits, records, data, or other written information;

(2)–(3) [Reserved]

### § 550.1461 How will BOEM inform me of violations without a period to correct?

We will inform you of any violation, without a period to correct, by issuing a Notice of Noncompliance and Civil Penalty explaining the violation, how to correct it, and the penalty assessment. We will serve the Notice of Noncompliance and Civil Penalty by registered mail or personal service using your address of record as specified under 30 CFR part 1218, subpart H.

### § 550.1462 How may I request a hearing on the record on a Notice of Noncompliance regarding violations without a period to correct?

You may request a hearing on the record of a Notice of Noncompliance regarding violations without a period to correct by filing a request within 30 days after you receive the Notice of Noncompliance with the Hearings Division (Departmental), Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy Street, Arlington, Virginia 22203. You may do this regardless of whether you correct the violations identified in the Notice of Noncompliance.

### § 550.1463 Does my request for a hearing on the record affect the penalties?

(a) If you do not correct the violations identified in the Notice of Noncompliance regarding violations without a period to correct, the penalties will continue to accrue even if you request a hearing on the record.

(b) You may ask the Hearings Division (Departmental) to stay the accrual of penalties pending the hearing on the record and a decision by the Administrative Law Judge under § 550.1472.

(1) You must file your petition within 45 calendar days after you receive the Notice of Noncompliance.

(2) To stay the accrual of penalties, you must post a bond or other surety instrument, or demonstrate financial solvency, using the standards and requirements as prescribed in §§ 550.1490 through 550.1497, for the principal amount of any unpaid amounts due that are the subject of the Notice of Noncompliance, including interest thereon, plus the amount of any penalties accrued before the date a stay becomes effective.

(3) The Hearings Division will grant or deny the petition under 43 CFR 4.21(b).

### § 550.1464 May I request a hearing on the record regarding the amount of a civil penalty if I did not request a hearing on the Notice of Noncompliance?

(a) You may request a hearing on the record to challenge only the amount of a civil penalty when you receive a Notice of Civil Penalty regarding violations without a period to correct, if you did not previously request a hearing on the record under § 550.1462. If you did not request a hearing on the record on the Notice of Noncompliance under § 550.1462, you may not contest your underlying liability for civil penalties.

(b) You must file your request within 10 days after you receive Notice of Civil Penalty with the Hearings Division (Departmental), Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy, Arlington, Virginia 22203.

## General Provisions

### § 550.1470 How does BOEM decide what the amount of the penalty should be?

We determine the amount of the penalty by considering the severity of the violations, your history of compliance, and if you are a small business.

### § 550.1471 Does the penalty affect whether I owe interest?

If you do not pay the penalty by the date required under § 550.1475(d), BOEM will assess you late payment interest on the penalty amount at the same rate interest is assessed under 30 CFR 1218.54.

### § 550.1472 How will the Office of Hearings and Appeals conduct the hearing on the record?

If you request a hearing on the record under §§ 550.1454, 550.1456, 550.1462, or 550.1464, the hearing will be conducted by a Departmental Administrative Law Judge from the Office of Hearings and Appeals. After the hearing, the Administrative Law Judge will issue a decision in accordance with the evidence presented and applicable law.

### § 550.1473 How may I appeal the Administrative Law Judge's decision?

If you are adversely affected by the Administrative Law Judge's decision, you may appeal that decision to the Interior Board of Land Appeals under 43 CFR part 4, subpart E.

### § 550.1474 May I seek judicial review of the decision of the Interior Board of Land Appeals?

Under 30 U.S.C. 1719(j), you may seek judicial review of the decision of the Interior Board of Land Appeals. A suit for judicial review in the District Court will be barred unless filed within 90 days after the final order.

### § 550.1475 When must I pay the penalty?

(a) You must pay the amount of the Notice of Civil Penalty issued under §§ 550.1453 or 550.1461, if you do not request a hearing on the record under §§ 550.1454, 550.1456, 550.1462, or 550.1464

(b) If you request a hearing on the record under §§ 550.1454, 550.1456, 550.1462, or 550.1464, but you do not appeal the determination of the Administrative Law Judge to the Interior Board of Land Appeals under § 550.1473, you must pay the amount assessed by the Administrative Law Judge.

(c) If you appeal the determination of the Administrative Law Judge to the Interior Board of Land Appeals, you must pay the amount assessed in the IBLA decision.

(d) You must pay the penalty assessed within 40 days after:

(1) You received the Notice of Civil Penalty, if you did not request a hearing on the record under either §§ 550.1454, 550.1456, 550.1462, or 550.1464;

(2) You received an Administrative Law Judge's decision under § 550.1472, if you obtained a stay of the accrual of penalties pending the hearing on the record under § 550.1455(b) or § 550.1463(b) and did not appeal the Administrative Law Judge's determination to the IBLA under § 550.1473;

(3) You received an IBLA decision under § 550.1473 if the IBLA continued the stay of accrual of penalties pending its decision and you did not seek judicial review of the IBLA's decision; or

(4) A final non-appealable judgment of a court of competent jurisdiction is entered, if you sought judicial review of the IBLA's decision and the Department or the appropriate court suspended compliance with the IBLA's decision pending the adjudication of the case.

(e) If you do not pay, that amount is subject to collection under the provisions of § 550.1477.

### § 550.1476 Can BOEM reduce my penalty once it is assessed?

Under 30 U.S.C. 1719(g), the Director or his or her delegate may compromise or reduce civil penalties assessed under this part.

### § 550.1477 How may BOEM collect the penalty?

(a) BOEM may use all available means to collect the penalty including, but not limited to:

(1) Requiring the lease surety, for amounts owed by lessees, to pay the penalty;

(2) Deducting the amount of the penalty from any sums the United States owes to you; and

(3) Using judicial process to compel your payment under 30 U.S.C. 1719(k).

(b) If the Department uses judicial process, or if you seek judicial review under § 550.1474 and the court upholds assessment of a penalty, the court shall have jurisdiction to award the amount assessed plus interest assessed from the date of the expiration of the 90-day period referred to in § 550.1474. The amount of any penalty, as finally determined, may be deducted from any sum owing to you by the United States.

## CRIMINAL PENALTIES

### § 550.1480 May the United States criminally prosecute me for violations under Federal oil and gas leases?

If you commit an act for which a civil penalty is provided at 30 U.S.C. 1719(d) and § 550.1460(b), the United States may pursue criminal penalties as provided at 30 U.S.C. 1720, in addition to any authority for prosecution under other statutes.

## BONDING REQUIREMENTS

### § 550.1490 What standards must my BOEM-specified surety instrument meet?

(a) A BOEM-specified surety instrument must be in a form specified in BOEM instructions. BOEM will give you written information and standard

forms for BOEM-specified surety instrument requirements.

(b) BOEM will use a bank-rating service to determine whether a financial institution has an acceptable rating to provide a surety instrument adequate to indemnify the lessor from loss or damage.

(1) Administrative appeal bonds must be issued by a qualified surety company which the Department of the Treasury has approved.

(2) Irrevocable letters of credit or certificates of deposit must be from a financial institution acceptable to BOEM with a minimum 1-year period of coverage subject to automatic renewal up to 5 years.

### § 550.1491 How will BOEM determine the amount of my bond or other surety instrument?

(a) BOEM bond-approving officer may approve your surety if he or she determines that the amount is adequate to guarantee payment. The amount of your surety may vary depending on the form of the surety and how long the surety is effective.

(1) The amount of the BOEM-specified surety instrument must include the principal amount owed under the Notice of Noncompliance or Notice of Civil Penalty plus any accrued interest we determine is owed plus projected interest for a 1-year period.

(2) Treasury book-entry bond or note amounts must be equal to at least 120 percent of the required surety amount.

(b) If your appeal is not decided within 1 year from the filing date, you must increase the surety amount to cover additional estimated interest for another 1-year period. You must continue to do this annually on the date your appeal was filed. We will determine the additional estimated interest and notify you of the amount so you can amend your surety instrument.

(c) You may submit a single surety instrument that covers multiple appeals. You may change the instrument to add new amounts under appeal or remove amounts that have been adjudicated in your favor or that you have paid, if you:

(1) Amend the single surety instrument annually on the date you filed your first appeal; and

(2) Submit a separate surety instrument for new amounts under appeal until you amend the instrument to cover the new appeals.

FINANCIAL SOLVENCY REQUIREMENTS

### § 550.1495 How do I demonstrate financial solvency?

(a) To demonstrate financial solvency under this part, you must submit an audited consolidated balance sheet, and, if requested by the BOEM bond-approving officer, up to 3 years of tax returns to BOEM using the U.S. Postal Service, private delivery, courier, or overnight delivery at:

(1) For Alaska OCS: Jeffrey Walker, RS/FO, BOEM Alaska OCS Region, 3801 Centerpoint Drive, Suite 500, Anchorage, AK 99503–5823, *jeffrey.walker@boem.gov*, (907) 334–5300.

(2) For Gulf of Mexico and Atlantic OCS: Joshua Joyce, Regional FARM Program Coordinator, BOEM Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard New Orleans, LA 70123–2394, *joshua.joyce@boem.gov*, (504) 736–2779.

(3) For Pacific OCS: Jaron Ming, Lead Leasing Specialist, BOEM Pacific OCS Region, 770 Paseo Camarillo, 2nd Floor, Camarillo, CA 93010, *jaron.ming@boem.gov*, (805) 389–7514.

(b) You must submit an audited consolidated balance sheet annually, and, if requested, additional annual tax returns on the date BOEM first determined that you demonstrated financial solvency as long as you have active appeals, or whenever BOEM requests.

(c) If you demonstrate financial solvency in the current calendar year, you are not required to redemonstrate financial solvency for new appeals of orders during that calendar year unless you file for protection under any provision of the U.S. Bankruptcy Code (Title 11 of the United States Code), or BOEM notifies you that you must redemonstrate financial solvency.

### § 550.1496 How will BOEM determine if I am financially solvent?

(a) BOEM bond-approving officer will determine your financial solvency by examining your total net worth, including, as appropriate, the net worth of your affiliated entities.

(b) If your net worth, minus the amount we would require as surety under §§ 550.1490 and 550.1491 for all orders you have appealed is greater than $300 million, you are presumptively deemed financially solvent, and we will not require you to post a bond or other surety instrument.

(c) If your net worth, minus the amount we would require as surety under §§ 550.1490 and 550.1491 for all orders you have appealed is less than $300 million, you must submit the following to BOEM by one of the methods in §§ 550.1495(a):

(1) A written request asking us to consult a business-information, or credit-reporting service or program to determine your financial solvency; and

(2) A nonrefundable $50 processing fee:

(i) You must pay the processing fee to us following the requirements for making payments found in 30 CFR 550.126. You are required to use Electronic Funds Transfer (EFT) for these payments;

(ii) You must submit the fee with your request under paragraph (c)(1) of this section, and then annually on the date we first determined that you demonstrated financial solvency, as long as you are not able to demonstrate financial solvency under paragraph (a) of this section and you have active appeals.

(d) If you request that we consult a business-information or credit-reporting service or program under paragraph (c) of this section:

(1) We will use criteria similar to that which a potential creditor would use to lend an amount equal to the bond or other surety instrument we would require under §§ 550.1490 and 550.1491;

(2) For us to consider you financially solvent, the business-information or credit-reporting service or program must demonstrate your degree of risk as low to moderate:

(i) If our bond-approving officer determines that the business-information or credit-reporting service or program information demonstrates your financial solvency to our satisfaction, our bond-approving officer will not require you to post a bond or other surety instrument under §§ 550.1490 and 550.1491;

(ii) If our bond-approving officer determines that the business-information or credit-reporting service or program information does not demonstrate your financial solvency to our satisfaction, our bond-approving officer will require you to post a bond or other surety instrument under §§ 550.1490 and 550.1491 or pay the obligation.

### § 550.1497 When will BOEM monitor my financial solvency?

(a) If you are presumptively financially solvent under § 550.1496(b), BOEM will determine your net worth as described under §§ 550.1496(b) and (c) to evaluate your financial solvency at least annually on the date we first determined that you demonstrated financial solvency as long as you have active appeals and each time you appeal a new order.

(b) If you ask us to consult a business-information or credit-reporting service or program under § 550.1496(c), we will consult a service or program annually as long as you have active appeals and each time you appeal a new order.

(c) If our bond-approving officer determines that you are no longer financially solvent, you must post a bond or other BOEM-specified surety instrument under §§ 550.1490 and 550.1491.

## Subparts O–S [Reserved]

# PART 551—GEOLOGICAL AND GEOPHYSCIAL (G&G) EXPLORATIONS OF THE OUTER CONTINENTAL SHELF

Sec.

551.1 Definitions.
551.2 Purpose of this part.
551.3 Authority and applicability of this part.
551.4 Types of G&G activities that require permits or Notices.
551.5 Applying for permits or filing Notices.
551.6 Obligations and rights under a permit or a Notice.
551.7 Test drilling activities under a permit.
551.8 Inspection and reporting requirements for activities under a permit.
551.9 Temporarily stopping, canceling, or relinquishing activities approved under a permit.
551.10 Penalties and appeals.

551.11 Submission, inspection, and selection of geological data and information collected under a permit and processed by permittees or third parties.
551.12 Submission, inspection, and selection of geophysical data and information collected under a permit and processed by permittees or third parties.
551.13 Reimbursement for the costs of reproducing data and information and certain processing costs.
551.14 Protecting and disclosing data and information submitted to BOEM under a permit.
551.15 Authority for information collection.

AUTHORITY: 31 U.S.C. 9701, 43 U.S.C. 1334.

SOURCE: 76 FR 64623, Oct. 18, 2011, unless otherwise noted.

## § 551.1 Definitions.

Terms used in this part have the following meaning:

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

*Analyzed geological information* means data collected under a permit or a lease that 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, well logs or charts, results from formation fluid tests, and descriptions of hydrocarbon occurrences or hazardous conditions.

*Archaeological interest* means capable of providing scientific or humanistic understanding of past human behavior, cultural adaptation, and related topics through the application of scientific or scholarly techniques, such as controlled observation, contextual measurements, controlled collection, analysis, interpretation, and explanation.

*Archaeological resources* mean any material remains of human life or activities that are at least 50 years of age and of archaeological interest.

*Coastal environment* means the physical, atmospheric, and biological components, conditions, and factors that interactively determine the productivity, state, condition, and quality of the terrestrial ecosystem from the shoreline inward to the boundaries of the coastal zone.

*Coastal Zone* means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States and extends seaward to the outer limit of the U.S. territorial sea.

*Coastal Zone Management Act* means the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 *et seq.*).

*Data* means facts, statistics, measurements, or samples that have not been analyzed, processed, or interpreted.

*Deep stratigraphic test* means drilling that involves the penetration into the sea bottom of more than 500 feet (152 meters).

*Director* means the Director of the Bureau of Ocean Energy Management, U.S. Department of the Interior, or a subordinate authorized to act on the Director's behalf.

*Exploration* means the commercial search for oil, gas, and sulphur. Activities classified as exploration include, but are not limited to:

(1) Geological and geophysical marine and airborne surveys where magnetic, gravity, seismic reflection, seismic refraction, gas sniffers, coring, or other systems are used to detect or imply the presence of oil, gas, or sulphur; and

(2) Any drilling, whether on or off a geological structure.

*Geological and geophysical scientific research* means any oil, gas, or sulphur related investigation conducted in the OCS for scientific and/or research purposes. Geological, geophysical, and geochemical data and information gathered and analyzed are made available to the public for inspection and reproduction at the earliest practicable time. The term does not include commercial geological or geophysical exploration or research.

*Geological exploration* means exploration that uses geological and geochemical techniques (e.g., coring and test drilling, well logging, and bottom sampling) to produce data and information on oil, gas, and sulphur resources in support of possible exploration and development activities. The term does not include geological scientific research.

*Geological information* means geological or geochemical data that have been analyzed, processed, or interpreted.

*Geophysical data* means measurements that have not been processed or interpreted.

*Geophysical exploration* means exploration that utilizes geophysical techniques (e.g., gravity, magnetic, electromagnetic, or seismic) to produce data and information on oil, gas, and sulphur resources in support of possible exploration and development activities. The term does not include geophysical scientific research.

*Geophysical information* means geophysical data that have been processed or interpreted.

*Governor* means the Governor of a State or the person or entity lawfully designated to exercise the powers granted to a Governor pursuant to the Act.

*Human environment* means the physical, social, and economic components, conditions, and factors which interactively determine the state, condition, and quality of living conditions, employment, and health of those affected, directly or indirectly, by activities occurring on the OCS.

*Hydrocarbon occurrence* means the direct or indirect detection during drilling operations of any liquid or gaseous hydrocarbons by examination of well cuttings, cores, gas detector readings, formation fluid tests, wireline logs, or by any other means. The term does not include background gas, minor accumulations of gas, or heavy oil residues on cuttings and cores.

*Interpreted geological information* means knowledge, often in the form of schematic cross sections, 3-dimensional representations, and maps, developed by determining the geological significance of geological data and analyzed and processed geologic information.

*Interpreted geophysical information* means knowledge, often in the form of seismic cross sections, 3-dimensional representations, and maps, developed by determining the geological significance of geophysical data and processed geophysical information.

*Lease* means an agreement which is issued under section 8 or maintained under section 6 of the Act and which authorizes exploration for, and development and production of, minerals or the area covered by that authorization, whichever is required by the context.

*Lessee* means a person who has entered into, or is the BOEM approved assignee of, a lease with the United States to explore for, develop, and produce the leased minerals. The term ''lessee'' also includes an owner of operating rights.

*Marine environment* means the physical, atmospheric, and biological components, conditions, and factors that interactively determine the quality of the marine ecosystem in the coastal zone and in the OCS.

*Material remains* mean physical evidence of human habitation, occupation, use, or activity, including the site, location, or context in which such evidence is situated.

*Minerals* mean oil, gas, sulphur, geopressured-geothermal and associated resources, and all other minerals which are authorized by an Act of Congress to be produced from public lands as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702).

*Notice* means a written statement of intent to conduct geological or geophysical scientific research related to oil, gas, and sulphur in the OCS other than under a permit.

*Oil, gas, and sulphur* means oil, gas, sulphur, geopressured-geothermal, and associated resources.

*Outer Continental Shelf (OCS)* means all submerged lands lying seaward and outside the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (43 U.S.C. 1301), and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

*Permit* means the contract or agreement, other than a lease, issued pursuant to this part, under which a person acquires the right to conduct on the OCS, in accordance with appropriate statutes, regulations, and stipulations:

(1) Geological exploration for mineral resources;

(2) Geophysical exploration for mineral resources;

(3) Geological scientific research; or

(4) Geophysical scientific research.

*Permittee* means the person authorized by a permit issued pursuant to this part to conduct activities on the OCS.

*Person* means a citizen or national of the United States; an alien lawfully admitted for permanent residence in the United States as defined in section 8 U.S.C. 1101(a)(20); a private, public, or municipal corporation organized under the laws of the United States or of any State or territory thereof; and associations of such citizens, nationals, resident aliens, or private, public, or municipal corporations, States, or political subdivisions of States or anyone operating in a manner provided for by treaty or other applicable international agreements. The term does not include Federal agencies.

*Processed geological or geophysical information* means data collected under a permit and later processed or reprocessed. 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. Reprocessing is the additional processing other than ordinary processing used in the general course of evaluation. Reprocessing operations may include varying identified parameters for the detailed study of a specific problem area. Reprocessing may occur several years after the original processing date. Reprocessing is determined to be completed on the date that the reprocessed information is first available in a useable format for in-house interpretation by BOEM or the permittee, or becomes first available to third parties via sale, trade, license agreement, or other means.

*Secretary* means the Secretary of the Interior or a subordinate authorized to act on the Secretary's behalf.

*Shallow test drilling* means drilling into the sea bottom to depths less than those specified in the definition of a deep stratigraphic test.

*Significant archaeological resource* means those archaeological resources that meet the criteria of significance for eligibility to the National Register of Historic Places as defined in 36 CFR 60.4.

*Third Party* means any person other than the permittee or a representative of the United States, including all persons who obtain data or information acquired under a permit from the permittee, or from another third party, by sale, trade, license agreement, or other means.

*Violation* means a failure to comply with any provision of the Act, or a provision of a regulation or order issued under the Act, or any provision of a lease, license, or permit issued under the Act.

*You* means a person who applies for and/or obtains a permit, or files a Notice to conduct geological or geophysical exploration or scientific research related to oil, gas, and sulphur in the OCS.

### § 551.2 Purpose of this part.

(a) To allow you to conduct G&G activities in the OCS related to oil, gas, and sulphur on unleased lands or on lands under lease to a third party.

(b) To ensure that you carry out G&G activities in a safe and environmentally sound manner so as to prevent harm or damage to, or waste of, any natural resources (including any mineral deposit in areas leased or not leased), any life (including fish and other aquatic life), property, or the marine, coastal, or human environment.

(c) To inform you and third parties of your legal and contractual obligations.

(d) To inform you and third parties of the U.S. Government's rights to access G&G data and information collected under permit in the OCS, reimbursement for submittal of data and information, and the proprietary terms of data and information submitted to, and retained by, BOEM.

### § 551.3 Authority and applicability of this part.

BOEM authorizes you to conduct exploration or scientific research activities under this part in accordance with the Act, the regulations in this part, orders of the Director/Regional Director, and other applicable statutes, regulations, and amendments.

(a) This part does not apply to G&G exploration conducted by or on behalf of the lessee on a lease in the OCS.

Refer to 30 CFR part 250 if you plan to conduct G&G activities related to oil, gas, or sulphur under terms of a lease.

(b) Federal agencies are exempt from the regulations in this part.

(c) G&G exploration or G&G scientific research related to minerals other than oil, gas, and sulphur is covered by regulations at 30 CFR part 580.

### § 551.4 Types of G&G activities that require permits or Notices.

(a) *Exploration*. You must have a BOEM-approved permit to conduct G&G exploration, including deep stratigraphic tests, for oil, gas, or sulphur resources. If you conduct both geological and geophysical exploration, you must have a separate permit for each.

(b) *Scientific research*. You may only conduct G&G scientific research related to oil, gas, and sulphur in the OCS after you obtain a BOEM-approved permit or file a Notice.

(1) *Permit*. You must obtain a permit if the research activities you propose to conduct involve:

(i) Using solid or liquid explosives;

(ii) Drilling a deep stratigraphic test; or

(iii) Developing data and information for proprietary use or sale.

(2) *Notice*. Any other G&G scientific research that you conduct related to oil, gas, and sulphur in the OCS requires you to file a Notice with the Regional Director at least 30 days before you begin. If circumstances preclude a 30-day Notice, you must provide oral notification and followup in writing. You must also inform BOEM in writing when you conclude your work.

### § 551.5 Applying for permits or filing Notices.

(a) *Permits*. You must submit a signed original and three copies of the BOEM permit application form (Form BOEM–0327). The form includes names of persons; the type, location, purpose, and dates of activity; and environmental and other information. A nonrefundable service fee of $2,012 must be paid electronically through *Pay.gov* at: *https://www.pay.gov/paygov/*, and you must include a copy of the *Pay.gov* confirmation receipt page with your application.

(b) *Disapproval of permit application*. If BOEM disapproves your application for a permit, the Regional Director will state the reasons for the denial and will advise you of the changes needed to obtain approval.

(c) *Notices*. You must sign and date a Notice and state:

(1) The name(s) of the person(s) who will conduct the proposed research;

(2) The name(s) of any other person(s) participating in the proposed research, including the sponsor;

(3) The type of research and a brief description of how you will conduct it;

(4) The location in the OCS, indicated on a map, plat, or chart, where you will conduct research;

(5) The proposed dates you project for your research activity to start and end;

(6) The name, registry number, registered owner, and port of registry of vessels used in the operation;

(7) The earliest practicable time you expect to make the data and information resulting from your research activity available to the public;

(8) Your plan of how you will make the data and information you collected available to the public;

(9) That you and others involved will not sell or withhold for exclusive use the data and information resulting from your research; and

(10) At your option, you may submit (as a substitute for the material required in paragraphs (c)(7), (c)(8), and (c)(9) of this section) the nonexclusive use agreement for scientific research attachment to Form BOEM–0327.

(d) *Filing locations*. You must apply for a permit or file a Notice at one of the following locations:

(1) For the OCS off the State of Alaska—the Regional Supervisor for Resource Evaluation, Bureau of Ocean Energy Management, Alaska OCS Region, 3801 Centerpoint Drive, Suite # 500, Anchorage, Alaska 99503–58232.

(2) For the OCS off the Atlantic Coast and in the Gulf of Mexico—the Regional Supervisor for Resource Evaluation, Bureau of Ocean Energy Management, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394.

(3) For the OCS off the coast of the States of California, Oregon, Washington, or Hawaii—the Regional Supervisor for Resource Evaluation, Bureau of Ocean Energy Management, Pacific OCS Region, 770 Paseo Camarillo, Camarillo, California 93010–6064.

### § 551.6 Obligations and rights under a permit or a Notice.

While conducting G&G exploration or scientific research activities under BOEM permit or Notice:

(a) You must not:

(1) Interfere with or endanger operations under any lease, right-of-way, easement, right-of-use, Notice, or permit issued or maintained under the Act;

(2) Cause harm or damage to life (including fish and other aquatic life), property, or to the marine, coastal, or human environment;

(3) Cause harm or damage to any mineral resource (in areas leased or not leased);

(4) Cause pollution;

(5) Disturb archaeological resources;

(6) Create hazardous or unsafe conditions; or

(7) Unreasonably interfere with or cause harm to other uses of the area.

(b) You must immediately report to the Regional Director if you:

(1) Detect hydrocarbon occurrences;

(2) Detect environmental hazards which imminently threaten life and property; or

(3) Adversely affect the environment, aquatic life, archaeological resources, or other uses of the area where you are conducting exploration or scientific research activities.

(c) You must also consult and coordinate your G&G activities with other users of the area for navigation and safety purposes.

(d) Any persons conducting shallow test drilling or deep stratigraphic test drilling activities under a permit must use the best available and safest technologies that the Regional Director determines to be economically feasible.

(e) You may not claim any oil, gas, sulphur, or other minerals you discover while conducting operations under a permit or Notice.

### § 551.7 Test drilling activities under a permit.

(a) *Shallow test drilling*. Before you begin shallow test drilling under a permit, the Regional Director may require you to:

(1) Gather and submit seismic, bathymetric, sidescan sonar, magnetometer, or other geophysical data and information to determine shallow structural detail across and in the vicinity of the proposed test.

(2) Submit information for coastal zone consistency certification according to paragraphs (b)(3) and (4) of this section, and for protecting archaeological resources according to paragraph (b)(5) of this section.

(3) Allow all interested parties the opportunity to participate in the shallow test according to paragraph (c) of this section, and meet bonding requirements according to paragraph (d) of this section.

(b) *Deep stratigraphic tests*. You must submit to the appropriate BOEM or BSEE Regional Director, at the address in § 551.7(d), a drilling plan (submitted to BOEM), an environmental report (submitted to BOEM), an Application for Permit to Drill (Form BSEE–0123) (submitted to BSEE), and a Supplemental APD Information Sheet (Form BSEE–0123S) (submitted to BSEE) as follows:

(1) *Drilling plan*. The drilling plan must include:

(i) The proposed type, sequence, and timetable of drilling activities;

(ii) A description of your drilling rig, indicating the important features with special attention to safety, pollution prevention, oil-spill containment and cleanup plans, and onshore disposal procedures;

(iii) The location of each deep stratigraphic test you will conduct, including the location of the surface and projected bottomhole of the borehole;

(iv) The types of geological and geophysical survey instruments you will use before and during drilling;

(v) Seismic, bathymetric, sidescan sonar, magnetometer, or other geophysical data and information sufficient to evaluate seafloor characteristics, shallow geologic hazards, and

structural detail across and in the vicinity of the proposed test to the total depth of the proposed test well; and

(vi) Other relevant data and information that the BOEM Regional Director requires.

(2) *Environmental report*. The environmental report must include all of the following material:

(i) A summary with data and information available at the time you submitted the related drilling plan. BOEM will consider site-specific data and information developed since the most recent environmental impact statement or other environmental impact analysis in the immediate area. The summary must meet the following requirements:

(A) You must concentrate on the issues specific to the site(s) of drilling activity. However, you only need to summarize data and information discussed in any environmental reports, analyses, or impact statements prepared for the geographic area of the drilling activity.

(B) You must list referenced material. Include brief descriptions and a statement of where the material is available for inspection.

(C) You must refer only to data that are available to BOEM.

(ii) Details about your project such as:

(A) A list and description of new or unusual technologies;

(B) The location of travel routes for supplies and personnel;

(C) The kinds and approximate levels of energy sources;

(D) The environmental monitoring systems; and

(E) Suitable maps and diagrams showing details of the proposed project layout.

(iii) A description of the existing environment. For this section, you must include the following information on the area:

(A) Geology;

(B) Physical oceanography;

(C) Other uses of the area;

(D) Flora and fauna;

(E) Existing environmental monitoring systems; and

(F) Other unusual or unique characteristics that may affect or be affected by the drilling activities.

(iv) A description of the probable impacts of the proposed action on the environment and the measures you propose for mitigating these impacts.

(v) A description of any unavoidable or irreversible adverse effects on the environment that could occur.

(vi) Other relevant data that the BOEM Regional Director requires.

(3) *Copies for coastal States*. You must submit copies of the drilling plan and environmental report to the BOEM Regional Director for transmittal to the Governor of each affected coastal State and the coastal zone management agency of each affected coastal State that has an approved program under the Coastal Zone Management Act. (BOEM Regional Director will make the drilling plan and environmental report available to appropriate Federal agencies and the public according to the Department of the Interior's policies and procedures).

(4) *Certification of coastal zone management program consistency and State concurrence*. When required under an approved coastal zone management program of an affected State, your drilling plan must include a certification that the proposed activities described in the plan comply with enforceable policies of, and will be conducted in a manner consistent with such State's program. BOEM Regional Director may not approve any of the activities described in the drilling plan unless the State concurs with the consistency certification or the Secretary of Commerce makes the finding authorized by section 307(c)(3)(B)(iii) of the Coastal Zone Management Act.

(5) *Protecting archaeological resources*. If the Regional Director believes that an archaeological resource may exist in the area that may be affected by drilling, the Regional Director will notify you of the need to prepare an archaeological report.

(i) If the evidence suggests that an archaeological resource may be present, you must:

(A) Locate the site of the drilling so as to not adversely affect the area where the archaeological resources may be, or

(B) Establish to the satisfaction of the BOEM Regional Director that an archaeological resource does not exist

or will not be adversely affected by drilling. This must be done by further archaeological investigation, conducted by an archaeologist and a geophysicist, using survey equipment and techniques deemed necessary by the Regional Director. A report on the investigation must be submitted to the BOEM Regional Director for review.

(ii) If the BOEM Regional Director determines that an archaeological resource is likely to be present in the area that may be affected by drilling, and may be adversely affected by drilling, the BOEM Regional Director will notify you immediately. You must take no action that may adversely affect the archaeological resource unless an investigation by BOEM determines that the resource is not archaeologically significant.

(iii) If you discover any archaeological resource while drilling, you must immediately halt drilling and report the discovery to the BOEM Regional Director. If investigations determine that the resource is significant, the BOEM Regional Director will inform you how to protect it.

(6) [Reserved]

(7) *Revising an approved drilling plan.* Before you revise an approved drilling plan, you must obtain the BOEM Regional Director's approval.

(8) [Reserved]

(9) *Deadline for completing a deep stratigraphic test.* If your deep stratigraphic test well is within 50 geographic miles of a tract that BOEM has identified for a future lease sale, as listed on the currently approved OCS leasing schedule, you must complete all drilling activities and submit the data and information to the BOEM Regional Director at least 60 days before the first day of the month in which BOEM schedules the lease sale. However, the BOEM Regional Director may extend your permit duration to allow you to complete drilling activities and submit data and information if the extension is in the National interest.

(c) *Group participation in test drilling.* BOEM encourages group participation for deep stratigraphic tests.

(1) *Purpose of group participation.* The purpose is to minimize duplicative G&G activities involving drilling into the seabed of the OCS.

(2) *Providing opportunity for participation in a deep stratigraphic test.* When you propose to drill a deep stratigraphic test, you must give all interested persons an opportunity to participate in the test drilling through a signed agreement on a cost-sharing basis. You may include a penalty for late participation of not more than 100 percent of the cost to each original participant in addition to the original share cost.

(i) The participants must assess and distribute late participation penalties in accordance with the terms of the agreement.

(ii) For a significant hydrocarbon occurrence that the Regional Director announces to the public, the penalty for subsequent late participants may be raised to not more than 300 percent of the cost of each original participant in addition to the original share cost.

(3) *Providing opportunity for participation in a shallow test drilling project.* When you apply to conduct shallow test drilling activities, you must, if ordered by the Regional Director or required by the permit, give all interested persons an opportunity to participate in the test activity on a cost-sharing basis. You may include a penalty provision for late participation of not more than 50 percent of the cost to each original participant in addition to the original share cost.

(4) *Procedures for group participation in drilling activities.* You must:

(i) Publish a summary statement that describes the approved activity in a relevant trade publication;

(ii) Forward a copy of the published statement to the Regional Director;

(iii) Allow at least 30 days from the summary statement publication date for other persons to join as original participants;

(iv) Compute the estimated cost by dividing the estimated total cost of the program by the number of original participants; and

(v) Furnish the Regional Director with a complete list of all participants before starting operations, or at the end of the advertising period if you begin operations before the advertising period is over. The names of any subsequent or late participants must also be furnished to the Regional Director.

(5) *Changes to the original application for test drilling*. If you propose changes to the original application and the Regional Director determines that the changes are significant, the Regional Director will require you to publish the changes for an additional 30 days to give other persons a chance to join as original participants.

(d) *Bonding requirements*. You must submit a bond under this part before you may start a deep stratigraphic test.

(1) Before BOEM issues a permit authorizing the drilling of a deep stratigraphic test, you must either:

(i) Furnish to BOEM a bond of not less than $200,000 that guarantees compliance with all the terms and conditions of the permit; or

(ii) Maintain a $1 million bond that guarantees compliance with all the terms and conditions of the permit you hold for the OCS area where you propose to drill.

(2) You must provide additional security to BOEM if the Regional Director determines that it is necessary for the permit or area.

(3) The Regional Director may require you to provide a bond, in an amount the Regional Director prescribes, before authorizing you to drill a shallow test well.

(4) Your bond must be on a form approved by the Associate Director for BOEM.

### § 551.8 Inspection and reporting requirements for activities under a permit.

(a) *Inspection of permit activities*. You must allow BOEM representatives to inspect your exploration or scientific research activities under a permit. They will determine whether operations are adversely affecting the environment, aquatic life, archaeological resources, or other uses of the area. BOEM will reimburse you for food, quarters, and transportation that you provide for BOEM representatives if you send in your reimbursement request to the Region that issued the permit within 90 days of the inspection.

(b) *Approval for modifications*. Before you begin modified operations, you must submit a written request describing the modifications and receive the Regional Director's oral or written approval. If circumstances preclude a written request, you must make an oral request and follow up in writing.

(c) *Reports*. (1) You must submit status reports on a schedule specified in the permit and include a daily log of operations.

(2) You must submit a final report of exploration or scientific research activities under a permit within 30 days after the completion of acquisition activities under the permit. You may combine the final report with the last status report and must include each of the following:

(i) A description of the work performed.

(ii) Charts, maps, plats, and digital navigational data in a format specified by the Regional Director, showing the areas and blocks in which any exploration or permitted scientific research activities were conducted. Identify the lines of geophysical traverses and their locations including a reference sufficient to identify the data produced during each activity.

(iii) The dates on which you conducted the actual exploration or scientific research activities.

(iv) A summary of any:

(A) Hydrocarbon or sulphur occurrences encountered;

(B) Environmental hazards; and

(C) Adverse effects of the exploration or scientific research activities on the environment, aquatic life, archaeological resources, or other uses of the area in which the activities were conducted.

(v) Other descriptions of the activities conducted as specified by the Regional Director.

### § 551.9 Temporarily stopping, canceling, or relinquishing activities approved under a permit.

(a) BOEM may temporarily stop exploration or scientific research activities under a permit when the Regional Director determines that:

(1) Activities pose a threat of serious, irreparable, or immediate harm. This includes damage to life (including fish and other aquatic life), property, any mineral deposit (in areas leased or not leased), to the marine, coastal, or

human environment, or to an archaeological resource;

(2) You failed to comply with any applicable law, regulation, order, or provision of the permit. This would include BOEM's required submission of reports, well records or logs, and G&G data and information within the time specified; or

(3) Stopping the activities is in the interest of National security or defense.

(b) *Procedures to temporarily stop activities.* (1) The Regional Director will advise you either orally or in writing. BOEM will confirm an oral notification in writing and deliver all written notifications by courier or certified or registered mail. You must halt all activities under a permit as soon as you receive an oral or written notification.

(2) The Regional Director will advise you when you may start your permit activities again.

(c) *Procedure to cancel or relinquish a permit.* The Regional Director may cancel, or a permittee may relinquish, a permit at any time.

(1) If BOEM cancels your permit, the Regional Director will advise you by certified or registered mail 30 days before the cancellation date and will state the reason.

(2) You may relinquish the permit by advising the Regional Director by certified or registered mail 30 days in advance.

(3) After BOEM cancels your permit or you relinquish it, you are still responsible for proper abandonment of any drill sites in accordance with the requirements of 30 CFR 251.7(b)(8). You must also comply with all other obligations specified in this part or in the permit.

### § 551.10 Penalties and appeals.

(a) *Penalties for noncompliance under a permit issued by BOEM.* You are subject to the penalty provisions of:

(1) Section 24 of the Act (43 U.S.C. 1350); and

(2) The procedures contained in 30 CFR part 550, subpart N, for noncompliance with:

(i) Any provision of the Act;

(ii) Any provision of a G&G or drilling permit; or

(iii) Any regulation or order issued under the Act.

(b) *Penalties under other laws and regulations.* The penalties prescribed in this section are in addition to any other penalty imposed by any other law or regulation.

(c) *Procedures to appeal orders or decisions BOEM issues.* See 30 CFR part 590 for instructions on how to appeal any order or decision that we issue under this part.

### § 551.11 Submission, inspection, and selection of geological data and information collected under a permit and processed by permittees or third parties.

(a) *Availability of geological data and information collected under a permit.* (1) You must notify the Regional Director, in writing, when you complete the initial analysis, processing, or interpretation of any geological data and information. Initial analysis and processing are the stages of analysis or processing where the data and information first become available for in-house interpretation by the permittee, or become available commercially to third parties via sale, trade, license agreement, or other means.

(2) The Regional Director may ask if you have further analyzed, processed, or interpreted any geological data and information. When so asked, you must respond to BOEM in writing within 30 days.

(b) *Submission, inspection, and selection of geological data and information.* The Regional Director may request the permittee or third party to submit the analyzed, processed, and interpreted geologic data and information for inspection and/or permanent retention by BOEM. The data and information must be submitted within 30 days after such request.

(c) *Requirements for submission of geological data and information collected under a permit.* Unless the Regional Director specifies otherwise, geological data and information must include:

(1) An accurate and complete record of all geological (including geochemical) data and information describing each operation of analysis, processing, and interpretation;

(2) Paleontological reports identifying microscopic fossils by depth, including the reference datum to which paleontological sample depths are related and, if the Regional Director requests, washed samples that you maintain for paleontological determinations;

(3) Copies of well logs or charts in a digital format, if available;

(4) Results and data obtained from formation fluid tests;

(5) Analyses of core or bottom samples and/or a representative cut or split of the core or bottom sample;

(6) Detailed descriptions of any hydrocarbons or hazardous conditions encountered during operations, including near losses of well control, abnormal geopressures, and losses of circulation; and

(7) Other geological data and information that the Regional Director may specify.

(d) *Obligations when geological data and information collected under permit are obtained by a third party.* A third party may obtain geological data and information from a permittee, or from another third party, by sale, trade, license agreement, or other means. If this happens:

(1) The third party recipient of the data and information assumes the obligations under this section, except for the notification provisions of paragraph (a)(1), and is subject to the penalty provisions of 30 CFR part 550, subpart N; and

(2) A permittee or third party that sells, trades, licenses, or otherwise provides data and information to a third party must advise the recipient, in writing, that accepting these obligations is a condition precedent of the sale, trade, license, or other agreement; and

(3) Except for license agreements, a permittee or third party that sells, trades, or otherwise provides data and information to a third party must advise the Regional Director, in writing and within 30 days, of the sale, trade, or other agreement, including the identity of the recipient of the data and information; or

(4) For license agreements a permittee or third party that licenses data and information to a third party must, within 30 days of a request by the Regional Director, advise the Regional Director, in writing, of the license agreement, including the identity of the recipient of the data and information.

### § 551.12 Submission, inspection, and selection of geophysical data and information collected under a permit and processed by permittees or third parties.

(a) *Availability of geophysical data and information collected under a permit.* (1) You must notify the Regional Director, in writing, when you complete the initial processing and interpretation of any geophysical data and information. Initial processing is the stage of processing where the data and information become available for in-house interpretation by the permittee, or become available commercially to third parties via sale, trade, license agreement, or other means.

(2) The Regional Director may ask if you have further processed or interpreted any geophysical data and information. When so asked, you must respond to BOEM in writing within 30 days.

(b) *Submission, inspection and selection of geophysical data and information collected under a permit.* The Regional Director may request that the permittee or third party submit geophysical data and information before making a final selection for retention. BOEM representatives may inspect and select the data and information on your premises, or the Regional Director can request delivery of the data and information to the appropriate BOEM regional office for review.

(1) You must submit the geophysical data and information within 30 days of receiving the request, unless the Regional Director extends the delivery time.

(2) At any time before final selection, the Regional Director may return any or all geophysical data and information following review. You will be notified in writing of all or portions of those data the Regional Director decides to retain.

(c) *Requirements for submission of geophysical data and information collected*

*under a permit.* Unless the Regional Director specifies otherwise, you must include:

(1) An accurate and complete record of each geophysical survey conducted under the permit, including digital navigational data and final location maps;

(2) All seismic data collected under a permit presented in a format and of a quality suitable for processing;

(3) Processed geophysical information derived from seismic data with extraneous signals and interference removed, presented in a quality format suitable for interpretive evaluation, reflecting state-of-the-art processing techniques; and

(4) Other geophysical data, processed geophysical information, and interpreted geophysical information including, but not limited to, shallow and deep subbottom profiles, bathymetry, sidescan sonar, gravity and magnetic surveys, and special studies such as refraction and velocity surveys.

(d) *Obligations when geophysical data and information collected under a permit are obtained by a third party.* A third party may obtain geophysical data, processed geophysical information, or interpreted geophysical information from a permittee, or from another third party, by sale, trade, license agreement, or other means. If this happens:

(1) The third party recipient of the data and information assumes the obligations under this section, except for the notification provisions of paragraph (a)(1), and is subject to the penalty provisions of 30 CFR part 550, subpart N; and

(2) A permittee or third party that sells, trades, licenses, or otherwise provides data and information to a third party must advise the recipient, in writing, that accepting these obligations is a condition precedent of the sale, trade, license, or other agreement; and

(3) Except for license agreements, a permittee or third party that sells, trades, or otherwise provides data and information to a third party must advise the Regional Director, in writing and within 30 days, of the sale, trade, or other agreement, including the identity of the recipient of the data and information; or

(4) For license agreements, a permittee or third party that licenses data and information to a third party must, within 30 days of a request by the Regional Director, advise the Regional Director, in writing, of the license agreement, including the identity of the recipient of the data and information.

### § 551.13 Reimbursement for the costs of reproducing data and information and certain processing costs.

(a) BOEM will reimburse you or a third party for reasonable costs of reproducing data and information that the Regional Director requests if:

(1) You deliver G&G data and information to BOEM for the Regional Director to inspect or select and retain (according to §§ 551.11 or 551.12);

(2) BOEM receives your request for reimbursement and the Regional Director determines that the requested reimbursement is proper; and

(3) The cost is at your lowest rate (or a third party's) or at the lowest commercial rate established in the area, whichever is less.

(b) BOEM will reimburse you or the third party for the reasonable costs of processing geophysical information (which does not include cost of data acquisition):

(1) If, at the request of the Regional Director, you processed the geophysical data or information in a form or manner other than that used in the normal conduct of business; or

(2) If you collected the information under a permit that BOEM issued to you before October 1, 1985, and the Regional Director requests and retains the information.

(c) When you request reimbursement, you must identify reproduction and processing costs separately from acquisition costs.

(d) BOEM will not reimburse you or a third party for data acquisition costs or for the costs of analyzing or processing geological information or interpreting geological or geophysical information.

**§ 551.14 Protecting and disclosing data and information submitted to BOEM under a permit.**

(a) *Disclosure of data and information to the public by BOEM.* (1) In making data and information available to the public, the Regional Director will follow the applicable requirements of:

(i) The Freedom of Information Act (5 U.S.C. 552);

(ii) The implementing regulations at 43 CFR part 2;

(iii) The Act; and

(iv) The regulations at 30 CFR parts 550 and 552.

(2) Except as specified in this section or in 30 CFR parts 550 and 552, if the Regional Director determines any data or information is exempt from public disclosure under this paragraph (a), BOEM will not provide the data and information to any State or to the executive of any local government or to the public, unless you and all third parties agree to the disclosure.

(3) BOEM will keep confidential the identity of third party recipients of data and information collected under a permit. BOEM will not release the identity unless you and the third parties agree to the disclosure.

(4) When you detect any significant hydrocarbon occurrences or environmental hazards on unleased lands during drilling operations, the Regional Director will immediately issue a public announcement. The announcement must further the National interest, but without unduly damaging your competitive position.

(b) *Timetable for release of G&G data and information related to oil, gas, and sulphur that BOEM acquires.* Except for high-resolution data and information released under 30 CFR 550.197(b)(2), BOEM will release or disclose acquired data and information in accordance with paragraphs (b)(1) through (7) of this section.

(1) If the data and information are not related to a deep stratigraphic test, BOEM will release them to the public in accordance with the following table:

| If you or a third party submit and BOEM retains . . . | The Regional Director will release them to the public . . . |
|---|---|
| (i) Geological data and information, | 10 years after BOEM issued the permit. |
| (ii) Geophysical data, | 50 years after BOEM issued the permit. |
| (iii) Geophysical information processed or reprocessed less than 20 years after BOEM issued the germane permit, | 25 years after BOEM issued the permit. |
| (iv) Geophysical information processed or reprocessed 20 or more years after BOEM issued the germane permit, | 25 years after BOEM issued the permit; or, if you or a third party applied for an extension of the proprietary term, 5 years after BOEM approved the application for an extension. In any case BOEM will release the information no later than 50 years after BOEM issued the permit. |

(2) Permittees and third parties may apply to BOEM for an extension of the 25-year proprietary term for geophysical information reprocessed 20 or more years after BOEM issued the germane permit. You must submit the application to BOEM within 90 days after completion of the reprocessing, except during the initial 1-year grace period as provided in paragraph (b)(5) below. Filing locations are listed in § 551.5(d). Your application must include:

(i) Name and address of the permittee or third party;

(ii) Product name;

(iii) Identification of the geophysical information area;

(iv) Identification of originating permit number and date;

(v) Description of reprocessing performed;

(vi) Identification of the date of completion of reprocessing the geophysical information;

(vii) Certification that the product meets the definition of processed geophysical information and that all other information in the application is accurate; and

(viii) Signature and date.

(3) With each new reprocessing of permitted data, you may apply for an extension of up to 5 years. However, the maximum proprietary term for geophysical information is 50 years after the permit was issued. Once the maximum term is reached, the BOEM Regional Director will release the information to the public.

(4) Geophysical information processed or reprocessed 20 or more years after the germane permit was issued and granted the extension will be subject to submission, inspection, and selection criteria under § 551.12 and reimbursement criteria identified under § 551.13.

(5) There was a 1-year grace period, that started September 14, 2009, that allowed permittees and third parties sufficient time to meet the above requirements and apply for all eligible extensions. During that time, BOEM did not release geophysical information which was reprocessed 20 or more years after the date that the germane permit was issued.

(6) Since September 14, 2010, BOEM has resumed releasing eligible reprocessed information. If an application for extension was not filed, not filed on time, or not approved by BOEM, the original 25-year proprietary term applies to the release date of the reprocessed geophysical information.

(7) If the data and information are related to a deep stratigraphic test, BOEM will release them to the public at the earlier of the following times:

(i) Twenty-five years after you complete the test; or

(ii) If a lease sale is held after you complete a test well, 60-calendar days after BOEM issues the first lease, any portion of which is located within 50 geographic miles (92.7 kilometers) of the test.

(8) BOEM may allow limited inspection, but only by persons with a direct interest in related BOEM decisions and issues in specific geographic areas, and who agree in writing to its confidentiality, of G&G data and information submitted under this part that BOEM uses to:

(i) Make unitization determinations on two or more leases;

(ii) Make competitive reservoir determinations;

(iii) Ensure proper plans of development for competitive reservoirs;

(iv) Promote operational safety;

(v) Protect the environment;

(vi) Make field determinations; or

(vii) Determine eligibility for royalty relief.

(c) *Procedure that BOEM follows to disclose acquired data and information to a contractor for reproduction, processing, and interpretation.* (1) When practical, the Regional Director will advise the person who submitted data and information under § 551.11 or § 551.12 of the intent to disclose the data or information to an independent contractor or agent.

(2) The person so notified will have at least 5 working days to comment on the action.

(3) When the Regional Director advises the person who submitted the data and information, all other owners of the data or information will be considered to have been so notified.

(4) Before disclosure, the contractor or agent must sign a written commitment not to sell, trade, license, or disclose data or information to anyone without the Regional Director's consent.

(d) *Sharing data and information with coastal States.* (1) When BOEM solicits nominations for leasing lands located within 3 geographic miles (5.6 kilometers) of the seaward boundary of any coastal State, the Regional Director, in accordance with 30 CFR 552.7(a)(4) and (b) and subsections 8(g) and 26(e) of the Act (43 U.S.C. 1337(g) and 1352(e)), will provide the Governor with:

(i) All information on the geographical, geological, and ecological characteristics of the areas and regions BOEM proposes to offer for lease;

(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, BOEM will carry out a tentative area identification according to 30 CFR part 556, 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 552.7(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 550, 551, and 552.

### § 551.15 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 551, 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 § 551.14 and part 550 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, Bureau of Ocean Energy Management, 381 Elden Street, Herndon, VA 20170.

## PART 552—OUTER CONTINENTAL SHELF (OCS) OIL AND GAS INFORMATION PROGRAM

Sec.

552.1 Purpose.
552.2 Definitions.
552.3 Oil and gas data and information to be provided for use in the OCS Oil and Gas Information Program.
552.4 Summary Report to affected States.
552.5 Information to be made available to affected States.
552.6 Freedom of Information Act requirements.
552.7 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.

SOURCE: 76 FR 64623, Oct. 18, 2011, unless otherwise noted.

### § 552.1 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 30 CFR parts 250, 251, 550, and 551 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, Bureau of Ocean Energy Management. 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.

**§ 552.2 Definitions.**

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

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

*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.

*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 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.

*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.

*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.

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

*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.

*Director* means the Director of the Bureau of Ocean Energy Management of the U.S. Department of the Interior or a designee of the Director.

*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.

*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.

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

*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.

*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.

*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.

*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 550 of this chapter, including all parties holding such authority by or through the lessee.

*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.

*Permittee* means the party authorized by a permit issued pursuant to part 551 of this chapter to conduct activities on the OCS.

*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.

*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.

*Secretary* means the Secretary of the Interior or a designee of the Secretary.

### § 552.3 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 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 BOEM 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 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 reproduction, 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.

### § 552.4 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 BOEM 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 Report. 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.

### § 552.5 Information to be made available to affected States.

(a) The Director shall prepare an index of OCS information (see 30 CFR 556.10). 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 BOEM, 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 available any information which he determines is exempt from disclosure in accordance with this part.

### § 552.6 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 parts 250 and 550 (Oil and Gas and Sulphur Operations in the Outer Continental Shelf) and 30 CFR part 551 (Geological and Geophysical Explorations of the Outer Continental Shelf).

(b) Except as provided in § 552.7 or in 30 CFR parts 250, 251, 550, and 551 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.

**§ 552.7 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 250.197, 550.197, and 551.14, 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 250.197, 550.197, and 551.14, 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) of this section 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 parts 250 and 550 (Oil and Gas and Sulphur Operations in the Outer Continental Shelf), the regulations contained in 30 CFR parts 251 and 551 (Geological and Geophysical Explorations of the Outer Continental Shelf), and the regulations contained in 30 CFR parts 252 and 552 (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.

# PART 553—OIL SPILL FINANCIAL RESPONSIBILITY FOR OFFSHORE FACILITIES

## Subpart A—General

Sec.
553.1 What is the purpose of this part?
553.3 How are the terms used in this regulation defined?
553.5 What is the authority for collecting Oil Spill Financial Responsibility (OSFR) information?

## Subpart B—Applicability and Amount of OSFR

553.10 What facilities does this part cover?
553.11 Who must demonstrate OSFR?
553.12 May I ask BOEM for a determination of whether I must demonstrate OSFR?
553.13 How much OSFR must I demonstrate?
553.14 How do I determine the worst case oil-spill discharge volume?
553.15 What are my general OSFR compliance responsibilities?

## Subpart C—Methods for Demonstrating OSFR

553.20 What methods may I use to demonstrate OSFR?
553.21 How can I use self-insurance as OSFR evidence?
553.22 How do I apply to use self-insurance as OSFR evidence?
553.23 What information must I submit to support my net worth demonstration?
553.24 When I submit audited annual financial statements to verify my net worth, what standards must they meet?
553.25 What financial test procedures must I use to determine the amount of self-insurance allowed as OSFR evidence based on net worth?
553.26 What information must I submit to support my unencumbered assets demonstration?
553.27 When I submit audited annual financial statements to verify my unencumbered assets, what standards must they meet?
553.28 What financial test procedures must I use to evaluate the amount of self-insurance allowed as OSFR evidence based on unencumbered assets?
553.29 How can I use insurance as OSFR evidence?
553.30 How can I use an indemnity as OSFR evidence?
553.31 How can I use a surety bond as OSFR evidence?
553.32 Are there alternative methods to demonstrate OSFR?

## Subpart D—Requirements for Submitting OSFR Information

553.40 What OSFR evidence must I submit to BOEM?
553.41 What terms must I include in my OSFR evidence?
553.42 How can I amend my list of COFs?
553.43 When is my OSFR demonstration or the amendment to my OSFR demonstration effective?
553.44 [Reserved]
553.45 Where do I send my OSFR evidence?

## Subpart E—Revocation and Penalties

553.50 How can BOEM refuse or invalidate my OSFR evidence?
553.51 What are the penalties for not complying with this part?

## Subpart F—Claims for Oil-Spill Removal Costs and Damages

553.60 To whom may I present a claim?
553.61 When is a guarantor subject to direct action for claims?
553.62 What are the designated applicant's notification obligations regarding a claim?

APPENDIX TO PART 553—LIST OF U.S. GEOLOGICAL SURVEY TOPOGRAPHIC MAPS

AUTHORITY: 33 U.S.C. 2716, 28 U.S.C. 2461.

SOURCE: 76 FR 64623, Oct. 18, 2011, unless otherwise noted.

## Subpart A—General

### § 553.1 What is the purpose of this part?

This part establishes the requirements for demonstrating OSFR for covered offshore facilities (COFs) under Title I of the Oil Pollution Act of 1990 (OPA), as amended, 33 U.S.C. 2701 *et seq.*

### § 553.3 How are the terms used in this regulation defined?

Terms used in this part have the following meaning:

*Advertise* means publication of the notice of designation of the source of the incident and the procedures by

which the claims may be presented, according to 33 CFR part 136, subpart D.

*Bay* means a body of water included in the Geographic Names Information System (GNIS) bay feature class. A GNIS bay includes an arm, bay, bight, cove, estuary, gulf, inlet, or sound.

*Claim* means a written request, for a specific sum, for compensation for damages or removal costs resulting from an oil-spill discharge or a substantial threat of the discharge of oil.

*Claimant* means any person or government who presents a claim for compensation under OPA.

*Coastline* means the line of ordinary low water along that portion of the coast that is in direct contact with the open sea which marks the seaward limit of inland waters.

*Covered offshore facility (COF)* means a facility:

(1) That includes any structure and all its components (including wells completed at the structure and the associated pipelines), equipment, pipeline, or device (other than a vessel or other than a pipeline or deepwater port licensed under the Deepwater Port Act of 1974 (33 U.S.C. 1501 *et seq.*)) used for exploring for, drilling for, or producing oil or for transporting oil from such facilities. This includes a well drilled from a mobile offshore drilling unit (MODU) and the associated riser and well control equipment from the moment a drill shaft or other device first touches the seabed for purposes of exploring for, drilling for, or producing oil, but it does not include the MODU; and

(2) That is located:

(i) Seaward of the coastline; or

(ii) In any portion of a bay that is:

(A) Connected to the sea, either directly or through one or more other bays; and

(B) Depicted in whole or in part on any USGS map listed in the Appendix to this part, or on any map published by the USGS that is a successor to and covers all or part of the same area as a listed map. Where any portion of a bay is included on a listed map, this rule applies to the entire bay; and

(3) That has a worst case oil-spill discharge potential of more than 1,000 bbls of oil, or a lesser volume if the Director determines in writing that the oil-spill discharge risk justifies the requirement to demonstrate OSFR.

*Designated applicant* means a person the responsible parties designate to demonstrate OSFR for a COF on a lease, permit, or right-of-use and easement.

*Director* means the Director of the Bureau of Ocean Energy Management.

*Fund* means the Oil Spill Liability Trust Fund established by section 9509 of the Internal Revenue Code of 1986 as amended (26 U.S.C. 9509).

*Geographic Names Information System (GNIS)* means the database developed by the USGS in cooperation with the U.S. Board of Geographic Names which contains the federally-recognized geographic names for all known places, features, and areas in the United States that are identified by a proper name. Each feature is located by state, county, and geographic coordinates and is referenced to the appropriate 1:24,000-scale or 1:63,360-scale USGS topographic map on which it is shown.

*Guarantor* means a person other than a responsible party who provides OSFR evidence for a designated applicant.

*Guaranty* means any acceptable form of OSFR evidence provided by a guarantor including an indemnity, insurance, or surety bond.

*Incident* means any occurrence or series of occurrences having the same origin that results in the discharge or substantial threat of the discharge of oil.

*Indemnity* means an agreement to indemnify a designated applicant upon its satisfaction of a claim.

*Indemnitor* means a person providing an indemnity for a designated applicant.

*Independent accountant* means a certified public accountant who is certified by a state, or a chartered accountant certified by the government of jurisdiction within the country of incorporation of the company proposing to use one of the self-insurance evidence methods specified in this subpart.

*Insolvent* has the meaning set forth in 11 U.S.C. 101, and generally refers to a financial condition in which the sum of a person's debts is greater than the value of the person's assets.

*Lease* means any form of authorization issued under the Outer Continental Shelf Lands Act or state law which allows oil and gas exploration and production in the area covered by the authorization.

*Lessee* means a person holding a leasehold interest in an oil or gas lease including an owner of record title or a holder of operating rights (working interest owner).

*Oil* means oil of any kind or in any form, except as excluded by paragraph (2) of this definition.

(1) Oil includes:

(i) Petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil;

(ii) Hydrocarbons produced at the wellhead in liquid form;

(iii) Gas condensate that has been separated from gas before pipeline injection.

(2) Oil does not include petroleum, including crude oil or any fraction thereof, which is specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. 9601).

*Oil Spill Financial Responsibility (OSFR)* means the capability and means by which a responsible party for a covered offshore facility will meet removal costs and damages for which it is liable under Title I of the Oil Pollution Act of 1990, as amended (33 CFR 2701 *et seq.*), with respect to both oil-spill discharges and substantial threats of the discharge of oil.

*Outer Continental Shelf (OCS)* has the same meaning as the term ''Outer Continental Shelf'' defined in section 2(a) of the OCS Lands Act (OCSLA) (43 U.S.C. 1331(a)).

*Permit* means an authorization, license, or permit for geological exploration issued under section 11 of the OCSLA (43 U.S.C. 1340) or applicable state law.

*Person* means an individual, corporation, partnership, association (including a trust or limited liability company), state, municipality, commission or political subdivision of a state, or any interstate body.

*Pipeline* means the pipeline segments and any associated equipment or appurtenances used or intended for use in the transportation of oil or natural gas.

*Responsible party* has the following meanings:

(1) For a COF that is a pipeline, responsible party means any person owning or operating the pipeline;

(2) For a COF that is not a pipeline, responsible party means either the lessee or permittee of the area in which the COF is located, or the holder of a right-of-use and easement granted under applicable state law or the OCSLA (43 U.S.C. 1301–1356) for the area in which the COF is located (if the holder is a different person than the lessee or permittee). A Federal agency, State, municipality, commission, or political subdivision of a state, or any interstate body that as owner transfers possession and right to use the property to another person by lease, assignment, or permit is not a responsible party; and

(3) For an abandoned COF, responsible party means any person who would have been a responsible party for the COF immediately before abandonment.

*Right-of-use and easement (RUE)* means any authorization to use the OCS or submerged land for purposes other than those authorized by a lease or permit, as defined herein. It includes pipeline rights-of-way.

*Source of the incident* means the facility from which oil was discharged or which poses a substantial threat of discharging oil, as designated by the Director, National Pollution Funds Center, according to 33 CFR part 136, subpart D.

*State* means the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Marianas, and any other territory or possession of the United States.

### § 553.5 What is the authority for collecting Oil Spill Financial Responsibility (OSFR) information?

(a) The Office of Management and Budget (OMB) has approved the information collection requirements in this part 553 under 44 U.S.C. 3501 *et seq.*, and assigned OMB control number 1010–0106.

(b) BOEM collects the information to ensure that the designated applicant for a COF has the financial resources necessary to pay for cleanup and damages that could be caused by oil discharges from the COF. BOEM uses the information to ensure compliance of offshore lessees, owners, and operators of covered facilities with OPA; to establish eligibility of designated applicants for OSFR certification (OSFRC); and to establish a reference source of names, addresses, and telephone numbers of responsible parties for covered facilities and their designated agents, guarantors, and U.S. agents for service of process for claims associated with oil pollution from designated covered facilities. The requirement to provide the information is mandatory. No information submitted for OSFRC is confidential or proprietary.

(c) An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

(d) 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, Bureau of Ocean Energy Management, 381 Elden Street, Herndon, VA 20170.

## Subpart B—Applicability and Amount of OSFR

### § 553.10 What facilities does this part cover?

(a) This part applies to any COF on any lease or permit issued or on any RUE granted under the OCSLA or applicable State law.

(b) For a pipeline COF that extends onto land, this part applies to that portion of the pipeline lying seaward of the first accessible flow shut-off device on land.

### § 553.11 Who must demonstrate OSFR?

(a) A designated applicant must demonstrate OSFR. A designated applicant may be a responsible party or another person authorized under this section. Each COF must have a single designated applicant.

(1) If there is more than one responsible party, those responsible parties must use Form BOEM–1017 to select a designated applicant. The designated applicant must submit Form BOEM–1016 and agree to demonstrate OSFR on behalf of all the responsible parties.

(2) If you are a designated applicant who is not a responsible party, you must agree to be liable for claims made under OPA jointly and severally with the responsible parties.

(b) The designated applicant for a COF on a lease must be either:

(1) A lessee; or

(2) The designated operator for the OCS lease under 30 CFR 550.143 or the unit operator designated under a Federally approved unit including the OCS lease. For a lease or unit not in the OCS, the operator designated under the lease or unit operating agreement for the lease may be the designated applicant only if the operator has agreed to be responsible for compliance with all the laws and regulations applicable to the lease or unit.

(c) The designated applicant for a COF on a permit must be the permittee.

(d) The designated applicant for a COF on a RUE must be the holder of the RUE or, if there is a pipeline on the RUE, the owner or operator of the pipeline.

(e) BOEM may require the designated applicant for a lease, permit, or RUE to be a person other than a person identified in paragraphs (b) through (d) of this section if BOEM determines that a person identified in paragraphs (b) through (d) cannot adequately demonstrate OSFR.

(f) If you are a responsible party and you fail to designate an applicant, then you must demonstrate OSFR under the requirements of this part.

### § 553.12 May I ask BOEM for a determination of whether I must demonstrate OSFR?

You may submit to BOEM a request for a determination of OSFR applicability. Address the request to the office identified in § 553.45. You must include in your request any information that will assist BOEM in making the determination. BOEM may require you to submit other information before making a determination of OSFR applicability.

### § 553.13 How much OSFR must I demonstrate?

(a) The following general parameters apply to the amount of OSFR that you must demonstrate:

| If you are the designated applicant for . . . | Then you must demonstrate . . . |
|---|---|
| Only one COF, | The amount of OSFR that applies to the COF. |
| More than one COF, | The highest amount of OSFR that applies to any one of the COFs. |

(b) You must demonstrate OSFR in the amounts specified in this section:

(1) For a COF located wholly or partially in the OCS you must demonstrate OSFR in accordance with the following table:

| COF worst case oil-spill discharge volume | Applicable amount of OSFR |
|---|---|
| Over 1,000 bbls but not more than 35,000 bbls | $35,000,000 |
| Over 35,000 but not more than 70,000 bbls | 70,000,000 |
| Over 70,000 but not more than 105,000 bbls | 105,000,000 |
| Over 105,000 bbls | 150,000,000 |

(2) For a COF not located in the OCS you must demonstrate OSFR in accordance with the following table:

| COF worst case oil-spill discharge volume | Applicable amount of OSFR |
|---|---|
| Over 1,000 bbls but not more than 10,000 bbls | $10,000,000 |
| Over 10,000 but not more than 35,000 bbls | 35,000,000 |
| Over 35,000 but not more than 70,000 bbls | 70,000,000 |
| Over 70,000 but not more than 105,000 bbls | 105,000,000 |
| Over 105,000 bbls | 150,000,000 |

(3) The Director may determine that you must demonstrate an amount of OSFR greater than the amount in paragraphs (b)(1) and (2) of this section based on the relative operational, environmental, human health, and other risks that your COF poses. The Director may require an amount that is one or more levels higher than the amount indicated in paragraph (b)(1) or (2) of this section for your COF. The Director will not require an OSFR demonstration that exceeds $150 million.

(4) You must demonstrate OSFR in the lowest amount specified in the applicable table in paragraph (b)(1) or (2) of this section for a facility with a potential worst case oil-spill discharge of 1,000 bbls or less if the Director notifies you in writing that the demonstration is justified by the risks of the potential oil-spill discharge.

### § 553.14 How do I determine the worst case oil-spill discharge volume?

(a) To calculate the amount of OSFR you must demonstrate for a facility under § 553.13(b), you must use the worst case oil-spill discharge volume that you determined under whichever of the following regulations applies:

(1) 30 CFR part 254—Response Plans for Facilities Located Seaward of the Coast Line, except that the volume of the worst case oil-spill discharge for a well must be four times the uncontrolled flow volume that you estimate for the first 24 hours.

(2) 40 CFR part 112—Oil Pollution Prevention; or

(3) 49 CFR part 194—Response Plans for Onshore Oil Pipelines.

(b) If you are a designated applicant and you choose to demonstrate $150 million in OSFR, you are not required to determine any worst case oil-spill discharge volumes, since that is the maximum amount of OSFR required under this part.

### § 553.15 What are my general OSFR compliance responsibilities?

(a) You must maintain continuous OSFR coverage for all your leases, permits, and RUEs with COFs for which you are the designated applicant.

(b) You must ensure that new OSFR evidence is submitted before your current evidence lapses or is canceled and that coverage for your new COF is submitted before the COF goes into operation.

(c) If you use self-insurance to demonstrate OSFR and find that you no longer qualify to self-insure the required OSFR amount based upon your latest audited annual financial statements, then you must demonstrate OSFR using other methods acceptable to BOEM by whichever of the following dates comes first:

(1) Sixty calendar days after you receive your latest audited annual financial statement; or

(2) The first calendar day of the 5th month after the close of your fiscal year.

(d) You may use a surety bond to demonstrate OSFR. If you find that your bonding company has lost its state license or has had its U.S. Treasury Department certification revoked, then you must replace the surety bond within 15 calendar days using a method of OSFR that is acceptable to BOEM.

(e) You must notify BOEM in writing within 15 calendar days after a change occurs that would prevent you from meeting your OSFR obligations (e.g., if you or your indemnitor petition for bankruptcy under chapters 7 or 11 of Title 11, U.S.C.). You must take any action BOEM directs to ensure an acceptable OSFR demonstration.

(f) If you deny payment of a claim presented to you under § 553.60, then you must give the claimant a written explanation for your denial.

## Subpart C—Methods for Demonstrating OSFR

### § 553.20 What methods may I use to demonstrate OSFR?

As the designated applicant, you may satisfy your OSFR requirements by using one or a combination of the following methods to demonstrate OSFR:

(a) Self-insurance under §§ 553.21 through 553.28;

(b) Insurance under § 553.29;

(c) An indemnity under § 553.30;

(d) A surety bond under § 553.31; or

(e) An alternative method the Director approves under § 553.32.

### § 553.21 How can I use self-insurance as OSFR evidence?

(a) If you use self-insurance to satisfy all or part of your obligation to demonstrate OSFR, you must annually pass either a net worth test under § 553.25 or an unencumbered net asset test under § 553.28.

(b) To establish the amount of self-insurance allowed, you must submit evidence of your net worth under § 553.23 or evidence of your unencumbered assets under § 553.26.

(c) You must identify a U.S. agent for service of process.

### § 553.22 How do I apply to use self-insurance as OSFR evidence?

(a) You must submit a complete Form BOEM–1018 with each application to demonstrate OSFR using self-insurance.

(b) You must submit your application to renew OSFR using self-insurance by the first calendar day of the 5th month after the close of your fiscal year. You may submit to BOEM your initial application to demonstrate OSFR using self-insurance at any time.

**§ 553.23 What information must I submit to support my net worth demonstration?**

You must support your net worth evaluation with information contained in your previous fiscal year's audited annual financial statement.

(a) Audited annual financial statements must be in the form of:

(1) An annual report, prepared in accordance with the generally accepted accounting practices (GAAP) of the United States or other international accounting practices determined to be equivalent by BOEM; or

(2) A Form 10–K or Form 20–F, prepared in accordance with Securities and Exchange Commission regulations.

(b) Audited annual financial statements must be submitted together with a letter signed by your treasurer highlighting:

(1) The State or the country of incorporation;

(2) The total amount of the stockholders' equity as shown on the balance sheet;

(3) The net amount of the plant, property, and equipment shown on the balance sheet; and

(4) The net amount of the identifiable U.S. assets and the identifiable total assets in the auditor's notes to the financial statement (*i.e.*, a geographic segmented business note).

**§ 553.24 When I submit audited annual financial statements to verify my net worth, what standards must they meet?**

(a) Your audited annual financial statements must be bound.

(b) Your audited annual financial statements must include the unqualified opinion of an independent accountant that states:

(1) The financial statements are free from material misstatement, and

(2) The audit was conducted in accordance with the generally accepted auditing standards (GAAS) of the United States, or other international auditing standards that BOEM determines to be equivalent.

(c) The financial information you submit must be expressed in U.S. dollars. If this information was originally reported in another form of currency, you must convert it to U.S. dollars using the conversion factor that was effective on the last day of the fiscal year pertinent to your financial statements. You also must identify the source of the currency exchange rate.

**§ 553.25 What financial test procedures must I use to determine the amount of self-insurance allowed as OSFR evidence based on net worth?**

(a) Divide the total amount of the stockholders'/owners' equity listed on the balance sheet by ten.

(b) Divide the net amount of the identifiable U.S. assets by the net amount of the identifiable total assets.

(c) Multiply the net amount of plant, property, and equipment shown on the balance sheet by the number calculated under paragraph (b) of this section and divide the resultant product by ten.

(d) The smaller of the numbers calculated under paragraphs (a) or (c) of this section is the maximum allowable amount you may use to demonstrate OSFR under this method.

**§ 553.26 What information must I submit to support my unencumbered assets demonstration?**

You must support your unencumbered assets evaluation with the information required by § 553.23(a) and a list of reserved, unencumbered, and unimpaired U.S. assets whose value will not be affected by an oil discharge from a COF. The assets must be plant, property, or equipment held for use. You must submit a letter signed by your treasurer:

(a) Identifying which assets are reserved;

(b) Certifying that the assets are unencumbered, including contingent encumbrances;

(c) Promising that the identified assets will not be sold, subjected to a security interest, or otherwise encumbered throughout the specified fiscal year; and

(d) Specifying:

(1) The State or the country of incorporation;

(2) The total amount of the stockholders'/owners' equity listed on the balance sheet;

(3) The identification and location of the reserved U.S. assets; and

(4) The value of the reserved U.S. assets less accumulated depreciation and

amortization, using the same valuation method used in your audited annual financial statement and expressed in U.S. dollars. The net value of the reserved assets must be at least two times the self-insurance amount requested for demonstration.

### § 553.27 When I submit audited annual financial statements to verify my unencumbered assets, what standards must they meet?

Any audited annual financial statements that you submit must:

(a) Meet the standards in § 553.24; and

(b) Include a certification by the independent accountant who audited the financial statements that states:

(1) The value of the unencumbered assets is reasonable and uses the same valuation method used in your audited annual financial statements;

(2) Any existing encumbrances are noted;

(3) The assets are long-term assets held for use; and

(4) The valuation method used in the audited annual financial statements is for long-term assets held for use.

### § 553.28 What financial test procedures must I use to evaluate the amount of self-insurance allowed as OSFR evidence based on unencumbered assets?

(a) Divide the total amount of the stockholders'/owners' equity listed on the balance sheet by 4.

(b) Divide the value of the unencumbered U.S. assets by 2.

(c) The smaller number calculated under paragraphs (a) or (b) of this section is the maximum allowable amount you may use to demonstrate OSFR under this method.

### § 553.29 How can I use insurance as OSFR evidence?

(a) If you use insurance to satisfy all or part of your obligation to demonstrate OSFR, you may use only insurance certificates issued by insurers that have achieved a ''Secure'' rating for claims paying ability in their latest review by A.M. Best's Insurance Reports, Standard & Poor's Insurance Rating Services, or other equivalent rating made by a rating service acceptable to BOEM.

(b) You must submit information about your insurers to BOEM on a completed and unaltered Form BOEM–1019. The information you submit must:

(1) Include all the information required by § 553.41 and

(2) Be executed on one original insurance certificate (*i.e.*, Form BOEM–1019) for each OSFR layer (see paragraph (c) of this section), showing all participating insurers and their proportion (quota share) of this risk. The certificate must bear the original signatures of each insurer's underwriter or of their lead underwriters, underwriting managers, or delegated brokers, depending on who is authorized to bind the underwriter.

(3) For each insurance company on the insurance certificate, indicate the insurer's claims-paying-ability rating and the rating service that issued the rating.

(c) The insurance evidence you provide to BOEM as OSFR evidence may be divided into layers, subject to the following restrictions:

(1) The total amount of OSFR evidence must equal the total amount you must demonstrate under § 553.13;

(2) No more than one insurance certificate may be used to cover each OSFR layer specified in § 553.13(b) (*i.e.*, four layers for an OCS COF, and five layers for a non-OCS COF);

(3) You may use one insurance certificate to cover any number of consecutive OSFR layers;

(4) Each insurer's participation in the covered insurance risk must be on a proportional (quota share) basis, must be expressed as a percentage of a whole layer, and the certificate must not contain intermediate, horizontal layers;

(5) You may use an insurance deductible. If you use more than one insurance certificate, the deductible amount must apply only to the certificate that covers the base OSFR amount layer. To satisfy an insurance deductible, you may use only those methods that are acceptable as evidence of OSFR under this part; and

(6) You must identify a U.S. agent for service of process on each insurance certificate you submit to BOEM. The agent may be different for each insurance certificate.

(d) You may submit to BOEM a temporary insurance confirmation (fax binder) for each insurance certificate you use as OSFR evidence. Submit your fax binder on Form BOEM–1019, and each form must include the signature of an underwriter for at least one of the participating insurers. BOEM will accept your fax binder as OSFR evidence during a period that ends 90 days after the date that you need the insurance to demonstrate OSFR.

### § 553.30 How can I use an indemnity as OSFR evidence?

(a) You may use only one indemnity issued by only one indemnitor to satisfy all or part of your obligation to demonstrate OSFR.

(b) Your indemnitor must be your corporate parent or affiliate.

(c) Your indemnitor must complete a Form BOEM–1018 and provide an indemnity that:

(1) Includes all the information required by § 553.41; and

(2) Does not exceed the amounts calculated using the net worth or unencumbered assets tests specified under §§ 553.21 through 553.28.

(d) You must submit your application to renew OSFR using an indemnity by the first calendar day of the 5th month after the close of your indemnitor's fiscal year. You may submit to BOEM your initial application to demonstrate OSFR using an indemnity at any time.

(e) Your indemnitor must identify a U.S. agent for service of process.

### § 553.31 How can I use a surety bond as OSFR evidence?

(a) Each bonding company that issues a surety bond that you submit to BOEM as OSFR evidence must:

(1) Be licensed to do business in the State in which the surety bond is executed;

(2) Be certified by the U.S. Treasury Department as an acceptable surety for Federal obligations and listed in the current Treasury Circular No. 570;

(3) Provide the surety bond on Form BOEM–1020; and

(4) Be in compliance with applicable statutes regulating surety company participation in insurance-type risks.

(b) A surety bond that you submit as OSFR evidence must include all the information required by § 553.41.

### § 553.32 Are there alternative methods to demonstrate OSFR?

The Director may accept other methods to demonstrate OSFR that provide equivalent assurance of timely satisfaction of claims. This may include pooling, letters of credit, pledges of treasury notes, or other comparable methods. Submit your proposal, together with all the supporting documents, to the Director at the address listed in § 553.45. The Director's decision whether to approve your alternative method to evidence OSFR is by this rule committed to the Director's sole discretion and is not subject to administrative appeal under 30 CFR part 590 or 43 CFR part 4.

## Subpart D—Requirements for Submitting OSFR Information

### § 553.40 What OSFR evidence must I submit to BOEM?

(a) You must submit to BOEM:

(1) A single demonstration of OSFR that covers all the COFs for which you are the designated applicant;

(2) A completed and unaltered Form BOEM–1016;

(3) BOEM forms that identify your COFs (Form BOEM–1021, Form BOEM–1022), and the methods you will use to demonstrate OSFR (Form BOEM–1018, Form BOEM–1019, Form BOEM–1020). Forms are available from the address listed in § 553.45;

(4) Any insurance certificates, indemnities, and surety bonds used as OSFR evidence for the COFs for which you are the designated applicant;

(5) A completed Form BOEM–1017 for each responsible party, unless you are the only responsible party for the COFs covered by your OSFR demonstration; and

(6) Other financial instruments and information the Director requires to support your OSFR demonstration under § 553.32.

(b) Each BOEM form you submit to BOEM as part of your OSFR demonstration must be signed. You also must attach to Form BOEM–1016 proof of your authority to sign.

### § 553.41 What terms must I include in my OSFR evidence?

(a) Each instrument you submit as OSFR evidence must specify:

(1) The effective date, and except for a surety bond, the expiration date;

(2) That termination of the instrument will not affect the liability of the instrument issuer for claims arising from an incident (*i.e.*, oil-spill discharge or substantial threat of the discharge of oil) that occurred on or before the effective date of termination;

(3) That the instrument will remain in force until the termination date or until the earlier of:

(i) Thirty calendar days after BOEM and the designated applicant receive from the instrument issuer a notification of intent to cancel; or

(ii) BOEM receives from the designated applicant other acceptable OSFR evidence; or

(iii) All the COFs to which the instrument applies are permanently abandoned in compliance with 30 CFR part 250 or equivalent State requirements;

(4) That the instrument issuer agrees to direct action for claims made under OPA up to the guaranty amount, subject to the defenses in paragraph (a)(6) of this section and following the procedures in § 553.60 of this part;

(5) An agent in the United States for service of process; and

(6) That the instrument issuer will not use any defenses against a claim made under OPA except:

(i) The rights and defenses that would be available to a designated applicant or responsible party for whom the guaranty was provided; and

(ii) The incident (*i.e.*, oil-spill discharge or a substantial threat of the discharge of oil) leading to the claim for removal costs or damages was caused by willful misconduct of a responsible party for whom the designated applicant demonstrated OSFR.

(b) You may not change, omit, or add limitations or exceptions to the terms and conditions in a BOEM form that you submit as part of your OSFR demonstration. If you attempt to do this, BOEM will disregard the changes, omissions, additions, limitations, or exceptions and by operation of this rule BOEM will consider the form to contain all the terms and conditions included on the original BOEM form.

### § 553.42 How can I amend my list of COFs?

(a) If you want to add a COF that is not identified in your current OSFR demonstration, you must submit to BOEM a completed Form BOEM–1022. If applicable, you also must submit any additional indemnities, surety bonds, insurance certificates, or other instruments required to extend the coverage of your original OSFR demonstration to the COFs to be added. You do not need to resubmit previously accepted audited annual financial statements for the current fiscal year.

(b) If you want to drop a COF identified in your current OSFR demonstration, you must submit to BOEM a completed Form BOEM–1022. You must continue to demonstrate OSFR for the COF until BOEM approves OSFR evidence for the COF from another designated applicant, or OSFR is no longer required (e.g., until a well that is a COF is properly plugged and abandoned).

### § 553.43 When is my OSFR demonstration or the amendment to my OSFR demonstration effective?

(a) BOEM will notify you in writing when we approve your OSFR demonstration. If we find that you have not submitted all the information needed to demonstrate OSFR, we may require you to provide additional information before we determine whether your OSFR evidence is acceptable.

(b) Except in the case of self-insurance or an indemnity, BOEM acceptance of OSFR evidence is valid until the surety bond, insurance certificate, or other accepted OSFR instrument expires or is canceled. In the case of self-insurance or indemnity, acceptance is valid until the first day of the 5th month after the close of your or your indemnitor's current fiscal year.

### § 553.44 [Reserved]

### § 553.45 Where do I send my OSFR evidence?

Address all correspondence and required submissions related to this part to: U.S. Department of the Interior, Bureau of Ocean Energy Management,

Gulf of Mexico Region, Oil Spill Financial Responsibility Program, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123.

## Subpart E—Revocation and Penalties

### § 553.50 How can BOEM refuse or invalidate my OSFR evidence?

(a) If BOEM determines that any OSFR evidence you submit fails to comply with the requirements of this part, we may not accept it. If we do not accept your OSFR evidence, then we will send you a written notification stating:

(1) That your evidence is not acceptable;

(2) Why your evidence is unacceptable; and

(3) The amount of time you are allowed to submit acceptable evidence without being subject to civil penalty under § 553.51.

(b) BOEM may immediately and without prior notice invalidate your OSFR demonstration if you:

(1) Are no longer eligible to be the designated applicant for a COF included in your demonstration; or

(2) Permit the cancellation or termination of the insurance policy, surety bond, or indemnity upon which the continued validity of the demonstration is based.

(c) If BOEM determines you are not complying with the requirements of this part for any reason other than paragraph (b) of this section, we will notify you of our intent to invalidate your OSFR demonstration and specify the corrective action needed. Unless you take the corrective action BOEM specifies within 15 calendar days from the date you receive such a notice, we will invalidate your OSFR demonstration.

### § 553.51 What are the penalties for not complying with this part?

(a) If you fail to comply with the financial responsibility requirements of OPA at 33 U.S.C. 2716 or with the requirements of this part, then you may be liable for a civil penalty of up to $30,000 per COF per day of violation (that is, each day a COF is operated without acceptable evidence of OSFR).

(b) BOEM will determine the date of a noncompliance. BOEM will assess penalties in accordance with an OSFR penalty schedule using the procedures found at 30 CFR part 550, subpart N. You may obtain a copy of the penalty schedule from BOEM at the address in § 553.45.

(c) BOEM may assess a civil penalty against you that is greater or less than the amount in the penalty schedule after taking into account the factors in section 4303(a) of OPA (33 U.S.C. 2716a).

(d) If you fail to correct a deficiency in the OSFR evidence for a COF, then the Director may suspend operation of a COF in the OCS under 30 CFR 250.170 or seek judicial relief, including an order suspending the operation of any COF.

## Subpart F—Claims for Oil-Spill Removal Costs and Damages

### § 553.60 To whom may I present a claim?

(a) If you are a claimant, you must present your claim first to the designated applicant for the COF that is the source of the incident resulting in your claim. If, however, the designated applicant has filed a petition for bankruptcy under 11 U.S.C. chapter 7 or 11, you may present your claim first to any of the designated applicant's guarantors.

(b) If the claim you present to the designated applicant or guarantor is denied or not paid within 90 days after you first present it or advertising begins, whichever is later, then you may seek any of the following remedies that apply:

| If the reason for denial or nonpayment is . . . | Then you may elect to . . . |
|---|---|
| (1) *Not* an assertion of insolvency or petition in bankruptcy under 11 U.S.C. chapter 7 or 11, | (i) Present your claim to any of the responsible parties for the COF; or<br>(ii) Initiate a lawsuit against the designated applicant and/or any of the responsible parties for the COF; or<br>(iii) Present your claim to the Fund using the procedures at 33 CFR part 136. |
| (2) An assertion of insolvency or petition in bankruptcy under 11 U.S.C. chapter 7 or 11, | (i) Pursue any of the remedies in items (1)(i) through (iii) of this table; or<br>(ii) Present your claim to any of the designated applicant's guarantors; or<br>(iii) Initiate a lawsuit against any of the designated applicant's guarantors. |

(c) If no one has resolved your claim to your satisfaction using the remedy that you elected under paragraph (b) of this section, then you may pursue another available remedy, unless the Fund has denied your claim or a court of competent jurisdiction has ruled against your claim. You may not pursue more than one remedy at a time.

(d) You may ask BOEM to assist you in determining whether a guarantor may be liable for your claim. Send your request for assistance to the address listed in § 553.45. You must include any information you have regarding the existence or identity of possible guarantors.

### § 553.61 When is a guarantor subject to direct action for claims?

(a) If you are a guarantor, then you are subject to direct action for any claim asserted by:

(1) The United States for any compensation paid by the Fund under OPA, including compensation claim processing costs; and

(2) A claimant other than the United States if the designated applicant has:

(i) Denied or failed to pay a claim because of being insolvent; or

(ii) Filed a petition in bankruptcy under 11 U.S.C. chapters 7 or 11.

(b) If you participate in an insurance guaranty for a COF incident (*i.e.*, oil-spill discharge or substantial threat of the discharge of oil) that is subject to claims under this part, then your maximum, aggregate liability for those claims is equal to your quota share of the insurance guaranty.

### § 553.62 What are the designated applicant's notification obligations regarding a claim?

If you are a designated applicant, and you receive a claim for removal costs and damages, then within 15 calendar days of receipt of a claim you must notify:

(a) Your guarantors; and

(b) The responsible parties for whom you are acting as the designated applicant.

## APPENDIX TO PART 553—LIST OF U.S. GEOLOGICAL SURVEY TOPOGRAPHIC MAPS

*Alabama* (1:24,000 scale): Bellefontaine; Bon Secour Bay; Bridgehead; Coden; Daphne; Fort Morgan; Fort Morgan NW; Grand Bay; Grand Bay SW; Gulf Shores; Heron Bay; Hollingers Island; Isle Aux Herbes; Kreole; Lillian; Little Dauphin Island; Little Point Clear; Magnolia Springs; Mobile; Orange Beach; Perdido Beach; Petit Bois Island; Petit Bois Pass; Pine Beach; Point Clear; Saint Andrews Bay; West Pensacola.

*Alaska* (1:63,360 scale): Afognak (A–1, A–2, A–3, A–4, A–5, A–0&B–0, B–1, B–2, B–3, C–1&2, C–2&3, C–5, C–6, D–1, D–4, D–5); Anchorage (A–1, A–2, A–3, A–4, A–8, B–7, B–8); Barrow (A–1, A–2, A–3, A–4, A–5, B–3, B–4); Baird Mts. (A–6); Barter Island (A–3, A–4, A–5); Beechy Point (A–1, A–2, B–1, B–2, B–3, B–4, B–5, C–4, C–5); Bering Glacier (A–1, A–2, A–3, A–4, A–5, A–6, A–7, A–8); Black (A–1, A–2, B–1, C–1); Blying Sound (C–7, C–8, D–1&2, D–3, D–4, D–5, D–6, D–7, D–8); Candle (D–6); Cordova (A–1, A–2, A–3, A–4, A–7&8, B–2, B–3, B–4, B–5, B–6, B–7, B–8, C–5, C–6, C–7, C–8, D–6, D–7, D–8); De Long Mts. (D–4, D–5); Demarcation Point (C–1, C–2, D–2, D–3); Flaxman Island (A–1, A–3, A–4, A–5, B–5); Harrison Bay (B–1, B–2, B–3, B–4, C–1, C–3, C–4, C–5, D–4, D–5); Icy Bay (D1, D–2&3); Iliamna (A–2, A–3, A–4, B–2, B–3, C–1, C–2, D–1); Karluk (A–1, A–2, B–2, B–3, C–1, C–2, C–4&5, C–6); Kenai (A–4, A–5, A–7, A–8, B–4, B–6, B–7, B–8, C–4, C–5, C–6, C–7, D–1, D–2, D–3, D–4, D–5); Kodiak (A–3, A–4, A–5, A–6, B–1&2, B–3, B–4, B–6, C–1, C–2, C–3, C–5, C–6, D–

1, D–2, D–3, D–4, D–5, D–6); Kotzebue (A–1, A–2, A–3, A–4, B–4, B–6, C–1, C–4, C–5, C–6, D–1, D–2); Kwiguk (C–6, D–6); Meade River (D–1, D–3, D–4, D–5); Middleton Island (B–7, D–1&2); Mt. Katmai (A–1, A–2, A–3; B–1); Mt. Michelson (D–1, D–2, D–3); Mt. St. Elias (A–5); Noatak (A–1, A–2, A–3, A–4, B–4, C–4, C–5, D–6, D–7); Nome (B–1, C–1, C–2, C–3, D–3, D–4, D–7); Norton Bay (A–4, B–4, B–5, B–6, C–4, C–5, C–6, D–4, D–5, D–6); Point Hope (A–1, A–2, B–2, B–3, C–2, C–3, D–1, D–2); Point Lay (A–3&4, B–2&3, C–2, D–1, D–2); Selawik (A–5, A–6, B–5, B–6, C–5, C–6, D–6); Seldovia (A–3, A–4, A–5, A–6, B–1, B–2, B–3, B–4, B–5, B–6, C–1, C–2, C–3, C–4, C–5, D–1, D–3, D–4, D–5, D–8); Seward (A–1, A–2, A–3, A–4, A–5, A–6, A–7, B–1, B–2, B–3, B–4, B–5, C–1, C–2, C–3, C–4, C–5, D–1, D–2, D–3, D–4, D–5, D–6, D–7, D–8); Shishmaref (A–2, A–3, A–4, B–1, B–2, B–3); Solomon (B–2, B–3, B–6, C–1, C–2, C–3, C–4, C–5, C–6); St. Michael (A–2, A–3, A–4, A–5, A–6, B–1, B–2, C–1, C–2); Teller (A–2, A–3, A–4, B–3, B–4, B–5, B–6, C–6, C–7, D–4, D–5, D–6, D–8); Teshekpuk (D–1, D–2, D–3, D–4, D–5); Tyonek (A–1, A–2, A–3, A–4, B–1, B–2); Unalakleet (B–5, B–6, C–4, C–5, D–4); Valdez (A–7, A–8); Wainwright (A–5, A–6&7, B–2, B–3, B–4, B–5&6, C–2, C–3, D–1, D–2; Yakutat (A–1, A–2, A–2, B–3, B–4, B–5, C–4, C–5, C–6, C–7, C–8, D–3, D–4, D–5, D–6, D–8).

*California* (1:24,000 scale): Arroyo Grande NE; Beverly Hills; Carpinteria; Casmalia; Dana Point; Del Mar; Dos Pueblos Canyon; Encinitas; Gaviota; Goleta; Guadalupe; Imperial Beach; Laguna Beach; La Jolla; Las Pulgas Canyon; Lompoc Hills; Long Beach; Los Alamitos; Malibu Beach; Morro Bay South; National City; Newport Beach; Oceano; Oceanside; Oxnard; Pismo Beach; Pitas Point; Point Arguello; Point Conception; Point Dune; Point Loma; Point Mugu; Point Sal; Port San Luis; Rancho Santa Fe; Redondo Beach; Sacate; San Clemente; San Juan Capistrano; San Luis Rey; San Onofre Bluff; San Pedro; Santa Barbara; Saticoy; Seal Beach; Surf; Tajiguas; Topanga; Torrance; Tranquillon Mountain; Triunfo Pass; Tustin; Venice; Ventura; White Ledge Peak.

*Florida* (1:24,000 scale): Allanton; Alligator Bay; Anna Maria; Apalachicola; Aripeka; Bayport; Beacon Beach; Beacon Hill; Bee Ridge; Belle Meade; Belle Meade NW; Beverly; Big Lostmans Bay; Bird Keys; Bokeelia; Bonita Springs; Bradenton; Bradenton Beach; Bruce; Bunker; Cape Romano; Cape Saint George; Cape San Blas; Captiva; Carrabelle; Cedar Key; Chassahowitzka; Chassahowitzka Bay; Chiefland SW; Choctaw Beach; Chokoloskee; Clearwater; Clive Key; Cobb Rocks; Cockroach Bay; Crawfordville East; Crooked Island; Crooked Point; Cross City SW; Crystal River; Destin; Dog Island; Dunedin; East Pass; Egmont Key; El Jobean; Elfers; Englewood; Englewood NW; Estero; Everglades City; Fivay Junction; Flamingo; Fort Barrancas; Fort Myers Beach; Fort Myers SW; Fort Walton Beach; Freeport; Gandy Bridge; Garcon Point; Gator Hook Swamp; Gibsonton; Goose Island; Grayton Beach; Green Point; Gulf Breeze; Harney River; Harold SE; Holley; Holt SW; Homosassa; Horseshoe Beach; Indian Pass; Jackson River; Jena; Keaton Beach; Laguna Beach; Lake Ingraham East; Lake Ingraham West; Lake Wimico; Laurel; Lebanon Station; Lighthouse Point; Lillian; Long Point; Lostmans River Ranger Station; Manlin Hammock; Marco Island; Mary Esther; Matlacha; McIntyre; Milton South; Miramar Beach; Myakka River; Naples North; Naples South; Navarre; New Inlet; Niceville; Nutall Rise; Ochopee; Okefenokee Slough; Oldsmar; Orange Beach; Oriole Beach; Overstreet; Ozello; Pace; Palmetto; Panama City; Panama City Beach; Panther Key; Pass-A-Grille Beach; Pavillion Key; Pensacola; Perdido Bay; Pickett Bay; Pine Island Center; Placida; Plover Key; Point Washington; Port Boca Grande; Port Richey; Port Richey NE; Port Saint Joe; Port Tampa; Punta Gorda; Punta Gorda SE; Punta Gorda SW; Red Head; Red Level; Rock Islands; Royal Palm Hammock; Safety Harbor; Saint Joseph Point; Saint Joseph Spit; Saint Marks; Saint Marks NE; Saint Petersburg; Saint Teresa Beach; Salem SW; Sandy Key; Sanibel; Sarasota; Seahorse Key; Seminole; Seminole Hills; Shark Point; Shark River Island; Shired Island; Snipe Island; Sopchoppy; South of Holley; Southport; Sprague Island; Spring Creek; Springfield; Steinhatchee; Steinhatchee SE; Steinhatchee SW; Sugar Hill; Sumner; Suwannee; Tampa; Tarpon Springs; Valparaiso; Venice; Vista; Waccassasa Bay; Ward Basin; Warrior Swamp; Weavers Station; Weeki Wachee Spring; West Bay; West Pass; West Pensacola; Whitewater Bay West; Withlacoochee Bay; Wulfert; Yankeetown.

*Louisiana* (1:24,000 scale): Alligator Point; Barataria Pass; Bastian Bay; Bay Batiste; Bay Coquette; Bay Courant; Bay Dosgris; Bay Ronquille; Bay Tambour; Bayou Blanc; Bayou Lucien; Belle Isle; Belle Pass; Big Constance Lake; Black Bay North; Black Bay South; Breton Islands; Breton Islands SE; Buras; Burrwood Bayou East; Burwood Bayou West; Calumet Island; Cameron; Caminada Pass; Cat Island; Cat Island Pass; Central Isles Dernieres; Chandeleur Light; Chef Mentur; Cheniere Au Tigre; Cocodrie; Coquille Point; Cow Island; Creole; Cypremort Point; Deep Lake; Dixon Bay; Dog Lake; Door Point; East Bay Junop; Eastern Isles; Dernieres; Ellerslie; Empire; English Lookout; False Mouth Bayou; Fearman Lake; Floating Turf Bayou; Fourleague Bay; Franklin; Freemason Island; Garden Island Pass; Grand Bayou; Grand Bayou du Large; Grand Chenier; Grand Gosier Islands; Grand Isle; Hackberry Beach; Hammock Lake; Happy Jack; Hebert Lake; Hell Hole Bayou; Hog Bayou; Holly Beach; Intercoastal City; Isle Au Pitre;

Jacko Bay; Johnson Bayou; Kemper; Lake Athanasio; Lake Cuatro Caballo; Lake Eloi; Lake Eugene; Lake Felicity; Lake La Graisse; Lake Merchant; Lake Point; Lake Salve; Lake Tambour; Leeville; Lena Lagoon; Lost Lake; Main Pass; Malheureux Point; Marone Point; Martello Castle; Mink Bayou; Mitchell Key; Morgan City SW; Morgan Harbor; Mound Point; Mulberry Island East; Mulberry Island West; New Harbor Islands; North Islands; Oak Mound Bayou; Oyster Bayou; Pass A Loutre East; Pass A Loutre West; Pass du Bois; Pass Tante Phine; Pecan Island; Pelican Pass; Peveto Beach; Pilottown; Plumb Bayou; Point Au Fer; Point Au Fer NE; Point Chevreuil; Point Chicot; Port Arthur South; Port Sulphur; Pte. Aux Marchuttes; Proctor Point; Pumpkin Islands; Redfish Point; Rollover Lake; Sabine Pass; Saint Joe Pass; Smith Bayou; South of South Pass; South Pass; Stake Islands; Taylor Pass; Texas Point; Three Mile Bay; Tigre Lagoon; Timbalier Island; Triumph; Venice; Weeks; West of Johnson Bayou; Western Isles Dernieres; Wilkinson Bay; Yscloskey.

*Mississippi* (1:24,000 scale): Bay Saint Louis; Biloxi; Cat Island; Chandeleur Light; Deer Island; Dog Keys Pass; English Lookout; Gautier North; Gautier South; Grand Bay SW; Gulfport North; Gulfport NW; Gulfport South; Horn Island East; Horn Island West; Isle Au Pitre; Kreole; Ocean Springs; Pascagoula North; Pascagoula South; Pass Christian; Petit Bois Island; Saint Joe Pass; Ship Island; Waveland.

*Texas* (1:24,000 scale): Allyns Bright; Anahuac; Aransas Pass; Austwell; Bacliff; Bayside; Big Hill Bayou; Brown Cedar Cut; Caplen; Carancahua Pass; Cedar Lakes East; Cedar Lakes West; Cedar Lane NE; Christmas Point; Clam Lake; Corpus Christi; Cove; Crane Islands NW; Crane Islands SW; Decros Point; Dressing Point; Estes; Flake; Freeport; Frozen Point; Galveston; Green Island; Hawk Island; High Island; Hitchcock; Hoskins Mound; Jones Creek; Keller Bay; Kleberg Point; La Comal; La Leona; La Parra Ranch NE; Laguna Vista; Lake Austin; Lake Como; Lake Stephenson; Lamar; Long Island; Los Amigos; Windmill; Maria Estella Well; Matagorda; Matagorda SW; Mesquite Bay; Mission Bay; Morgans Point; Mosquito Point; Mouth of Rio Grande; Mud Lake; North of Port Isabel NW; North of Port Isabel SW; Oak Island; Olivia; Oso Creek NE; Oyster Creek; Palacios; Palacios NE; Palacios Point; Palacios SE; Panther Point; Panther Point NE; Pass Cavallo SW; Pita Island; Point Comfort; Point of Rocks; Port Aransas; Port Arthur South; Port Bolivar; Port Ingleside; Port Isabel; Port Isabel NW; Port Lavaca East; Port Mansfield; Port O'Connor; Portland; Potrero Cortado; Potrero Lopeno NW; Potrero Lopeno SE; Potrero Lopeno SW; Rockport; Sabine Pass; San Luis Pass; Sargent; Sea Isle; Seadrift; Seadrift NE; Smith Point; South Bird Island; South Bird Island NW; South Bird Island SE; South of Palacios Point; South of Potrero Lopeno NE; South of Potrero Lopeno NW; South of Potrero Lopeno SE; South of Star Lake; St. Charles Bay; St. Charles Bay SE; St. Charles Bay SW; Star Lake; Texas City; Texas Point; The Jetties; Three Islands; Tivoli SE; Turtle Bay; Umbrella Point; Virginia Point; West of Johnson Bayou; Whites Ranch; Yarborough Pass.

# PART 556—LEASING OF SULPHUR OR OIL AND GAS IN THE OUTER CONTINENTAL SHELF

## Subpart A—Outer Continental Shelf Oil, Gas, and Sulphur Management, General

Sec.
556.0 Authority for information collection.
556.1 Purpose.
556.2 Policy.
556.4 Authority.
556.5 Definitions.
556.7 Cross references.
556.8 Leasing maps and diagrams.
556.10 Information to States.
556.11 Helium.
556.12 Supplemental sales.

## Subpart B—Oil and Gas Leasing Program

556.16 Receipt and consideration of nominations; public notice and participation.
556.17 Review by State and local governments and other persons.
556.19 Periodic consultation with interested parties.
556.20 Consideration of coastal zone management program.

## Subpart C—Reports From Federal Agencies

556.22 General.

## Subpart D—Call for Information and Nominations

556.23 Information on areas.
556.25 Areas near coastal States.

## Subpart E—Area Identification and Tract Size

556.26 General.
556.28 Tract size.

## Subpart F—Lease Sales

556.29 Proposed notice of sale.
556.31 State comments.
556.32 Notice of sale.

### Subpart G—Issuance of Leases

556.35 Qualifications of lessees.
556.37 Lease term.
556.38 Joint bidding provisions.
556.40 Definitions.
556.41 Joint bidding requirements.
556.43 Chargeability for production.
556.44 Bids disqualified.
556.46 Submission of bids.
556.47 Award of leases.
556.49 Lease form.
556.50 Dating of leases.

### Subpart H—Rentals and Royalties [Reserved]

### Subpart I—Bonding

556.52 Bond requirements for an oil and gas or sulphur lease.
556.53 Additional bonds.
556.54 General requirements for bonds.
556.55 Lapse of bond.
556.56 Lease-specific abandonment accounts.
556.57 Using a third-party guarantee instead of a bond.
556.58 Termination of the period of liability and cancellation of a bond.
556.59 Forfeiture of bonds and/or other securities.

### Subpart J—Assignments, Transfers, and Extensions

556.62 Assignment of lease or interest in lease.
556.63 Service fees.
556.64 How to file transfers.
556.65 Attorney General review.
556.67 Separate filings for assignments.
556.68 Effect of assignment of a particular tract.
556.70 Extension of lease by drilling or well reworking operations.
556.71 Directional drilling.
556.72 Compensatory payments as production.

### Subpart K—Termination of Leases

556.76 Relinquishment of leases or parts of leases.
556.77 Cancellation of leases.

### Subpart L—Section 6 Leases

556.79 Effect of regulations on lease.
556.80 Leases of other minerals.

### Subpart M—Studies

556.82 Environmental studies.

### Subpart N—Bonus or Royalty Credits for Exchange of Certain Leases Offshore Florida

556.90 Which leases may I exchange for a bonus or royalty credit?
556.91 How much bonus or royalty credit will BOEM grant in exchange for a lease?
556.92 What must I do to obtain a bonus or royalty credit?
556.93 How is the bonus or royalty credit allocated among multiple lease owners?
556.94 How may I use the bonus or royalty credit?
556.95 How do I transfer a bonus or royalty credit to another person?
APPENDIX TO PART 556—OIL AND GAS CASH BONUS BID

AUTHORITY: 31 U.S.C. 9701, 42 U.S.C. 6213, 43 U.S.C. 1334, Pub. L. 109–432.

SOURCE: 76 FR 64623, Oct. 18, 2011, unless otherwise noted.

## Subpart A—Outer Continental Shelf Oil, Gas, and Sulphur Management, General

### § 556.0 Authority for information collection.

(a) The Office of Management and Budget (OMB) has approved the information collection requirements in this part under 44 U.S.C. 3501 *et seq*. OMB assigned the control number 1010–0006. The title of this information collection is ''30 CFR part 556, Leasing of Sulphur or Oil and Gas in the Outer Continental Shelf.''

(b) BOEM collects this information to determine if the applicant filing for a lease on the Outer Continental Shelf is qualified to hold such a lease. Response is required to obtain a benefit according to 43 U.S.C. 1331 *et seq*. BOEM will protect proprietary information collected according to section 26 of the OCS Lands Act and 30 CFR 556.10.

(c) An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

(d) 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,

Bureau of Ocean Energy Management, 381 Elden Street, Herndon, VA 20170.

### § 556.1 Purpose.

The purpose of the regulations in this part is to establish the procedures under which the Secretary of the Interior (Secretary) will exercise the authority to administer a leasing program for oil, gas and sulphur. The procedures under which the Secretary will exercise the authority to administer a program to grant rights-of-use and easements are addressed in other parts.

### § 556.2 Policy.

The management of Outer Continental Shelf resources is to be conducted in accordance with the findings, purposes and policy directions provided by the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1332, 1801, 1802), and other Executive, legislative, judicial and Departmental guidance. The Secretary of the Interior shall consider available environmental information in making decisions affecting Outer Continental Shelf resources.

### § 556.4 Authority.

The Outer Continental Shelf Lands Act (OCSLA) (43 U.S.C. 1331 *et seq.*) authorizes the Secretary of the Interior to issue, on a competitive basis, leases for oil and gas, and sulphur, in submerged lands of the outer Continental Shelf (OCS). The Act authorizes the Secretary to grant rights-of-way, rights-of-use and easements through the submerged lands of the OCS. The Energy Policy and Conservation Act of 1975 (42 U.S.C. 6213), prohibits joint bidding by major oil and gas producers.

### § 556.5 Definitions.

As used in this part, the term:

(a) *Act* refers to the Outer Continental Shelf Lands Act of August 7, 1953 (43 U.S.C. 1331 *et seq.*) as amended.

(b) *Director* means the Director, Bureau of Ocean Energy Management.

(c) *OCS* means the Outer Continental Shelf, as that term is defined in 43 U.S.C. 1331(a).

(d) *Secretary* means the Secretary of the Interior or an official authorized to act on the Secretary's behalf.

(e) *BOEM* means Bureau of Ocean Energy Management.

(f) *Coastal zone* means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes islands, transition and intertidal areas, salt marshes, wetlands, and beaches, which zone extends seaward to the outer limit of the United States territorial sea and extends inland from the shore lines to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters, and the inward boundaries of which may be identified by the several coastal States, pursuant to the authority of section 305(b)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454(b)(1));

(g) *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) of the Act, to be the law of the United States for the portion of the Outer Continental Shelf 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 structure referred to in section 4(a)(1) of the Act;

(3) Which is receiving, or in accordance with the proposed activity will receive, oil for processing, refining, or transshipment which was extracted from the Outer Continental Shelf and transported directly to such State by means of vessels or by a combination of means including vessels;

(4) Which is designated by the Secretary 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 Outer Continental Shelf; or

(5) In which the Secretary 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;

(h) *Marine environment* means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, conditions, and quality of the marine ecosystem, including the waters of the high seas, the contiguous zone, transitional and intertidal areas, salt marshes, and wetlands within the coastal zone and on the Outer Continental Shelf;

(i) *Coastal environment* means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, conditions, and quality of the terrestrial ecosystem from the shoreline inward to the boundaries of the coastal zone;

(j) *Human environment* means the physical, social, and economic components, conditions, and factors which interactively determine the state, condition, and quality of living conditions, employment, and health of those affected, directly or indirectly, by activities occurring on the Outer Continental Shelf;

(k) *Mineral* means oil, gas, and sulphur; it includes sand and gravel and salt used to facilitate the development and production of oil, gas, or sulphur.

(l) *Authorized officer* means any person authorized by law or by delegation of authority to or within BOEM to perform the duties described in this part.

(m) *Bonus or royalty credit* means a legal instrument or other written documentation, or an entry in an account managed by the Secretary that a bidder or lessee may use in lieu of any other monetary payment for—

(1) A bonus due for a lease on the Outer Continental Shelf; or

(2) A royalty due on oil or gas production from any lease located on the Outer Continental Shelf.

(n) *Central planning area* means the Central Gulf of Mexico Planning Area of the Outer Continental Shelf, as designated in the document entitled ''Draft Proposed Program Outer Continental Shelf Oil and Gas Leasing Program 2007–2012,'' dated February 2006.

(o) *Coastline* means the line of ordinary low water along that portion of the coast in direct contact with the open sea and the line marking the seaward limit of inland waters.

(p) *Desoto Canyon OPD* means the official protraction diagram designated as Desoto Canyon which has a western edge located at the universal transverse mercator (UTM) X coordinate 1,346,400 in the North American Datum of 1927 (NAD 27).

(q) *Destin Dome OPD* means the official protraction diagram designated as Destin Dome which has a western edge located at the universal transverse mercator (UTM) X coordinate 1,393,920 in the NAD 27.

(r) *Eastern planning area* means the Eastern Gulf of Mexico Planning Area of the Outer Continental Shelf, as designated in the document entitled ''Draft Proposed Program Outer Continental Shelf Oil and Gas Leasing Program 2007–2012,'' dated February 2006.

(s) *Pensacola OPD* means the official protraction diagram designated as Pensacola which has a western edge located at the universal transverse mercator (UTM) X coordinate 1,393,920 in the NAD 27.

### § 556.7 Cross references.

(a) For Bureau of Ocean Energy Management regulations governing exploration, development and production on leases, see 30 CFR parts 550 and 570.

(b) For BOEM regulations governing the appeal of an order or decision issued under the regulations in this part, see 30 CFR part 590.

(c) For multiple use conflicts, see the Environmental Protection Agency listing of ocean dumping sites—40 CFR part 228.

(d) For related National Oceanic and Atmospheric Administration programs see:

(1) Marine sanctuary regulations, 15 CFR part 922;

(2) Fishermen's Contingency Fund, 50 CFR part 296;

(3) Coastal Energy Impact Program, 15 CFR part 931;

(e) For Coast Guard regulations on the oil spill liability of vessels and operators, see 33 CFR parts 132, 135, and 136.

(f) For Coast Guard regulations on port access routes, see 33 CFR part 164.

(g) For compliance with the National Environmental Policy Act, see 40 CFR parts 1500 through 1508.

(h) For Department of Transportation regulations on offshore pipeline facilities, see 49 CFR part 195.

(i) For Department of Defense regulations on military activities on offshore areas, see 32 CFR part 252.

### § 556.8 Leasing maps and diagrams.

(a) Any area of the OCS which has been appropriately platted as provided in paragraph (b) of this section, is subject to lease for any mineral not included in a subsisting lease issued under the act or meeting the requirements of subsection (a) of section 6 of the Act. Before any lease is offered or issued an area may be:

(1) Withdrawn from disposition pursuant to section 12(a) of the Act; or

(2) Designated as an area or part of an area restricted from operation under section 12(d) of the Act.

(b) BOEM shall prepare leasing maps and official protraction diagrams of areas of the OCS. The areas included in each mineral lease shall be in accordance with the appropriate leasing map or official protraction diagram.

### § 556.10 Information to States.

(a) The information covered in this section is prepared by or directly obtained by the Director. Such information is typically not considered to be proprietary or privileged, with the primary exception of specific indications of interest in an area by industry received in response to a Call for Information issued by the Secretary. This information and all other proprietary and privileged information obtained by or under the control of the Bureau of Ocean Energy Management may be released only in accordance with the regulations in 30 CFR parts 550, 551, and 552.

(b) The Director shall prepare an index to OCS information (see 30 CFR 552.5). 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 by or directly obtained by the Director under the act. The index shall be sent on a regular basis to affected States and, upon request, it shall be sent to any affected local government. The public shall be informed of the availability of the index.

(c) Upon request, the Director shall transmit to affected States, local governments or the public, a copy of any information listed in the index which is subject to the control of the BOEM in accordance with the requirements and subject to the limitations of the Freedom of Information Act (5 U.S.C. 552) and regulations implementing said Act, and the regulations contained in 43 CFR part 2, except as provided in paragraph (d) of this section.

(d) Upon request, the Director shall provide relative indications of interest in areas as well as any comments filed in response to a Call for Information for a proposed sale. However, no information transmitted shall identify any particular area with the name of any particular party so as not to compromise the competitive position of any participants in the process of indicating interest.

### § 556.11 Helium.

(a) Each lease issued or continued under these regulations shall be subject to a reservation by the United States, under section 12(f) of the Act, of the ownership of and the right to extract helium from all gas produced from the leased area.

(b) In case the United States elects to take the helium, the lessee shall deliver all gas containing helium, or the portion of gas desired, to the United States at any point on the leased area or at an onshore processing facility. Delivery shall be made in the manner required by the United States to such plants or reduction works as the United States may provide.

(c) The extraction of helium shall not cause a reduction in the value of the lessee's gas or any other loss for which

he is not reasonably compensated, except for the value of the helium extracted. The United States shall determine the amount of reasonable compensation. The United States shall have the right to erect, maintain and operate on the leased area any and all reduction works and other equipment necessary for the extraction of helium. The extraction of helium shall not cause substantial delays in the delivery of natural gas produced to the purchaser of that gas.

### § 556.12 Supplemental sales.

(a) The Secretary may conduct a supplemental sale in accordance with the provisions of this section.

(b) Supplemental sales shall be governed by the regulations in this part, except § 556.22.

(c) Supplemental sales shall be limited to blocks falling into one or more of the following categories:

(1) Blocks for which bids were rejected during the calendar year preceding the year of the supplemental sale in which they are reoffered or blocks for which bids were rejected in the same calendar year as the supplemental sale in which they are reoffered, except that for the initial supplemental sale only blocks for which bids were rejected after October 1, 1987, may be reoffered. If, after the initial supplemental sale, a supplemental sale is not held annually for any reason, the relevant period for determining blocks eligible for a subsequent supplemental sale may be extended to include rejected bid blocks which were eligible for the supplemental sale not held.

(2) Blocks for which the high bid was forfeited during the calendar year preceding the year of the supplemental sale in which they are reoffered or blocks for which high bids were forfeited in the same calendar year as the supplemental sale in which they are reoffered, except that for the initial supplemental sale only blocks for which high bids were forfeited after October 1, 1987, may be reoffered. If, after the initial supplemental sale, a supplemental sale is not held annually for any reason, the relevant period for determining blocks eligible for a subsequent sale may be extended to include forfeited bid blocks which were eligible for the supplemental sale not held.

(3) Development blocks. Development blocks (including blocks susceptible to drainage) are blocks which are located on the same general geologic structure as an existing lease having a well with indicated hydrocarbons; the reservoir may or may not be interpreted to extend on to the block.

(d) Supplemental sales shall not include blocks in the Central or Western Gulf of Mexico Planning Areas.

(e) The Director may disclose the classification of blocks in supplemental sales as development blocks.

## Subpart B—Oil and Gas Leasing Program

### § 556.16 Receipt and consideration of nominations; public notice and participation.

(a) During preparation of a proposed 5-year leasing program, the Secretary shall invite and consider suggestions and relevant information for such program from Governors of affected States, local government, industry, other Federal agencies, including the Attorney General in consultation with the Federal Trade Commission, and all interested parties, including the general public. This request for information shall be issued as a notice in the FEDERAL REGISTER. Local governments wishing to respond to such request shall first submit their responses to the Governor of the State in which the local government is located.

(b) The Secretary shall send letters to the Governors of the affected States requesting them to identify specific laws, goals, and policies which they believe should be considered by the Secretary in connection with the leasing program. The Secretary shall also request from the Secretary of Energy information on regional and national energy markets, on OCS production goals and on transportation networks.

### § 556.17 Review by State and local governments and other persons.

(a)(1) The Secretary shall prepare a proposed leasing program. At least 60

days prior to publication of the proposed program in the FEDERAL REGISTER, a copy of the draft of the proposed program shall be forwarded to the Governor of each affected State for comment. The Governor may solicit comments from local governments in his or her State which the Governor determines will be affected by the proposed program.

(2) The Secretary shall reply in writing to any comment on the draft of the proposed program from the Governor of an affected State which is received at least 15 days prior to the submission of the proposed program to the Congress and publication in the FEDERAL REGISTER. All such correspondence between the Secretary and Governor of such State shall accompany the proposed program when it is submitted to the Congress.

(b) The proposed leasing program shall be submitted to the Governors of the affected States for review and comment at the time it is submitted to the Congress and the Attorney General and published in the FEDERAL REGISTER. The Governor of an affected State shall, upon request from any local government affected by the program, submit a copy of the proposed program to such local government. Comments and recommendations on any aspect of the proposed program may be submitted by a State or local government or other persons to the Secretary within 90 days after the date of its publication in the FEDERAL REGISTER. Comments and recommendations from local governments shall be submitted first to the Governor of the State in which the local government is located.

(c) At least 60 days prior to approving the final leasing program and any later significant revision, the Secretary shall submit it to the President and the Congress, together with any comments. The Secretary shall indicate in such submission why any specific recommendation of the Attorney General or of a State or local government was not accepted.

### § 556.19 Periodic consultation with interested parties.

The Secretary shall provide for periodic consultation with State and local governments, existing and potential oil and gas lessees and permittees, and representatives of other individuals or organizations engaged in any activity in or on the OCS, including those involved in fish and shellfish recovery, and recreational activities. This consultation shall take place primarily through appropriate public notice as described in §§ 556.16 and 556.17 and through the OCS Advisory Board and its committees, on a regional and National basis. Meetings of the OCS Advisory Board shall be held on specific issues as required by the Board's charter.

### § 556.20 Consideration of coastal zone management program.

In the development of the leasing program, consideration shall be given to the coastal zone management program being developed or administered by an affected coastal State under section 305 or 306 of the Coastal Zone Management Act of 1972 as amended, (16 U.S.C. 1454, 1455). Information concerning the relationship between a State's coastal zone management program and OCS oil and gas activity shall be requested from the Governors of the affected coastal States and from the Secretary of Commerce prior to the development of the proposed leasing program at the time information is requested under § 556.16 of this part.

## Subpart C—Reports From Federal Agencies

### § 556.22 General.

For oil and gas lease sales shown in an approved leasing schedule and as the need arises for other mineral leasing, the Director shall prepare a report describing the general geology and potential mineral resources of the area under consideration. The Director may request other interested Federal Agencies to prepare reports describing, to the extent known, any other valuable resources contained within the general area and the potential effect of mineral operations upon the resources or upon the total environment or other uses of the area.

## Subpart D—Call for Information and Nominations

### § 556.23 Information on areas.

(a) The Director may receive and consider indications of interest in areas for mineral leasing.

(b) In accordance with an approved program and schedule for the leasing of OCS lands which may contain oil and gas, the Director shall issue Calls for Information and Nominations on areas for leasing of such minerals in specified areas. The Call for Information and Nominations shall be published in the FEDERAL REGISTER and may be published in other publications as desirable. Information on areas shall be addressed to the appropriate BOEM regional supervisor with a copy to any other office which may be specified in the Call. The Director shall also request comments on areas which should receive special concern and analysis. For an oil and gas lease sale Call Area, the Director may request comments concerning geological conditions, including bottom hazards; archaeological sites on the seabed or near shore; multiple uses of the proposed leasing area, including navigation, recreation, and fisheries; and other socioeconomic, biological, and environmental information.

### § 556.25 Areas near coastal States.

(a) At the time information is solicited for leasing of areas within 3 geographical miles seaward of the seaward boundary of any coastal State, the Secretary shall provide the Governor of that State information required under section 8(g)(1) of the Act. The Director shall furnish information identifying the areas for leasing as well as all relevant available environmental data for such areas (See 30 CFR 551.14).

(b) After receipt of information on areas within the area described in paragraph (a) of this section, the Secretary shall inform the Governor of those areas that are to be given further consideration for leasing. The Secretary shall enter into consultation with the Governor to determine whether the area may contain oil or gas pools or fields underlying both the OCS and lands subject to the jurisdiction of the State.

(c) After selection for leasing of those tracts which may have oil or gas pools or fields underlying both the OCS and lands under State jurisdiction, the Secretary shall offer the Governor an opportunity to enter into an agreement for the equitable disposition of revenues from such tracts under section 8(g)(2) of the Act.

(d) If no agreement can be reached within 90 days of the Secretary's offer, the tracts may be leased and all revenues deposited in a separate Treasury account pending equitable disposition of the revenues under sections 8(g)(3) and (4) of the Act.

## Subpart E—Area Identification and Tract Size

### § 556.26 General.

(a) The Director, in consultation with appropriate Federal Agencies, shall recommend to the Secretary areas identified for environmental analysis and consideration for leasing. The Director, on his/her own motion, may include in the recommendation areas in which interest has not been indicated in response to a call. In making a recommendation, the Director shall consider all available environmental information, multiple-use conflicts, resource potential, industry interest and other relevant information. Comments received from States and local governments and interested parties in response to calls for information and nominations shall be considered in making recommendations. For supplemental sales provided for by § 556.12 of this part, the Director's recommendation shall be replaced by a statement describing the results of the Director's consideration of the factors specified above in this section.

(b) The Director shall evaluate fully the potential effect of leasing on the human, marine and coastal environments, and develop measures to mitigate adverse impacts, including lease stipulations. The views and recommendations of Federal agencies, State agencies, local governments, organizations, industries and the general public shall be used as appropriate. The Director may hold public hearings on the environmental analysis after appropriate notice.

(c) In general, the Director shall seek to inform the public as soon as possible of additions or deletions that occur after the identification of areas.

### § 556.28 Tract size.

(a) A tract selected for oil and gas leasing shall consist of a compact area not exceeding 5,760 acres, unless the authorized officer finds that a larger area is necessary to comprise a reasonable economic production unit.

(b) The tract size for the leasing of other minerals shall be specified in the notice of sale.

## Subpart F—Lease Sales

### § 556.29 Proposed notice of sale.

(a) The Director shall in consultation with appropriate Federal agencies develop measures, including lease stipulations and conditions, to mitigate adverse impacts on the environments. For oil and gas lease sales, appropriate proposed stipulations and conditions shall be contained or referenced in the proposed notice of lease sale.

(b) A proposed notice of lease sale shall be submitted to the Secretary for approval. All comments and recommendations received and the Director's findings or actions thereon, shall also be forwarded to the Secretary.

(c) Upon approval by the Secretary, the proposed Notice of Sale shall be sent to the Governor of any affected State and a notice of its availability shall be published in the FEDERAL REGISTER.

### § 556.31 State comments.

(a) Within 60 days after notice of a proposed lease sale, a Governor of any affected State or any affected local government in such State may submit recommendations to the Secretary regarding the size, timing or location of the proposed lease sale. Prior to submitting recommendations to the Secretary, any affected local government shall forward such recommendation to the Governor.

(b) The Secretary shall accept such recommendations of the Governor and may accept recommendations of any affected local government if he determines, after having provided the opportunity for consultation, that they provide for a reasonable balance between the National interest and the well-being of the citizens of the affected State. A determination of the National interest shall be based on the findings, purposes and policies of the Act.

(c) The Secretary shall communicate to the Governor, in writing, the reasons for his determination to accept or reject such Governor's recommendations, or to implement any alternative means identified in consultation with the Governor to provide for a reasonable balance between the National interest and the well-being of the citizens of the affected State.

### § 556.32 Notice of sale.

(a) Upon approval of the Secretary, the Director shall publish the notice of lease sale in the FEDERAL REGISTER as the official publication, and may publish the notice in other publications. The publication in the FEDERAL REGISTER shall be at least 30 days prior to the date of the sale. The notice shall state the place and time at which bids shall be filed, and the place, date and hour at which bids shall be opened. The notice shall contain or reference a description of the areas to be offered for lease and any stipulations, terms and conditions of the sale.

(b) Tracts shall be offered for lease by competitive sealed bidding under conditions specified in the notice of lease sale and in accordance with all applicable laws and regulations. A suggested format for bidder submissions appears in the appendix to this part.

(c) The notice of lease sale shall contain a reference to the OCS lease form which shall be issued to successful bidders.

(d) With the approval of the Secretary, the Director may defer any part of the payment of the cash bonus according to a schedule announced at the time of the notice of lease sale. Payment shall be made no later than 5 years after the date of the lease sale. The schedule shall contain provisions for guaranteed payment of a deferred bonus.

(e) In order to obtain statistical information to determine which bidding

alternatives best accomplish the purposes and policies of the Act, the Director may, until September 18, 1983, require each bidder to submit bids for any OCS area in accordance with more than one of the bidding systems described in section 8(a)(1) of the Act. No more than 10 percent of the tracts offered each year shall contain such a requirement. Leases may be awarded using a bidding alternative selected at random for statistical purposes, if it is otherwise consistent with the purposes and policies of the Act.

## Subpart G—Issuance of Leases

### § 556.35 Qualifications of lessees.

(a) In accordance with section 8 of the Act, leases shall be awarded only to the highest responsible qualified bidder.

(b) Mineral leases issued pursuant to section 8 of the Act may be held only by:

(1) Citizens and nationals of the United States;

(2) Aliens lawfully admitted for permanent residence in the United States as defined in 8 U.S.C. 1101(a)(20);

(3) Private, public or municipal corporations organized under the laws of the United States or of any State or of the District of Columbia or territory thereof; or

(4) Associations of such citizens, nationals, resident aliens, or private, public, or municipal corporations, States, or political subdivisions of States.

(c) BOEM may disqualify you from acquiring any new lease holdings or lease assignments if your operating performance is unacceptable according to 30 CFR 550.135.

### § 556.37 Lease term.

(a)(1) All oil and gas leases shall be issued for an initial period of 5 years, or not to exceed 10 years where the authorized officer finds that such longer period is necessary to encourage exploration and development in areas because of unusually deep water or other unusually adverse conditions.

(2) If your oil and gas lease is in water depths between 400 and 800 meters, it will have an initial lease term of 8 years unless BOEM establishes a different lease term under paragraph (a)(1) of this section.

(3) For leases issued with an initial term of 8 years, you must begin an exploratory well within the first 5 years of the term to avoid lease cancellation.

(b) An oil and gas lease shall continue after such initial period for as long as oil or gas is produced from the lease in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted. The term of an oil and gas lease is subject to further extension as provided in 30 CFR 556.73.

(c) Sulphur leases shall be issued for a term not to exceed 10 years and so long thereafter as sulphur is produced from the leasehold in paying quantities, or drilling, well reworking, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are conducted thereon.

### § 556.38 Joint bidding provisions.

### § 556.40 Definitions.

The following definitions apply to §§ 556.38 through 556.44 of this part.

(a) *Single bid* means a bid submitted by one person for an oil and gas lease under section 8(a) of the Act.

(b) *Joint bid* means a bid submitted by two or more persons for an oil and gas lease under section 8(a) of the Act.

(c) *Average daily production* is the total of all production in an applicable production period which is chargeable under § 556.43 of this title divided by the exact number of calendar days in the applicable production period.

(d) *Barrel* means 42 U.S. gallons.

(e) *Crude oil* means a mixture of liquid hydrocarbons including condensate that exists in natural underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities, but does not include liquid hydrocarbons produced from tar sand, gilsonite, oil shale, or coal.

(f) *An economic interest* means any right to, or any right dependent upon, production of crude oil, natural gas, or liquefied petroleum products and shall include, but not be limited to, a royalty interest, or overriding royalty interest, whether payable in cash or in

kind, a working interest, a net profits interest, a production payment, or a carried interest.

(g) *Liquefied petroleum products* means natural gas liquid products including the following: ethane, propane, butane, pentane, natural gasoline, and other natural gas products recovered by a process of absorption, adsorption, compression, or refrigeration cycling, or a combination of such processes.

(h) *Natural gas* means a mixture of hydrocarbons and varying quantities of nonhydrocarbons that exist in the gaseous phase.

(i) *Oil and gas lease* means an oil and gas lease either offered or issued pursuant to the provisions of the Act.

(j) *Owned* means:

(1) *With respect to crude oil* —having either an economic interest in or a power of disposition over the production of crude oil;

(2) *With respect to natural gas*—having either an economic interest in or a power of disposition over the production of natural gas; and

(3) *With respect to liquefied petroleum products*—having either an economic interest in or a power of disposition over any liquefied petroleum product at the time of completion of the liquefaction process.

(k) *Prior production period* means the continuous 6-month period of January 1 through June 30 preceding November 1 through April 30 for joint bids submitted during the 6-month bidding period from November 1 through April 30, and means the continuous 6-month period of July 1 through December 31 preceding May 1 through October 31 for joint bids submitted during the 6-month bidding period from May 1 through October 31.

(l) *Production:* (1) *Of crude oil* means the volume of crude oil produced worldwide from reservoirs during the prior production period. The amount of such crude oil production shall be established by measurement of volumes delivered at the point of custody transfer (e.g., from storage tanks to pipelines, trucks, tankers, or other media for transport to refineries or terminals) with adjustments for:

(i) Net differences between opening and closing inventories, and

(ii) Basic sediment and water;

(2) *Of natural gas* means the volume of natural gas produced worldwide from natural oil and gas reservoirs during the prior production period, with adjustments, where applicable, to reflect

(i) The volume of gas returned to natural reservoirs; and

(ii) The reduction of volume resulting from the removal of natural gas liquids and nonhydrocarbon gases.

(3) *Of liquefied petroleum products* mean the volume of natural gas liquids produced from reservoir gas and liquefied at surface separators, field facilities, or gas processing plants worldwide during the prior production period; these liquefied petroleum products include the following:

(i) *Condensate*—natural gas liquids recovered from gas well gas (associated and non-associated) in separators or field facilities;

(ii) *Gas plant products*—natural gas liquids recovered from natural gas in gas processing plants and from field facilities. Gas plant products shall include the following as classified according to the standards of the Natural Gas Processors Association (NGPA) or the American Society for Testing and Materials (ASTM):

(A) Ethane—$C_2H_6$

(B) Propane—$C_3H_8$

(C) Butane—$C_4H_{10}$ including all products covered by NGPA specifications for commercial butane.

(*1*) Isobutane,

(*2*) Normal butane,

(*3*) Other butanes—all butanes not included as isobutane or normal butane;

(D) Butane-Propane Mixtures—All products covered by NGPA specifications for butane-propane mixtures;

(E) Natural Gasoline—A mixture of hydrocarbons extracted from natural gas, which meet vapor pressure, end point, and other specifications for natural gasoline set by NGPA;

(F) Plant Condensate—A natural gas plant product recovered and separated as a liquid at gas inlet separators or scrubbers in processing plants or field facilities; and

(G) Other Natural Gas Plant Products meeting refined product standards (*i.e.*, gasoline, kerosene, distillate, *etc.*).

(m) *6-month bidding period* means the 6-month period of time:

(1) From May 1 through October 31; or

(2) From November 1 through April 30, respectively.

**§ 556.41 Joint bidding requirements.**

(a) Any person who submits a joint bid for any oil and gas lease during a 6-month bidding period, and who was chargeable for the prior production period with an average daily production in excess of 1.6 million barrels of crude oil, natural gas and liquefied petroleum products, shall have filed under oath with the Director, a Statement of Production of crude oil, natural gas and liquefied petroleum products, hereinafter referred to as a Statement of Production, no later than 45 days prior to the commencement of the applicable 6-month bidding period of May 1 through October 31, and November 1 through April 30. Statements of Production shall be submitted to the Director, BOEM (Attention: Offshore Leasing Management Division), Washington, DC 20240. The Statement of Production shall indicate that the person was chargeable, in accordance with § 556.43 of this part, with an average daily production in excess of 1.6 million barrels of crude oil, natural gas and liquefied petroleum products for the prior production period. The Director shall publish semi-annually in the FEDERAL REGISTER a ''List of Restricted Joint Bidders'' to be effective immediately upon publication and to continue in force and effect until a subsequent list is published. The ''List of Restricted Joint Bidders'' shall consist of those persons, who in the judgment of the Director, based on information available to him, including, but not limited to, sworn Statements of Production, are chargeable under § 556.43 of this part with an average daily production in excess of 1.6 million barrels of crude oil, natural gas and liquefied petroleum products for the prior production period.

(b) When a person is placed on the List of Restricted Joint Bidders the Director shall serve that person either personally or by certified mail, return receipt requested, with a copy of the Director's Order placing that person on the List of Restricted Joint Bidders. Any appeal from that Order or from an adverse effect of that Order shall be made in accordance with the provisions of 43 CFR part 4.

(c) The submission of a Statement of Production or of a detailed Report of Production under § 556.46(g) of this part which misrepresents the chargeable production of the reporting person shall constitute failure to comply with these regulations and any lease awarded in reliance on that Statement or Report of Production may be canceled, pursuant to section 8(o) of the Act and regulations issued there under as having been obtained by fraud or misrepresentation.

(d) The Secretary may exempt a person from the provisions of §§ 556.41(a), 556.44, 556.46(g) and 556.62(b) of this part if it is found, on the record, after an opportunity for an agency hearing, that lands being offered have extremely high cost exploration and development problems and that exploration and development will not occur on such lands unless the exemption is granted.

**§ 556.43 Chargeability for production.**

(a) As used in this section the following definitions shall control:

(1) *Person* means a natural person or company.

(2) *Company* means a corporation, a partnership, an association, a joint-stock company, a trust, a fund, or any group of persons whether incorporated or not; it also means any receiver, trustee in bankruptcy, or similar official acting for such a company.

(3) *Subsidiary* means a company 50 percent or more of whose stock or other interest having power to vote for the election of directors, trustees, or other similar controlling body of the company is directly or indirectly owned, controlled, or held with the power to vote by another company; a subsidiary shall be deemed a subsidiary of the other company owning, controlling, or holding 50 percent or more of the stock or other voting interest.

(4) *Security or securities* means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, pre-organization certificate or subscription, transferable

share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, or, in general, any interest or instrument commonly known as a ''security'' or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the foregoing.

(b) A person filing a Statement of Production under § 556.41 of this part shall be charged with the following production during the applicable prior production period:

(1) The average daily production in barrels of crude oil, natural gas, and liquefied petroleum products which it owned worldwide;

(2) The average daily production in barrels of crude oil, natural gas, and liquefied petroleum products owned worldwide by every subsidiary of the reporting person;

(3) The average daily production in barrels of crude oil, natural gas, and liquefied petroleum products owned worldwide by any person or persons of which the reporting person is a subsidiary; and

(4) The average daily production in barrels of crude oil, natural gas, and liquefied petroleum products owned worldwide by any subsidiary, other than the reporting person, of any person or persons of which the reporting person is a subsidiary.

(c) A person filing a Statement of Production shall be charged with, in addition to the production chargeable under paragraph (b) of this section, but not in duplication thereof, its proportionate share of the average daily production in barrels of crude oil, natural gas, and liquefied petroleum products owned worldwide by every person:

(1) Which has an interest in the reporting person, and

(2) In which the reporting person has an interest, whether the interest referred to in paragraphs (c)(1) and (2) of this section is by virtue of ownership of securities or other evidence of ownership, or by participation in any contract, agreement, or understanding respecting the control of any person or of any person's production of crude oil, natural gas, or liquefied petroleum products, equal to said interest. As used in paragraph (c) of this section ''interest'' means an interest of at least 5 percent of the ownership or control of a person.

(d) All measurements of crude oil and liquefied petroleum products under this section shall be at 60 °F.

(e)(1) For purposes of computing production of natural gas under § 556.41 of this part, chargeability under this section, and reporting under § 556.46(g) of this part, 5,626 cubic feet of natural gas at 14.73 pounds per square inch (msl) shall equal one barrel.

(2) For purposes of computing production of liquefied petroleum products under § 556.41 of this part, chargeability under § 556.46(g) of this part, 1.454 barrels of natural gas liquids at 60 °F shall equal one barrel of crude oil.

### § 556.44 Bids disqualified.

The following bids for any oil and gas lease shall be disqualified and rejected in their entirety:

(a) A joint bid submitted by 2 or more persons who are on the effective List of Restricted Joint Bidders; or

(b)(1) A joint bid submitted by two or more persons when 1 or more of those persons is chargeable for the prior production period with an average daily production in excess of 1.6 million barrels of crude oil, natural gas and liquefied petroleum products and has not filed a Statement of Production as required by § 556.41 of this part for the applicable 6-month bidding period, or

(2) Any of those persons have failed or refused to file a detailed report of production when required to do so under § 556.46(g) of this part, or

(c) A single or joint bid submitted pursuant to an agreement (whether written or oral, formal or informal, entered into or arranged prior to or simultaneously with the submission of such single or joint bid, or prior to or simultaneously with the award of the bid upon the tract) which provides:

(1) For the assignment, transfer, sale, or other conveyance of less than a 100 percent interest in the entire tract on which the bid is submitted, by a person or persons on the List of Restricted Joint Bidders, effective on the date of

submission of the bid, to another person or persons on the same List of Restricted Joint Bidders; or

(2) For the assignment, sale, transfer or other conveyance of less than a 100 percent interest in any fractional interest in the entire tract (which fractional interest was originally acquired by the person making the assignment, sale, transfer or other conveyance, under the provisions of the act) by a person or persons on the List of Restricted Joint Bidders, effective on the date of submission of the bid, to another person or persons on the same List of Restricted Joint Bidders; or

(3) For the assignment, sale, transfer, or other conveyance of any interest in a tract by a person or persons not on the List of Restricted Joint Bidders, effective on the date of submission of the bid, to 2 or more persons on the same List of Restricted Joint Bidders; or

(4) For any of the types of conveyances described in paragraphs (c)(1), (2) or (3) of this section where any party to the conveyance is chargeable for the prior production period with an average daily production in excess of 1.6 million barrels of crude oil, natural gas and liquefied petroleum products and has not filed a Statement of Production pursuant to § 556.41 of this part for the applicable 6-month bidding period. Assignments expressly required by law, regulation, lease or stipulation to lease shall not disqualify an otherwise qualified bid; or

(d) A bid submitted by or in conjunction with a person who has filed a false, fraudulent or otherwise intentionally false or misleading detailed Report of Production.

**§ 556.46 Submission of bids.**

(a) A separate sealed bid shall be submitted for each tract unit bid upon as described in the notice of lease sale. A bid may not be submitted for less than an entire tract.

(b) BOEM requires a deposit for each bid. The notice of sale will specify the bid deposit amount and method of payment.

(c) If the bidder is an individual a statement of citizenship shall accompany the bid.

(d) If the bidder is an association (including a partnership), the bid shall be accompanied by a certified statement indicating the State in which it is registered and that it is authorized to hold mineral leases on the OCS, or appropriate reference to statements or records previously submitted to a BOEM OCS office (including material submitted in compliance with prior regulations).

(e) If the bidder is a corporation, the following information shall be submitted with the bid:

(1) A statement certified by the corporate Secretary or Assistant Secretary over the corporate seal showing the State in which it was incorporated and that it is authorized to hold mineral leases on the OCS, or appropriate reference to statements or records previously submitted to a BOEM OCS office (including material submitted in compliance with prior regulations).

(2) Evidence of authority of persons signing to bind the corporation. Such evidence may be in the form of either a certified copy of the minutes of the board of directors or of the bylaws indicating that the person signing has authority to do so; or a certificate to that effect signed by the Secretary or Assistant Secretary of the corporation over the corporate seal, or appropriate reference to statements or records previously submitted to a BOEM OCS office (including material submitted in compliance with prior regulations). Bidders are advised to keep their filings current.

(3) The bid shall be executed in conformance with corporate requirements.

(f) Bidders should be aware of the provisions of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

(g) To verify the accuracy of any statement submitted pursuant to § 556.41 of this part, the Director may require the person submitting such information to:

(1) Submit no later than 30 days after receipt of the request by the Director, a detailed Report of Production which shall list, in barrels, the average daily production of crude oil, natural gas and liquefied petroleum products chargeable to the reporting person in accordance with § 556.43 of this part for the prior production period, and

(2) Permit the inspection and copying by an official of the Department of the Interior of such documents, records of production of crude oil, natural gas and liquefied petroleum products, analyses and other material as are necessary to demonstrate the accuracy of any statement or information contained in any Report of Production.

(h) No bid for a lease may be submitted if the Secretary finds, after notice and hearing, that the bidder is not meeting due diligence requirements on other OCS leases.

**§ 556.47 Award of leases.**

(a) Sealed bids received in response to the notice of lease sale shall be opened at the place, date and hour specified in the notice. The opening of bids is for the sole purpose of publicly announcing and recording the bids received and no bids shall be accepted or rejected at that time.

(b) The United States reserves the right to reject any and all bids received for any tract, regardless of the amount offered.

(c) In the event the highest bids are tie bids, the tie bidders (unless they would be disqualified under § 556.35(b) of this part, or disqualified under § 556.44 of this part if their bids had been joint bids) may file with the Director, within 15 days after notification, an agreement to accept the lease jointly; otherwise all bids shall be rejected.

(d) Pursuant to section 8(c) of the Act, the Attorney General may review the results of the lease sale prior to the acceptance of bids and issuance of leases.

(e)(1) The decision of the authorized officer on bids shall be the final action of the Department, subject only to reconsideration by the Secretary, pursuant to written request, of the rejection of the high bid. The delegation of review authority to the Office of Hearings and Appeals shall not be applicable to decisions on high bids for leases on the Outer Continental Shelf.

(2) The authorized officer must accept or reject the bid within 90 days. The authorized officer may extend the time period for acceptance or rejection of a bid for 15 working days or longer, if circumstances warrant. Any bid not accepted within the prescribed time period, including any extension thereof, is deemed rejected.

(3) Any high bidder whose bid is rejected by the authorized officer may, within 15 days of such rejection, file with the Secretary, with a copy to the authorized officer, a written request for reconsideration accompanied by a statement of reasons. The Secretary shall respond in writing either affirming or reversing the decision of the authorized officer.

(f) Written notice of the authorized officer's action shall be transmitted promptly to those bidders whose deposits have been held. If a bid is accepted, such notice shall transmit three copies of the lease to the successful bidder. As provided in 30 CFR 1218.155, the bidder shall, not later than the 11th business day after receipt of the lease, execute the lease, pay the first-year's rental, and unless deferred, pay the balance of the bonus bid. The bidder must also file a bond as required in § 556.52 of this title. Deposits and any interest accrued shall be refunded on high bids subsequently rejected.

(g) If the successful bidder fails to execute the lease within the prescribed time or otherwise comply with the applicable regulations the deposit shall be forfeited and disposed of as other receipts under the Act.

(h) If, before the lease is executed on behalf of the United States, the land which would be subject to the lease is withdrawn or restricted from leasing, all deposits and any interest due shall be refunded.

(i) If the awarded lease is executed by an agent acting on behalf of the bidder, the lease shall be accompanied by evidence that the bidder authorized the agent to execute the lease. When three copies of the lease are executed and returned to the authorized officer, the lease shall be executed on behalf of the United States, and one fully executed copy shall be transmitted to the successful bidder.

(j) No lease or permit shall be issued for any area within 15 statute miles of the boundaries of the Point Reyes Wilderness in California unless the State of California allows exploration, development or production activities in the adjacent navigable waters of the State under section 11(h) of the Act.

### § 556.49 Lease form.

Oil and gas leases and leases for sulphur shall be issued on forms approved by the Director. Other mineral leases shall be issued on such forms as may be prescribed by the Secretary.

### § 556.50 Dating of leases.

All leases issued under the regulations in this part shall be dated and become effective as of the first day of the month following the date leases are signed on behalf of the lessor. When prior written request is made, a lease may be dated and become effective as of the first day of the month within which it is so signed.

## Subpart H—Rentals and Royalties [Reserved]

## Subpart I—Bonding

### § 556.52 Bond requirements for an oil and gas or sulphur lease.

This section establishes bond requirements for the lessee of an OCS oil and gas or sulphur lease.

(a) Before BOEM will issue a new lease or approve the assignment of an existing lease to you as lessee, you or another record title owner for the lease must:

(1) Maintain with the Regional Director a $50,000 lease bond that guarantees compliance with all the terms and conditions of the lease; or

(2) Maintain a $300,000 areawide bond that guarantees compliance with all the terms and conditions of all your oil and gas and sulphur leases in the area where the lease is located; or

(3) Maintain a lease or area wide bond in the amount required in § 556.53(a) or (b) of this part.

(b) For the purpose of this section, there are three areas. The area offshore the Atlantic Coast is included in the Gulf of Mexico. Areawide bonds issued in the Gulf of Mexico will cover oil and gas or sulphur operations offshore the Atlantic Coast. The three areas are:

(1) The Gulf of Mexico and the area offshore the Atlantic Coast.

(2) The area offshore the Pacific Coast States of California, Oregon, Washington, and Hawaii; and

(3) The area offshore the Coast of Alaska.

(c) The requirement to maintain a lease bond (or substitute security instruments) under paragraph (a)(1) of this section and § 556.53(a) and (b) is satisfied if your operator provides a lease bond in the required amount that guarantees compliance with all the terms and conditions of the lease. Your operator may use an areawide bond under this paragraph to satisfy your bond obligation.

(d) If a surety makes payment to the United States under a bond or alternative form of security maintained under this section, the surety's remaining liability under the bond or alternative form of security is reduced by the amount of that payment. See paragraph (e) of this section for the requirement to replace the reduced bond coverage.

(e) If the value of your surety bond or alternative security is reduced because of a default, or for any other reason, you must provide additional bond coverage sufficient to meet the security required under this subpart within 6 months, or such shorter period of time as the Regional Director may direct.

(f) You may pledge U.S. Department of the Treasury (Treasury) securities instead of a bond. The Treasury securities you pledge must be negotiable for an amount of cash equal to the value of the bond they replace.

(1) If you pledge Treasury securities under this paragraph (f), you must monitor their value. If their market value falls below the level of bond coverage required under this subpart, you must pledge additional Treasury securities to raise the value of the securities pledged to the required amount.

(2) If you pledge Treasury securities, you must include authority for the Regional Director to sell them and use the proceeds when the Regional Director determines that you fail to satisfy any lease obligation.

(g) You may pledge alternative types of security instruments instead of providing a bond if the Regional Director determines that the alternative security protects the interests of the United States to the same extent as the required bond.

(1) If you pledge an alternative type of security under this paragraph, you must monitor the security's value. If its market value falls below the level of bond coverage required under this subpart, you must pledge additional securities to raise the value of the securities pledged to the required amount.

(2) If you pledge an alternative type of security, you must include authority for the Regional Director to sell the security and use the proceeds when the Regional Director determines that you failed to satisfy any lease obligation.

(h) If you fail to replace a deficient bond or to provide additional bond coverage upon demand, the Regional Director may:

(1) Assess penalties under part 550, subpart N of this chapter;

(2) Suspend production and other operations on your leases in accordance with 30 CFR 250.173; and

(3) Initiate action to cancel your lease.

### § 556.53 Additional bonds.

(a) This paragraph explains what bonds the lessee must provide before lease exploration activities commence.

(1)(i) You must furnish the Regional Director a $200,000 bond that guarantees compliance with all the terms and conditions of the lease by the earliest of:

(A) The date you submit a proposed Exploration Plan (EP) for approval;

(B) The date you submit a request for approval of the assignment of a lease on which an EP has been approved; or

(C) December 8, 1997, for any lease for which an EP has been approved.

(ii) The Regional Director may authorize you to submit the $200,000 lease exploration bond after you submit an EP but before he/she approves drilling activities under the EP.

(iii) You may satisfy the bond requirement of this paragraph (a) by providing a new bond or by increasing the amount of your existing bond.

(2) A $200,000 lease exploration bond pursuant to paragraph (a)(1) of this section need not be submitted and maintained if the lessee either:

(i) Furnishes and maintains an areawide bond in the sum of $1 million issued by a qualified surety and conditioned on compliance with all the terms and conditions of oil and gas and sulphur leases held by the lease on the OCS for the area in which the lessee is situated; or

(ii) Furnishes and maintains a bond pursuant to paragraph (b)(2) of this section.

(b) This paragraph explains what bonds you (the lessee) must provide before lease development and production activities commence.

(1)(i) You must furnish the Regional Director a $500,000 bond that guarantees compliance with all the terms and conditions of the lease by the earliest of:

(A) The date you submit a proposed Development and Production Plan (DPP) or Development Operations Coordination Document (DOCD) for approval;

(B) The date you submit a request for approval of the assignment of a lease on which a DPP or DOCD has been approved; or

(C) December 8, 1997, for any lease for which a DPP or DOCD has been approved.

(ii) The Regional Director may authorize you to submit the $500,000 lease development bond after you submit a DPP or DOCD, but before he/she approves the installation of a platform or the commencement of drilling activities under the DPP or DOCD.

(iii) You may satisfy the bond requirement of this paragraph by providing a new bond or by increasing the amount of your existing bond.

(2) The lessee need not submit and maintain a $500,000 lease development bond pursuant to paragraph (b)(1) of this section if the lessee furnishes and maintains an areawide bond in the sum of $3 million issued by a qualified surety and conditioned on compliance with all the terms and conditions of oil and gas and sulphur leases held by the lessee on the OCS for the area in which the lease is situated.

(c) When a lessee can demonstrate to the satisfaction of the authorized officer that wells and platforms can be abandoned and removed and the drilling and platform sites cleared of obstructions for less than the amount of lease bond coverage required under

paragraph (b)(1) of this section, the authorized officer may accept a lease surety bond in an amount less than the prescribed amount but not less than the amount of the cost for well abandonment, platform removal, and site clearance.

(d) The Regional Director may determine that additional security (*i.e.*, security above the amounts prescribed in §§ 556.52(a) and 556.53(a) and (b) of this part) is necessary to ensure compliance with the obligations under your lease and the regulations in this chapter.

(1) The Regional Director's determination will be based on his/her evaluation of your ability to carry out present and future financial obligations demonstrated by:

(i) Financial capacity substantially in excess of existing and anticipated lease and other obligations, as evidenced by audited financial statements (including auditor's certificate, balance sheet, and profit and loss sheet);

(ii) Projected financial strength significantly in excess of existing and future lease obligations based on the estimated value of your existing OCS lease production and proven reserves of future production;

(iii) Business stability based on 5 years of continuous operation and production of oil and gas or sulphur in the OCS or in the onshore oil and gas industry;

(iv) Reliability in meeting obligations based on:

(A) Credit rating(s); or

(B) Trade references, including names and addresses of other lessees, drilling contractors, and suppliers with whom you have dealt; and

(v) Record of compliance with laws, regulations, and lease terms.

(2) You may satisfy the Regional Director's demand for additional security by increasing the amount of your existing bond or by providing a supplemental bond or bonds.

(e) The Regional Director will determine the amount of supplemental bond required to guarantee compliance. The Regional Director will consider potential underpayment of royalty and cumulative obligations to abandon wells, remove platforms and facilities, and clear the seafloor of obstructions in the Regional Director's case-specific analysis.

(f) If your cumulative potential obligations and liabilities either increase or decrease, the Regional Director may adjust the amount of supplemental bond required.

(1) If the Regional Director proposes an adjustment, the Regional Director will:

(i) Notify you and the surety of any proposed adjustment to the amount of bond required; and

(ii) Give you an opportunity to submit written or oral comment on the adjustment.

(2) If you request a reduction of the amount of supplemental bond required, you must submit evidence to the Regional Director demonstrating that the projected amount of royalties due the Government and the estimated costs of lease abandonment and cleanup are less than the required bond amount. If the Regional Director finds that the evidence you submit is convincing, he/she may reduce the amount of supplemental bond required.

### § 556.54 General requirements for bonds.

(a) Any bond or other security that you, as lessee or operator, provide under this part must:

(1) Be payable upon demand to the Regional Director;

(2) Guarantee compliance with all of your obligations under the lease and regulations in this chapter; and

(3) Guarantee compliance with the obligations of all lessees, operating rights owners and operators on the lease.

(b) All bonds and pledges you furnish under this part must be on a form or in a form approved by the Associate Director for BOEM. Surety bonds must be issued by a surety that the Treasury certifies as an acceptable surety on Federal bonds and that is listed in the current Treasury Circular No. 570. You may obtain a copy of the current Treasury Circular No. 570 from the Surety Bond Branch, Financial Management Service, Department of the Treasury, East-West Highway, Hyattsville, MD 20782.

(c) You and a qualified surety must execute your bond. When either party

is a corporation, an authorized official for the party must sign the bond and attest to it by an imprint of the corporate seal.

(d) Bonds must be noncancellable, except as provided in § 556.58 of this part. Bonds must continue in full force and effect even though an event occurs that could diminish, terminate, or cancel a surety obligation under State surety law.

(e) Lease bonds must be:

(1) A surety bond;

(2) Treasury securities as provided in § 556.52(f);

(3) Another form of security approved by the Regional Director; or

(4) A combination of these security methods.

(f) You may submit a bond to the Regional Director executed on a form approved under paragraph (b) of this section that you have reproduced or generated by use of a computer. If you do this, and if the document omits terms or conditions contained on the form approved by the Associate Director for BOEM the bond you submit will be deemed to contain the omitted terms and conditions.

### § 556.55 Lapse of bond.

(a) If your surety becomes bankrupt, insolvent, or has its charter or license suspended or revoked, any bond coverage from that surety terminates immediately. In that event, you must promptly provide a new bond in the amount required under §§ 556.52 and 556.53 of this part to the Regional Director and advise the Regional Director of the lapse in your previous bond.

(b) You must notify the Regional Director of any action filed alleging that you, your surety, or guarantor are insolvent or bankrupt. You must notify the Regional Director within 72 hours of learning of such an action. All bonds must require the surety to provide this information to you and directly to BOEM.

### § 556.56 Lease-specific abandonment accounts.

(a) The Regional Director may authorize you to establish a lease-specific abandonment account in a federally insured institution in lieu of the bond required under § 556.53(d). The account must provide that, except as provided in paragraph (a)(3) of this section, funds may not be withdrawn without the written approval of the Regional Director.

(1) Funds in a lease-specific abandonment account must be payable upon demand to BOEM and pledged to meet the lessee's obligations under 30 CFR 250.1703.

(2) You must fully fund the lease-specific abandonment account to cover all the costs of lease abandonment and site clearance as estimated by BOEM within the timeframe the Regional Director prescribes.

(3) You must provide binding instructions under which the institution managing the account is to purchase Treasury securities pledged to BOEM under paragraph (d) of this section.

(b) Any interest paid on funds in a lease-specific abandonment account will be treated as other funds in the account unless the Regional Director authorizes in writing the payment of interest to the party who deposits the funds.

(c) The Regional Director may allow you to pledge Treasury securities that are made payable upon demand to the Regional Director to satisfy your obligation to make payments into a lease-specific abandonment account.

(d) Before the amount of funds in a lease-specific abandonment account equals the maximum insurable amount as determined by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, the institution managing the account must use the funds in the account to purchase Treasury securities pledged to BOEM under paragraph (c) of this section. The institution managing the lease specific-abandonment account will join with the Regional Director to establish a Federal Reserve Circular 154 account to hold these Treasury securities, unless the Regional Director authorizes the managing institution to retain the pledged Treasury securities in a separate trust account. You may obtain a copy of the current Treasury Circular No. 154 from the Surety Bond Branch, Financial Management Service, Department of the Treasury, East-West Highway, Hyattsville, MD 20782.

(e) The Regional Director may require you to create an overriding royalty or production payment obligation for the benefit of a lease-specific account pledged for the abandonment and clearance of a lease. The required obligation may be associated with oil and gas or sulphur production from a lease other than the lease bonded through the lease-specific abandonment account.

### § 556.57 Using a third-party guarantee instead of a bond.

(a) *When the Regional Director may accept a third-party guarantee.* The Regional Director may accept a third-party guarantee instead of an additional bond under § 556.53(d) if:

(1) The guarantee meets the criteria in paragraph (c) of this section;

(2) The guarantee includes the terms specified in paragraph (d) of this section;

(3) The guarantor's total outstanding and proposed guarantees do not exceed 25 percent of its unencumbered net worth in the United States; and

(4) The guarantor submits an indemnity agreement meeting the criteria in paragraph (e) of this section.

(b) *What to do if your guarantor becomes unqualified.* If, during the life of your third-party guarantee, your guarantor no longer meets the criteria of paragraphs (a)(3) and (c)(3) of this section, you must:

(1) Notify the Regional Director immediately; and

(2) Cease production until you comply with the bond coverage requirements of this subpart.

(c) *Criteria for acceptable guarantees.* If you propose to furnish a third party's guarantee, that guarantee must ensure compliance with all lessees' lease obligations, the obligations of all operating rights owners, and the obligations of all operators on the lease. The Regional Director will base acceptance of your third-party guarantee on the following criteria:

(1) The period of time that your third-party guarantor (guarantor) has been in continuous operation as a business entity where:

(i) Continuous operation is the time that your guarantor conducts business immediately before you post the guarantee; and

(ii) Continuous operation excludes periods of interruption in operations that are beyond your guarantor's control and that do not affect your guarantor's likelihood of remaining in business during exploration, development, production, abandonment, and clearance operations on your lease.

(2) Financial information available in the public record or submitted by your guarantor, on your guarantor's own initiative, in sufficient detail to show to the Regional Director's satisfaction that your guarantor is qualified based on:

(i) Your guarantor's current rating for its most recent bond issuance by either Moody's Investor Service or Standard and Poor's Corporation;

(ii) Your guarantor's net worth, taking into account liabilities under its guarantee of compliance with all the terms and conditions of your lease, the regulations in this chapter, and your guarantor's other guarantees;

(iii) Your guarantor's ratio of current assets to current liabilities, taking into account liabilities under its guarantee of compliance with all the terms and conditions of your lease and the regulations in this chapter and your guarantor's other guarantees; and

(iv) Your guarantor's unencumbered fixed assets in the United States.

(3) When the information required by paragraph (c) of this section is not publicly available, your guarantor may submit the information in the following table. Your guarantor must update the information annually within 90 days of the end of the fiscal year or by the date prescribed by the Regional Director.

| The guarantor should submit . . . | That . . . |
|---|---|
| (i) Financial statements for the most recently completed fiscal year, | Include a report by an independent certified public accountant containing the accountant's audit opinion or review opinion of the statements. The report must be prepared in conformance with generally accepted accounting principles and contain no adverse opinion. |

| The guarantor should submit . . . | That . . . |
|---|---|
| (ii) Financial statements for completed quarters in the current fiscal year, | Your guarantor's financial officer certifies to be correct. |
| (iii) Additional information as requested by the Regional Director, | Your guarantor's financial officer certifies to be correct. |

(d) *Provisions required in all third-party guarantees.* Your third-party guarantee must contain each of the following provisions.

(1) If you, your operator, or an operating rights owner fails to comply with any lease term or regulation, your guarantor must either:

(i) Take corrective action; or

(ii) Be liable under the indemnity agreement to provide, within 7 calendar days, sufficient funds for the Regional Director to complete corrective action.

(2) If your guarantor complies with paragraph (d)(1) of this section, this compliance will not reduce its liability.

(3) If your guarantor wishes to terminate the period of liability under its guarantee, it must:

(i) Notify you and the Regional Director at least 90 days before the proposed termination date;

(ii) Obtain the Regional Director's approval for the termination of the period of liability for all or a specified portion of your guarantor's guarantee; and

(iii) Remain liable for all work and workmanship performed during the period that your guarantor's guarantee is in effect.

(4) You must provide a suitable replacement security instrument before the termination of the period of liability under your third-party guarantee.

(e) *Required criteria for indemnity agreements.* If the Regional Director approves your third-party guarantee, the guarantor must submit an indemnity agreement.

(1) The indemnity agreement must be executed by your guarantor and all persons and parties bound by the agreement.

(2) The indemnity agreement must bind each person and party executing the agreement jointly and severally.

(3) When a person or party bound by the indemnity agreement is a corporate entity, two corporate officers who are authorized to bind the corporation must sign the indemnity agreement.

(4) Your guarantor and the other corporate entities bound by the indemnity agreement must provide the Regional Director copies of:

(i) The authorization of the signatory corporate officials to bind their respective corporations;

(ii) An affidavit certifying that the agreement is valid under all applicable laws; and

(iii) Each corporation's corporate authorization to execute the indemnity agreement.

(5) If your third-party guarantor or another party bound by the indemnity agreement is a partnership, joint venture, or syndicate, the indemnity agreement must:

(i) Bind each partner or party who has a beneficial interest in your guarantor; and

(ii) Provide that, upon demand by the Regional Director under your third-party guarantee, each partner is jointly and severally liable for compliance with all terms and conditions of your lease.

(6) When forfeiture is called for under § 556.59 of this part, the indemnity agreement must provide that your guarantor will either:

(i) Bring your lease into compliance; or

(ii) Provide, within 7 calendar days, sufficient funds to permit the Regional Director to complete corrective action.

(7) The indemnity agreement must contain a confession of judgment. It must provide that, if the Regional Director determines that you, your operator, or an operating rights owner is in default of the lease, the guarantor:

(i) Will not challenge the determination; and

(ii) Will remedy the default.

(8) Each indemnity agreement is deemed to contain all terms and conditions contained in this paragraph (e),

even if the guarantor has omitted them.

### § 556.58 Termination of the period of liability and cancellation of a bond.

This section defines the terms and conditions under which BOEM will terminate the period of liability of a bond or cancel a bond. Terminating the period of liability of a bond ends the period during which obligations continue to accrue but does not relieve the surety of the responsibility for obligations that accrued during the period of liability. Canceling a bond relieves the surety of all liability. The liabilities that accrue during a period of liability include obligations that started to accrue prior to the beginning of the period of liability and had not been met and obligations that begin accruing during the period of liability.

(a) When the surety under your bond requests termination:

(1) The Regional Director will terminate the period of liability under your bond within 90 days after BOEM receives the request; and

(2) If you intend to continue operations, or have not met all end of lease obligations, you must provide a replacement bond of an equivalent amount.

(b) If you provide a replacement bond, the Regional Director will cancel your previous bond and the surety that provided your previous bond will not retain any liability, provided that:

(1) The new bond is equal to or greater than the bond that was terminated, or you provide an alternative form of security, and the Regional Director determines that the alternative form of security provides a level of security equal to or greater than that provided for by the bond that was terminated;

(2) For a base bond submitted under § 556.52(a) or under § 556.53(a) or (b), the surety issuing the new bond agrees to assume all outstanding liabilities that accrued during the period of liability that was terminated; and

(3) For supplemental bonds submitted under § 556.53(d), the surety issuing the new supplemental bond agrees to assume that portion of the outstanding liabilities that accrued during the period of liability which was terminated and that the Regional Director determines may exceed the coverage of the base bond, and of which the Regional Director notifies the provider of the bond.

(c) This paragraph applies if the period of liability is terminated for a bond but the bond is not replaced by a bond of an equivalent amount. The surety that provided your terminated bond will continue to be responsible for accrued obligations:

(1) Until the obligations are satisfied; and

(2) For additional periods of time in accordance with paragraph (d) of this section.

(d) When your lease expires or is terminated, the surety that issued a bond will continue to be responsible, and the Regional Director will retain other forms of security as shown in the following table:

| For the following type of bond | The period of liability will end | Your bond will be cancelled . . . |
|---|---|---|
| (1) Base bonds submitted under § 556.52(a), § 556.53(a), or (b), | When the Regional Director determines that you have met all of your obligations under the lease, | Seven years after the termination of the lease, 6 years after completion of all bonded obligations, or at the conclusion of any appeals or litigation related to your bonded obligation, whichever is the latest. The Regional Director will reduce the amount of your bond or return a portion of your security if the Regional Director determines that you need less than the full amount of the base bond to meet any possible future problems. |
| (2) Supplemental bonds submitted under § 556.53(d), | When the Regional Director determines that you have met all your obligations covered by the supplemental bond, | When you meet your bonded obligations, unless the Regional Director:<br>(i) Determines that the future potential liability resulting from any undetected problems is greater than the amount of the base bond; and |

| For the following type of bond | The period of liability will end | Your bond will be cancelled . . . |
|---|---|---|
| | | (ii) Notifies the provider of the bond that the Regional Director will wait 7 years before cancelling all or a part of the bond (or longer period as necessary to complete any appeals or judicial litigation related to your bonding obligation). |

(e) For all bonds, the Regional Director may reinstate your bond as if no cancellation or release had occurred if:

(1) A person makes a payment under the lease and the payment is rescinded or must be repaid by the recipient because the person making the payment is insolvent, bankrupt, subject to reorganization, or placed in receivership; or

(2) The responsible party represents to BOEM that it has discharged its obligations under the lease, and the representation was materially false when the bond was canceled or released.

### § 556.59 Forfeiture of bonds and/or other securities.

This section explains how a bond or other security may be forfeited.

(a) The Regional Director will call for forfeiture of all or part of the bond, other form of security, or guarantee you provide under this part if:

(1) You (the party who provided the bond) refuse, or the Regional Director determines that you are unable, to comply with any term or condition of your lease; or

(2) You default under one of the conditions under which the Regional Director accepts your bond, third-party guarantee, and/or other form of security.

(b) The Regional Director may pursue forfeiture of your bond without first making demands for performance against any lessee, operating rights owner, or other person authorized to perform lease obligations.

(c) The Regional Director will:

(1) Notify you, the surety on your bond or other form of security, and any third-party guarantor, of his/her determination to call for forfeiture of the bond, security, or guarantee under this section.

(i) This notice will be in writing and will provide the reasons for the forfeiture and the amount to be forfeited.

(ii) The Regional Director must base the amount he/she determines is forfeited upon his/her estimate of the total cost of corrective action to bring your lease into compliance.

(2) Advise you, your third-party guarantor, and any surety, that you, your guarantor, and any surety may avoid forfeiture if, within 5 working days:

(i) You agree to, and demonstrate that you will, bring your lease into compliance within the timeframe that the Regional Director prescribes;

(ii) Your third-party guarantor agrees to, and demonstrates that it will, complete the corrective action to bring your lease into compliance within the timeframe that the Regional Director prescribes; or

(iii) Your surety agrees to, and demonstrates that it will, bring your lease into compliance within the timeframe that the Regional Director prescribes, even if the cost of compliance exceeds the face amount of the bond or other surety instrument.

(d) If the Regional Director finds you are in default, he/she may cause the forfeiture of any bonds and other security deposited as your guarantee of compliance with the terms and conditions of your lease and the regulations in this chapter.

(e) If the Regional Director determines that your bond and/or other security is forfeited, the Regional Director will:

(1) Collect the forfeited amount; and

(2) Use the funds collected to bring your leases into compliance and to correct any default.

(f) If the amount the Regional Director collects under your bond and other security is insufficient to pay the full cost of corrective actions he/she may:

(1) Take or direct action to obtain full compliance with your lease and the regulations in this chapter; and

(2) Recover from you, any co-lessee, operating rights owner, and/or any

third-party guarantor responsible under this subpart all costs in excess of the amount he/she collects under your forfeited bond and other security.

(g) The amount that the Regional Director collects under your forfeited bond and other security may exceed the costs of taking the corrective actions required to obtain full compliance with the terms and conditions of your lease and the regulations in this chapter. In this case, the Regional Director will return the excess funds to the party from whom they were collected.

## Subpart J—Assignments, Transfers, and Extensions

### § 556.62 Assignment of lease or interest in lease.

This section explains how to assign record title and other interests in OCS oil and gas or sulphur leases.

(a) BOEM may approve the assignment to you of the ownership of the record title to a lease or any undivided interest in a lease, or an officially designated subdivision of a lease, only if:

(1) You qualify to hold a lease under § 556.35(b);

(2) You provide the bond coverage required under subpart I of this part; and

(3) The Regional Director approves the assignment.

(b) An assignment shall be void if it is made pursuant to any prelease agreement described in § 556.44(c) of this part that would cause a bid to be disqualified.

(c) Any approved assignment shall be deemed to be effective on the first day of the lease month following its filing in the appropriate office of the BOEM, unless at the request of the parties, an earlier date is specified in the approval.

(d) You, as assignor, are liable for all obligations that accrue under your lease before the date that the Regional Director approves your request for assignment of the record title in the lease. The Regional Director's approval of the assignment does not relieve you of accrued lease obligations that your assignee, or a subsequent assignee, fails to perform.

(e) Your assignee and each subsequent assignee are liable for all obligations that accrue under the lease after the date that the Regional Director approves the governing assignment. They must:

(1) Comply with all the terms and conditions of the lease and all regulations issued under the Act; and

(2) Remedy all existing environmental problems on the tract, properly abandon all wells, and reclaim the lease site in accordance with 30 CFR part 250, subpart Q.

(f) If your assignee, or a subsequent assignee, fails to perform any obligation under the lease or the regulations in this chapter, the Regional Director may require you to bring the lease into compliance to the extent that the obligation accrued before the Regional Director approved the assignment of your interest in the lease.

### § 556.63 Service fees.

(a) The table in this paragraph (a) shows the fees that you must pay to BOEM for the services listed. The fees will be adjusted periodically according to the Implicit Price Deflator for Gross Domestic Product by publication of a document in the FEDERAL REGISTER. If a significant adjustment is needed to arrive at the new actual cost for any reason other than inflation, then a proposed rule containing the new fees will be published in the FEDERAL REGISTER for comment.

SERVICE FEE TABLE

| Service | Fee amount | 30 CFR citation |
|---|---|---|
| (1) Record Title/Operating Rights (Transfer) | $186 | § 556.64 |
| (2) Non-required Document Filing | 27 | § 556.64 |

(b) Once a fee is paid, it is nonrefundable, even if an application or other request is withdrawn. If your application is returned to you as incomplete, you are not required to submit a new fee with the amended application.

**§ 556.64 How to file transfers.**

This section explains how to file instruments with BOEM that create and/or transfer interests in OCS oil and gas or sulphur leases.

(a) You must submit to the Regional Director for approval all instruments that create or transfer ownership of a lease interest.

(1) You must submit two copies of the instruments that create or transfer an interest. Each instrument that creates or transfers an interest must describe by officially designated subdivision the interest you propose to create or transfer.

(2) You must submit your proposal to create or transfer an interest, or create or transfer separate operating rights, subleases, and record title interests within 90 days of the last date that a party executes the transfer agreement.

(3) The transferee must meet the citizenship and other qualification criteria specified in § 556.35 of this part. When you submit an instrument to create or transfer an interest as an association, you must include a statement signed by the transferee about the transferee's citizenship and qualifications to own a lease.

(4) Your instrument to create or transfer an interest must contain all of the terms and conditions to which you and the other parties agree.

(5) You do not gain a release of any nonmonetary obligation under your lease or the regulations in this chapter by creating a sublease or transferring operating rights.

(6) You do not gain a release from any accrued obligation under your lease or the regulations in this chapter by assigning your record title interest in the lease.

(7) You may create or transfer carried working interests, overriding royalty interests, or payments out of production without obtaining the Regional Director's approval. However, you must file instruments creating or transferring carried working interests, overriding royalty interests, or payments out of production with the Regional Director for record purposes.

(8) You must pay electronically through Pay.gov at: *https://www.pay.gov/paygov/* the service fee listed in § 556.63 of this subpart and you must include a copy of the *Pay.gov* confirmation receipt page with your application for approval of any instrument of transfer you are required to file (Record Title and/or Operating Rights (Transfer) Fee). Where multiple transfers of interest are included in a single instrument, a separate fee applies to each individual transfer of interest. For any document you are not required to file by these regulations but which you submit for record purposes, you must also pay electronically through *Pay.gov* the service fee listed in § 556.63 (Non-required Document Filing Fee) per lease affected, and you must include a copy of the Pay.gov confirmation receipt page with your document. Such documents may be rejected at the discretion of the authorized officer.

(b) An attorney in fact, in behalf of the holder of a lease, operating rights or sublease, shall furnish evidence of authority to execute the assignment or application for approval and the statement required by § 556.46 of this part.

(c) When you request approval for an assignment that assigns all your record title interest in a lease or that creates a segregated lease, your assignee must furnish a bond in the amount prescribed in §§ 556.52 and 556.53 of this part.

(d) When you request approval for an assignment that assigns less than all the record title of a lease and that does not create a separate lease, the assignee may, with the surety's consent, become a joint principal on the surety instrument that guarantees compliance with all the terms and conditions of the lease.

(e) An heir or devisee of a deceased holder of a lease, or any interest therein, shall be recognized as the lawful successor to such lease or interest, if evidence of status as an heir or devisee is furnished in the form of:

(1) A certified copy of an appropriate order or decree of the court having jurisdiction of the distribution of the estate or,

(2) If no court action is necessary, the statements of two disinterested parties having knowledge of the facts or a certified copy of the will.

(f) In addition to the requirements of paragraph (d) of this section, the heirs or devisees shall file statements that

they are the persons named as successors to the estate with evidence of their qualifications as provided in § 556.46 of this part.

(g) In the event an heir or devisee is unable to qualify to hold the lease or interest, the heir or devisee shall be recognized as the lawful successor of the deceased and be entitled to hold the lease for a period of not to exceed 2 years from the date of death of the predecessor in interest.

(h) Your heirs, executors, administrators, successors, and assigns are bound to comply with each obligation under any lease and under the regulations in this chapter.

(1) You are jointly and severally liable for the performance of each nonmonetary obligation under the lease and under the regulations in this chapter with each prior lessee and with each operating rights owner holding an interest at the time the obligation accrued, unless this chapter provides otherwise.

(2) Sublessees and operating rights owners are jointly and severally liable for the performance of each nonmonetary obligation under the lease and under the regulations in this chapter to the extent that:

(i) The obligation relates to the area embraced by the sublease;

(ii) Those owners held their respective interest at the time the obligation accrued; and

(iii) This chapter does not provide otherwise.

(i) Where the proposed assignment or transfer is by a person who, at the time of acquisition of an interest in the lease, was on the List of Restricted Joint Bidders, and that assignment or transfer is of less than the entire interest of the assignor or transferor, to a person or persons on the same List of Restricted Joint Bidders, the assignor or transferor shall file a copy, prior to approval of the assignment, of all agreements applicable to the acquisition of that lease or a fractional interest.

### § 556.65 Attorney General review.

Prior to the approval of an assignment or transfer, the Secretary shall consult with and give due consideration to the views of the Attorney General. The Secretary may act on an assignment or transfer if the Attorney General has not responded to the request for consultation within 30 days of said request.

### § 556.67 Separate filings for assignments.

A separate instrument of assignment shall be filed for each lease. When transfers to the same person, association or corporation, involving more than one lease are filed at the same time for approval, one request for approval and one showing as to the qualifications of the assignee shall be sufficient.

### § 556.68 Effect of assignment of a particular tract.

(a) When an assignment is made of all the record title to a portion of the acreage in a lease, the assigned and retained portions become segregated into separate and distinct leases. In such a case, the assignee becomes a lessee of the Government as to the segregated tract that is the subject of assignment, and is bound by the terms of the lease as though the lease had been obtained from the United States in the assignee's own name, and the assignment, after its approval, shall be the basis of a new record. Royalty, minimum royalty and rental provisions of the original lease shall apply separately to each segregated portion.

(b) For assignments of a portion of an oil and gas lease approved after the effective date of this section, each segregated lease shall continue in full force and effect for the primary term of the original lease and so long thereafter as oil or gas is produced from that segregated portion of the leased area in paying quantities or drilling or well reworking operations as approved by the Secretary are conducted.

(c) For those assignments approved prior to the effective date of this section, each segregated lease shall continue in full force and effect for the primary term of the original lease and so long thereafter as oil and gas may be produced from the original leased area in paying quantities or drilling or well reworking operations, as approved by the Secretary, are conducted.

### § 556.70 Extension of lease by drilling or well reworking operations.

The term of a lease shall be extended beyond the primary term so long as drilling or well reworking operations are approved by the Secretary according to the conditions set forth in 30 CFR 250.180.

### § 556.71 Directional drilling.

In accordance with an approved exploration plan or development and production plan, a lease may be maintained in force by directional wells drilled under the leased area from surface locations on adjacent or adjoining land not covered by the lease. In such circumstances, drilling shall be considered to have commenced on the leased area when drilling is commenced on the adjacent or adjoining land for the purpose of directional drilling under the leased area through any directional well surfaced on adjacent or adjoining land. Production, drilling, or reworking of any such directional well shall be considered production or drilling or reworking operations on the leased area for all purposes of the lease.

### § 556.72 Compensatory payments as production.

If an oil and gas lessee makes compensatory payments and if the lease is not being maintained in force by other production of oil or gas in paying quantities or by other approved drilling or reworking operations, such payments shall be considered as the equivalent of production in paying quantities for all purposes of the lease.

## Subpart K—Termination of Leases

### § 556.76 Relinquishment of leases or parts of leases.

A lease or any officially designated subdivision thereof may be surrendered by the record title holder by filing a written relinquishment, in triplicate, with the appropriate OCS office of the BOEM. No filing fee is required. A relinquishment shall take effect on the date it is filed subject to the continued obligation of the lessee and the surety to make all payments due, including any accrued rentals, royalties and deferred bonuses and to abandon all wells and condition or remove all platforms and other facilities on the land to be relinquished to the satisfaction of the Director.

### § 556.77 Cancellation of leases.

(a) Any nonproducing lease issued under the act may be cancelled by the authorized officer whenever the lessee fails to comply with any provision of the act or lease or applicable regulations, if such failure to comply continues for 30 days after mailing of notice by registered or certified letter to the lease owner at the owner's record post office address. Any such cancellation is subject to judicial review as provided in section 23(b) of the Act.

(b) Producing leases issued under the Act may be cancelled by the Secretary whenever the lessee fails to comply with any provision of the Act, applicable regulations or the lease only after judicial proceedings as prescribed by section 5(d) of the Act.

(c) Any lease issued under the Act, whether producing or not, shall be canceled by the authorized officer upon proof that it was obtained by fraud or misrepresentation, and after notice and opportunity to be heard has been afforded to the lessee.

(d) Pursuant to section 5(a) of the Act, the Secretary may cancel a lease when:

(1) Continued activity pursuant to such lease would probably cause serious harm or damage to life, property, any mineral, National security or defense, or to the marine, coastal or human environment;

(2) The threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time; and

(3) The advantages of cancellation outweigh the advantages of continuing such lease or permit in force. Procedures and conditions contained in § 550.182 shall apply as appropriate.

## Subpart L—Section 6 Leases

### § 556.79 Effect of regulations on lease.

(a) All regulations in this part, insofar as they are applicable, shall supersede the provisions of any lease which is maintained under section 6(a) of the Act. However, the provisions of a lease

relating to area, minerals, rentals, royalties (subject to sections 6(a) (8) and (9) of the Act), and term (subject to section 6(a)(10) of the Act and, as to sulfur, subject to section 6(b)(2) of the Act) shall continue in effect, and, in the event of any conflict or inconsistency, shall take precedence over these regulations.

(b) A lease maintained under section 6(a) of the Act shall also be subject to all operating and conservation regulations applicable to the OCS. In addition, the regulations relating to geophysical and geological exploratory operations and to pipeline rights-of-way are applicable, to the extent that those regulations are not contrary to or inconsistent with the lease provisions relating to area, the minerals, rentals, royalties and term. The lessee shall comply with any provision of the lease as validated, the subject matter of which is not covered in the regulations in this part.

### § 556.80 Leases of other minerals.

The existence of a lease that meets the requirements of section 6(a) of the Act shall not preclude the issuance of other leases of the same area for deposits of other minerals. However, no other lease of minerals shall authorize or permit the lessee thereunder unreasonably to interfere with or endanger operations under the existing lease. No sulphur leases shall be granted by the United States on any area while such area is included in a lease covering sulphur under section 6(b) of the Act.

## Subpart M—Studies

### § 556.82 Environmental studies.

(a) The Director shall conduct a study of any area or region included in any lease sale in order to establish information needed for assessment and management of impacts on the human, marine and coastal environments which may be affected by OCS oil and gas activities in such area or region. Any study shall, to the extent practicable, be designed to predict environmental impacts of pollutants introduced into the environments and of the impacts of offshore activities on the seabed and affected coastal areas.

(b) Studies shall be planned and carried out in cooperation with the affected States and interested parties and, to the extent possible, shall not duplicate studies done under other laws. Where appropriate, the Director shall, to the maximum extent practicable, enter into agreements with the National Oceanic and Atmospheric Administration in executing the environmental studies responsibilities. By agreement, the Director may also utilize services, personnel or facilities of any Federal, State or local government agency in the conduct of such study.

(c) Any study of an area or region required by paragraph (a) of this section for a lease sale shall be commenced not later than 6 months prior to holding a lease sale for that area. The Director may utilize information collected in any prior study. The Director may initiate studies for areas or regions not identified in the leasing program.

(d) After the leasing and developing of any area or region, the Director shall conduct such studies as are deemed necessary to establish additional information and shall monitor the human, marine and coastal environments of such area or region in a manner designed to provide information which can be compared with the results of studies conducted prior to OCS oil and gas development. This shall be done to identify any significant changes in the quality and productivity of such environments, to establish trends in the areas studies, and to design experiments identifying the causes of such changes. Findings from such studies shall be used to recommend modifications in practices which are employed to mitigate the effects of OCS activities and to enhance the data/information base for predicting impacts which might result from a single lease sale or cumulative OCS activities.

(e) Information available or collected by the studies program shall, to the extent practicable, be provided in a form and in a timeframe that can be used in the decision-making process associated with a specific leasing action or with longer term OCS minerals management responsibilities.

## Subpart N—Bonus or Royalty Credits for Exchange of Certain Leases Offshore Florida

### § 556.90 Which leases may I exchange for a bonus or royalty credit?

You may exchange a lease for a bonus or royalty credit if it:

(a) Was in effect on December 20, 2006, and

(b) Is located in:

(1) The Eastern planning area and within 125 miles of the coastline of the State of Florida, or

(2) The Central planning area and within the Desoto Canyon OPD, the Destin Dome OPD, or the Pensacola OPD, and within 100 miles of the coastline of the State of Florida.

### § 556.91 How much bonus or royalty credit will BOEM grant in exchange for a lease?

The amount of the bonus or royalty credit for an exchanged lease equals the sum of:

(a) The amount of the bonus payment; and

(b) All rent paid for the lease as of the date the lessee submits the request to exchange the lease under § 556.92 to BOEM.

### § 556.92 What must I do to obtain a bonus or royalty credit?

(a) To obtain the bonus or royalty credit, all of the record title interest owners in the lease must submit the following to the BOEM Regional Supervisor for Leasing and Environment for the Gulf of Mexico on or before October 14, 2010.

(1) A written request to exchange the lease for the bonus or royalty credit, signed by all record title interest owners in the lease.

(2) The name and contact information for a person who will act as a contact for each record title interest owner.

(3) Documentation of each record title interest owner's percentage share in the lease.

(4) A list of all bonus and rental payments for that lease made by, or on behalf of, each of the current record title owners.

(5) A written relinquishment of the lease as described in § 556.76. Notwithstanding § 556.76, the relinquishment will become effective when the credit becomes effective under paragraph (b) of this section.

(b) The credit becomes effective when BOEM issues a certification to the record title interest owners that the lease has qualified for the credit and when ONRR issues the credit.

### § 556.93 How is the bonus or royalty credit allocated among multiple lease owners?

BOEM will allocate the bonus or royalty credit for an exchanged lease to the current record title interest owners in the same percentage share as each owner has in the lease as of the date of the request to exchange the lease.

### § 556.94 How may I use the bonus or royalty credit?

(a) You may use a credit issued under this part in lieu of a monetary payment due under any lease in the Gulf of Mexico not subject to the revenue distribution provisions of section 8(g)(2) of the OCSLA (43 U.S.C. 1337(g)(2)) for either:

(1) A bonus for acquisition of an interest in a new lease; or

(2) Royalty due on oil and gas production after October 14, 2008.

(b) You may not use a bonus or royalty credit in lieu of delivering oil or gas taken as royalty-in-kind.

(c) If you have any credit that remains unused after 5 years from the date ONRR issued the credit, ONRR reserves the right to apply the remaining credit to any of your obligations.

### § 556.95 How do I transfer a bonus or royalty credit to another person?

(a) You may transfer your bonus or royalty credit to any other person by submitting to the BOEM Adjudication Unit for the Gulf of Mexico two originally executed transfer letters of agreement.

(b) Authorized officers indicated on the qualification card filed with BOEM of all companies involved in transferring and receiving the credit must sign the transfer letters of agreement.

(c) A transfer letter of agreement must include:

(1) The effective date of the transfer,

(2) The OCS–G number for the lease that originally qualified for the credit,

(3) The amount of the credit being transferred,

(4) Company names punctuated exactly as filed on the qualification card at BOEM, and

(5) A corporate seal, if you used a corporate seal in your initial qualification to hold OCS leases.

(d) The transferee of a credit transferred under this section may use it in accordance with § 556.94 as soon as BOEM sends a confirmation of the transfer to the transferee.

APPENDIX TO PART 556—OIL AND GAS CASH BONUS BID

The following bid is submitted for an oil and gas lease on the area of the Outer Continental Shelf specified below:

| Tract No.* | Total amount bid | Amount per acre (or per hectare) | Amount of cash submitted with bid |
|---|---|---|---|
| | | | |

*Or, if tract numbers are not used, Protraction Diagram or Leasing Map and block number.

| Bidder qualification No. | Proportionate interest of company(s) submitting bid | Name and address of bidding company |
|---|---|---|
| ____ Misc. No. | | |

_____,

Authorized signatory's name and title.

# PART 559—MINERAL LEASING: DEFINITIONS

Sec.
559.001 Purpose and scope.
559.002 Definitions.

AUTHORITY: Pub. L. 83–212, 67 Stat. 462, 43 U.S.C. 1331 *et seq.*, as amended by Pub. L. 95–372, 92 Stat. 629.

SOURCE: 76 FR 64623, Oct. 18, 2011, unless otherwise noted.

## § 559.001 Purpose and scope.

The purpose of this part 559 is to define various terms appearing in part 560.

## § 559.002 Definitions.

For purposes of part 560:

*Area* or *region* means the geographic area or region over which the BOEM designated official has jurisdiction, unless the context in which those words are used indicates that a different meaning is intended.

*BOEM* means Bureau of Ocean Energy Management.

*Designated official* means a representative of DOI subject to the direction and supervisory authority of the Directors, BOEM, and the appropriate Regional Manager of the BOEM authorized and empowered to supervise and direct all oil and gas operations and to perform other duties prescribed in this chapter.

*Director* means Director, BOEM, DOI.

*DOI* means the Department of the Interior, including the Secretary of the Interior, or his or her delegate.

*Federal lease* means an agreement which, for any consideration, including, but not limited to, bonuses, rents or royalties conferred, and convenants to be observed, authorizes a person to explore for, or develop, or produce (or to do any or all of these) oil and gas, coal, oil shale, tar sands, and geothermal resources on lands or interests in lands under Federal jurisdiction.

*Gas* means natural gas as defined by the Federal Energy Regulatory Commission.

*OCS* means the Outer Continental Shelf, which includes all submerged lands (1) that lie seaward outside of the area of lands beneath navigable waters as defined in the Submerged Lands Act (Pub. L. 31–35, 67 Stat. 29, (43 U.S.C. 1301)) and (2) of which the subsoil and seabed appertain to the United States are subject to its jurisdiction and control.

*OCSLA* means the Outer Continental Shelf Lands Act, as amended (Act of August 7, 1953, Ch. 345, 67 Stat. 462, 43 U.S.C. 1331 *et seq.*, as amended by Pub. L. 95–372, 92 Stat. 629).

*Oil* means a mixture of hydrocarbons that exists in a liquid or gaseous phase

in an underground reservoir and which remains or becomes liquid at atmospheric pressure after passing through surface separating facilities, including condensate recovered by means other than a manufacturing process.

# PART 560—OUTER CONTINENTAL SHELF OIL AND GAS LEASING

## Subpart A—General Provisions

Sec.
560.1 What is the purpose of this part?
560.2 What definitions apply to this part?
560.3 What is BOEM's authority to collect information?

## Subpart B—Bidding Systems

GENERAL PROVISIONS

560.101 What is the purpose of this subpart?
560.102 What definitions apply to this subpart?
560.110 What bidding systems may BOEM use?
560.111 What conditions apply to the bidding systems that BOEM uses?

ELIGIBLE LEASES

560.112 How do royalty suspension volumes apply to eligible leases?
560.113 When does an eligible lease qualify for a royalty suspension volume?
560.114 How does BOEM assign and monitor royalty suspension volumes for eligible leases?
560.115 How long will a royalty suspension volume for an eligible lease be effective?
560.116 How do I measure natural gas production on my eligible lease?

ROYALTY SUSPENSIONS (RS) LEASES

560.120 How does royalty suspension apply to leases issued in a sale held after November 2000?
560.121 When does a lease issued in a sale held after November 2000 get a royalty suspension?
560.122 How long will a royalty suspension volume be effective for a lease issued in a sale held after November 2000?
560.123 How do I measure natural gas production for a lease issued in a sale held after November 2000?
560.124 How will royalty suspension apply if BOEM assigns a lease issued in a sale held after November 2000 to a field that has a pre-Act lease?

BIDDING SYSTEM SELECTION CRITERIA

560.130 What criteria does BOEM use for selecting bidding systems and bidding system components?

## Subpart C [Reserved]

## Subpart D—Joint Bidding

560.301 What is the purpose of this subpart?
560.302 What definitions apply to this subpart?
560.303 What are the joint bidding requirements?

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

SOURCE: 76 FR 64623, Oct. 18, 2011, unless otherwise noted.

## Subpart A—General Provisions

### § 560.1 What is the purpose of this part?

This part 560 implements the Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. 1331 *et seq.*, as amended, by providing regulations to foster competition including, but not limited to:

(a) Implementing alternative bidding systems;

(b) Prohibiting joint bidding for development rights by certain types of joint ventures; and

(c) Establishing diligence requirements for Federal OCS leases.

### § 560.2 What definitions apply to this part?

*OCS lease* means a Federal lease for oil and gas issued under the OCSLA.

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

*Person* includes, in addition to a natural person, an association, a State, or a private, public, or municipal corporation.

*We* means the Bureau of Ocean Energy Management (BOEM).

*You* means the lessee or operating rights holder.

### § 560.3 What is BOEM's authority to collect information?

(a) The Paperwork Reduction Act of 1995 (PRA) requires us to inform you that 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. The information collection under 30 CFR part 560 is either exempt from the PRA (5 CFR 1320.4(a)(2), (c)) or refers to requirements covered under 30 CFR parts 203 and 556.

(b) You may send comments regarding any aspect of the collection of information under this part to the Information Collection Clearance Officer, Bureau of Ocean Energy Management, 381 Elden Street, Herndon, VA 20170.

## Subpart B—Bidding Systems

GENERAL PROVISIONS

### § 560.101 What is the purpose of this subpart?

This subpart establishes the bidding systems that we may use to offer and sell Federal leases for the exploration, development, and production of oil and gas resources located on the OCS.

### § 560.102 What definitions apply to this subpart?

*Act* means the Outer Continental Shelf Deep Water Royalty Relief Act, Pub. L. 104–58, 43 U.S.C. 1337(3).

*Eligible lease* means a lease that:

(1) Is issued as part of an OCS lease sale held after November 28, 1995, and before November 28, 2000;

(2) Is located in the Gulf of Mexico in water depths of 200 meters or deeper;

(3) Lies wholly west of 87 degrees, 30 minutes West longitude; and

(4) Is offered subject to a royalty suspension volume.

*Field* means an area consisting of a single reservoir or multiple reservoirs all grouped on, or related to, the same general geological structural feature and/or stratigraphic trapping condition. Two or more reservoirs may be in a field, separated vertically by intervening impervious strata, or laterally by local geologic barriers, or by both.

*Highest responsible qualified bidder* means a person who has met the appropriate requirements of 30 CFR part 556, subpart G, and has submitted a bid higher than any other bids by qualified bidders on the same tract.

*Highest royalty rate* means the highest percent rate payable to the United States, as specified in the lease, in the amount or value of the production saved, removed, or sold.

*Lease period* means the time from lease issuance until relinquishment, expiration, or termination.

*Lowest royalty rate* means the lowest percent rate payable to the United States, as specified in the lease, in the amount or value of the production saved, removed, or sold.

*OCS lease sale* means the Department of the Interior (DOI) proceeding by which leases for certain OCS tracts are offered for sale by competitive bidding and during which bids are received, announced, and recorded.

*Pre-Act lease* means a lease that:

(1) Is issued as part of an OCS lease sale held before November 28, 1995;

(2) Is located in the Gulf of Mexico in water depths of 200 meters or deeper; and

(3) Lies wholly west of 87 degrees, 30 minutes West longitude (see 30 CFR part 203).

*Production period* means the period during which the amount of oil and gas produced from a tract (or, if the tract is unitized, the amount of oil and gas as allocated under a unitization formula) will be measured for purposes of determining the amount of royalty payable to the United States.

*Qualified bidder* means a person who has met the appropriate requirements of 30 CFR part 556, subpart G.

*Royalty rate* means the percentage of the amount or value of the production saved, removed, or sold that is due and payable to the United States Government.

*Royalty suspension (RS) lease* means a lease that:

(1) Is issued as part of an OCS lease sale held after November 28, 2000;

(2) Is in locations or planning areas specified in a particular Notice of OCS Lease Sale; and

(3) Is offered subject to a royalty suspension specified in a Notice of OCS Lease Sale published in the FEDERAL REGISTER.

*Tract* means a designation assigned solely for administrative purposes to a block or combination of blocks that are identified by a leasing map or an official protraction diagram prepared by the DOI.

*Value of production* means the value of all oil and gas production saved, removed, or sold from a tract (or, if the tract is unitized, the value of all oil and gas production saved, removed, or sold and credited to the tract under a unitization formula) during a period of

production. The value of production is determined under 30 CFR part 1206.

### § 560.110 What bidding systems may BOEM use?

We will apply a single bidding system selected from those listed in this section to each tract included in an OCS lease sale. The following table lists bidding systems, the bid variables, and characteristics.

| For the bidding system . . . | The bid variable is the . . . | And the characteristics are . . . |
|---|---|---|
| (a) Cash bonus bid with a fixed royalty rate of not less than 12.5 percent, | Cash bonus, | The highest responsible qualified bidder will pay a royalty rate of not less than 12.5 percent at the beginning of the lease period. We will specify the royalty rate for each tract offered in the Notice of OCS Lease Sale published in the **Federal Register**. |
| (b) Royalty rate bid with fixed cash bonus, | Royalty rate, | We will specify the fixed amount of cash bonus the highest responsible qualified bidder must pay in the Notice of OCS Lease Sale published in the FEDERAL REGISTER. |
| (c) Cash bonus bid with a sliding royalty rate of not less than 12.5 percent at the beginning of the lease period, | Cash bonus, | (1) We will calculate the royalty rate the highest responsible qualified bidder must pay using either:<br>(i) A sliding-scale formula, which relates the royalty rate to the adjusted value or volume of production, or<br>(ii) A schedule that establishes the royalty rate that we will apply to specified ranges of the adjusted value or volume of production.<br>(2) We will determine the adjusted value of production by applying an inflation factor to the actual value of production.<br>(3) If you are the successful high bidder, your lease will include the sliding-scale formula or schedule and will specify the lowest and highest royalty rates that will apply.<br>(4) You will pay a royalty rate of not less than 12.5 percent at the beginning of the lease period.<br>(5) We will include the sliding-scale royalty formula or schedule, inflation factor and procedures for making the inflation adjustment and determining the value or amount of production in the Notice of OCS Lease Sale published in the **Federal Register**. |
| (d) Cash bonus bid with fixed share of the net profits of no less than 30 percent, | Cash bonus, | (1) If we award you a lease as the highest responsible qualified bidder, you will determine the amount of the net profit share payment to the United States for each month by multiplying the net profit share base times the net profit share rate, according to 30 CFR 1220.022. You will calculate the net profit share base according to 30 CFR 1220.021.<br>(2) You will pay a net profit share of not less than 30 percent.<br>(3) We will specify the capital recovery factor, as described in 30 CFR 1220.020, and the net profit share rate, both of which may vary from tract to tract, in the Notice of OCS Lease Sale published in the **Federal Register**. |
| (e) Cash bonus with variable royalty rate(s) during one or more periods of production, | Cash bonus, | (1) We may suspend or defer royalty for a period, volume, or value of production. Notwithstanding suspensions or deferrals, we may impose a minimum royalty. The suspensions or deferrals may vary based on prices or price changes of oil and/or gas.<br>(2) You may pay a royalty rate less than 12.5 percent on production but not less than zero percent.<br>(3) We will specify the applicable royalty rates(s) and suspension or deferral magnitudes, formulas, or relationships in the Notice of OCS Lease Sale published in the **Federal Register**. |
| (f) Cash bonus with royalty rate(s) based on formula(s) or schedule(s) during one or more periods of production, | Cash bonus, | We will base the royalty rate on formula(s) or schedule(s) specified in the Notice of OCS Lease Sale published in the FEDERAL REGISTER. |

| For the bidding system . . . | The bid variable is the . . . | And the characteristics are . . . |
|---|---|---|
| (g) Cash bonus with a fixed royalty rate of not less than 12.5 percent, at the beginning of the lease period, suspension of royalties for a period, volume, or value of production, or depending upon selected characteristics of extraction, and with suspensions that may vary based on the price of production, | Cash bonus, | Except for periods of royalty suspension, you will pay a fixed royalty rate of not less than 12.5 percent. If we award to you a lease under this system, you must calculate the royalty due during the designated period using the rate, formula, or schedule specified in the lease. We will specify the royalty rate, formula, or schedule in the Notice of OCS Lease Sale published in the **Federal Register**. |

### § 560.111 What conditions apply to the bidding systems that BOEM uses?

(a) For each of the bidding systems in § 560.110, we will include an annual rental fee. Other fees and provisions may apply as well. The Notice of OCS Lease Sale published in the FEDERAL REGISTER will specify the annual rental and any other fees the highest responsible qualified bidder must pay and any other provisions.

(b) If we use any deferment or schedule of payments for the cash bonus bid, we will specify and include it in the Notice of OCS Lease Sale published in the FEDERAL REGISTER.

(c) For the bidding systems listed in this subpart, if the bid variable is a cash bonus bid, the highest bid by a qualified bidder determines the amount of cash bonus to be paid. We will include the minimum bid level(s) in the Notice of OCS Lease Sale published in the FEDERAL REGISTER.

(d) For the bidding systems listed in this subpart, if the bid variable is the royalty rate, the highest bid by a qualified bidder determines the royalty rate to be paid. We will include the minimum royalty rate(s) in the Notice of OCS Lease Sale published in the FEDERAL REGISTER.

(e) We may, by rule, add to or modify the bidding systems listed in § 560.110, according to the procedural requirements of the OCSLA, 43 U.S.C. 1331 *et seq.*, as amended by Public Law 95–372, 92 Stat. 629.

## ELIGIBLE LEASES

### § 560.112 How do royalty suspension volumes apply to eligible leases?

Royalty suspension volumes, as specified in section 304 of the Act, apply to eligible leases that meet the criteria in § 560.113. For purposes of this section and §§ 560.113 through 560.117:

(a) Any volumes of production that are not normally royalty-bearing under the lease or the regulations (e.g., fuel gas) do not count against royalty suspension volumes; and

(b) Production includes volumes allocated to a lease under an approved unit agreement.

### § 560.113 When does an eligible lease qualify for a royalty suspension volume?

(a) Your eligible lease will receive a royalty suspension volume as specified in the Act. The bidding system in § 560.110(g) applies.

(b) Your eligible lease may receive a royalty suspension volume only if your entire lease is west of 87 degrees, 30 minutes West longitude.

### § 560.114 How does BOEM assign and monitor royalty suspension volumes for eligible leases?

(a) We have specified the water depth category for each eligible lease in the final Notice of OCS Lease Sale Package. The Final Notice of Sale is published in the FEDERAL REGISTER and the complete Final Notice of OCS Lease Sale Package is available on the BOEM Web site. Our determination of water depth for each lease became final when we issued the lease.

(b) We have specified in the Notice of OCS Lease Sale the royalty suspension volume applicable to each water depth. The following table shows the royalty suspension volumes for each eligible lease in million barrels of oil equivalent (MMBOE):

| Water depth | Minimum royalty suspension volume |
|---|---|
| (1) 200 to less than 400 meters | 17.5 MMBOE. |

| Water depth | Minimum royalty suspension volume |
|---|---|
| (2) 400 to less than 800 meters | 52.5 MMBOE. |
| (3) 800 meters or more ..... | 87.5 MMBOE. |

### § 560.115 How long will a royalty suspension volume for an eligible lease be effective?

A royalty suspension volume for an eligible lease will continue through the end of the month in which cumulative production from the leases in a field entitled to share the royalty suspension volume reaches that volume or the lease period ends.

### § 560.116 How do I measure natural gas production on my eligible lease?

You must measure natural gas production on your eligible lease subject to the royalty suspension volume as follows: 5.62 thousand cubic feet of natural gas, measured according to 30 CFR part 250, subpart L, equals one barrel of oil equivalent.

ROYALTY SUSPENSION (RS) LEASES

### § 560.120 How does royalty suspension apply to leases issued in a sale held after November 2000?

We may issue leases with suspension of royalties for a period, volume or value of production, as authorized in section 303 of the Act. For purposes of this section and §§ 560.121 through 560.124:

(a) Any volumes of production that are not normally royalty-bearing under the lease or the regulations (e.g., fuel gas) do not count against royalty suspension volumes; and

(b) Production includes volumes allocated to a lease under an approved unit agreement.

### § 560.121 When does a lease issued in a sale held after November 2000 get a royalty suspension?

(a) We will specify any royalty suspension for your RS lease in the Notice of OCS Lease Sale published in the FEDERAL REGISTER for the sale in which you acquire the RS lease and will repeat it in the lease document. In addition:

(1) Your RS lease may produce royalty-free the royalty suspension we specify for your lease, even if the field to which we assign it is producing.

(2) The royalty suspension we specify in the Notice of OCS Lease Sale for your lease does not apply to any other leases in the field to which we assign your RS lease.

(b) You may apply for a supplemental royalty suspension for a project under 30 CFR part 203, if your lease is located:

(1) In the Gulf of Mexico, in water 200 meters or deeper, and wholly west of 87 degrees, 30 minutes West longitude; or

(2) Offshore of Alaska.

(c) Your RS lease retains the royalty suspension with which we issued it even if we deny your application for more relief.

### § 560.122 How long will a royalty suspension volume be effective for a lease issued in a sale held after November 2000?

(a) The royalty suspension volume for your RS lease will continue through the end of the month in which cumulative production from your lease reaches the applicable royalty suspension volume or the lease period ends.

(b)(1) Notwithstanding any royalty suspension volume under this subpart, you must pay royalty at the lease stipulated rate on:

(i) Any oil produced for any period stipulated in the lease during which the arithmetic average of the daily closing price on the New York Mercantile Exchange (NYMEX) for light sweet crude oil exceeds the applicable threshold price of $36.39 per barrel, adjusted annually after calendar year 2007 for inflation unless the lease terms prescribe a different price threshold.

(ii) Any natural gas produced for any period stipulated in the lease during which the arithmetic average of the daily closing price on the NYMEX for natural gas exceeds the applicable threshold price of $4.55 per MMBtu, adjusted annually after calendar year 2007 for inflation unless the lease terms prescribe a different price threshold.

(iii) Determine the threshold price for any calendar year after 2007 by adjusting the threshold price in the previous year by the percentage that the

implicit price deflator for the gross domestic product, as published by the Department of Commerce, changed during the calendar year.

(2) You must pay any royalty due under this paragraph, plus late payment interest under 30 CFR 1218.54, no later than 90 days after the end of the period for which royalty is owed.

(3) Any production on which you must pay royalty under this paragraph will count toward the production volume determined under §§ 560.120 through 560.124.

(c) If you must pay royalty on any product (either oil or natural gas) for any period under paragraph (b) of this section, you must continue to pay royalty on that product during the next succeeding period of the same length until the arithmetic average of the daily closing NYMEX prices for that product for that period can be determined. If the arithmetic average of the daily closing prices for that product for that period is less than the threshold price stipulated in the lease, you are entitled to a credit or refund of royalties paid for that period with interest under applicable law.

### § 560.123 How do I measure natural gas production for a lease issued in a sale held after November 2000?

You must measure natural gas production subject to the royalty suspension volume for your lease as follows: 5.62 thousand cubic feet of natural gas, measured according to 30 CFR part 250, subpart L, equals one barrel of oil equivalent.

### § 560.124 How will royalty suspension apply if BOEM assigns a lease issued in a sale held after November 2000 to a field that has a pre-Act lease?

(a) We will assign your lease that has a qualifying well (under 30 CFR part 250, subpart A) to an existing field or designate a new field and will notify you and other affected lessees and operating rights holders in the field of that assignment.

(1) Within 15 days of the final notification, you or any of the other affected lessees or operating rights holders may file a written request with the Director for reconsideration, accompanied by a Statement of Reasons.

(2) The Director will respond in writing either affirming or reversing the assignment decision. The Director's decision is the final action of the Department of the Interior and is not subject to appeal to the Interior Board of Land Appeals under 30 CFR part 590 and 43 CFR part 4.

(b) If we establish a royalty suspension volume for a field as a result of an approved application for royalty relief submitted for a pre-Act lease under 30 CFR part 203, then:

(1) Royalty-free production from your RS lease shares from and counts as part of any royalty suspension volume under § 560.114(d) for the field to which we assign your lease; and

(2) Your RS lease may continue to produce royalty-free up to the royalty suspension we specified for your lease, even if the field to which we assign your RS lease has produced all of its royalty suspension volume.

(c) Your lease may share in a suspension volume larger than the royalty suspension with which we issued it and to the extent we grant a larger volume in response to an application by a pre-Act lease submitted under 30 CFR part 203. To share in any larger royalty suspension volume, you must file an application described in 30 CFR part 203 (§§ 203.71 and 203.83). In no case will royalty-free production for your RS lease be less than the royalty suspension specified for your lease.

## BIDDING SYSTEM SELECTION CRITERIA

### § 560.130 What criteria does BOEM use for selecting bidding systems and bidding system components?

In analyzing the application of one of the bidding systems listed in § 560.110 to tracts selected for any OCS lease sale, we may, at our discretion, consider the following purposes and policies. We recognize that each of the purposes and policies may not be specifically applicable to the selection process for a particular bidding system or tract, or may present a conflict that we will have to resolve in the process of bidding system selection. The order of listing does not denote a ranking.

(a) Providing fair return to the Federal Government;

(b) Increasing competition;

(c) Ensuring competent and safe operations;

(d) Avoiding undue speculation;

(e) Avoiding unnecessary delays in exploration, development, and production;

(f) Discovering and recovering oil and gas;

(g) Developing new oil and gas resources in an efficient and timely manner;

(h) Limiting the administrative burdens on Government and industry; and

(i) Providing an opportunity to experiment with various bidding systems to enable us to identify those most appropriate for the satisfaction of the objectives of the United States in OCS lease sales.

## Subpart C [Reserved]

## Subpart D—Joint Bidding

### § 560.301 What is the purpose of this subpart?

The purpose of this subpart is to encourage participation in OCS oil and gas lease sales by limiting the requirement for filing ''Statements of Production'' to certain joint bidders.

### § 560.302 What definitions apply to this subpart?

For the purposes of this subpart, all terms used are defined as in 30 CFR 556.40.

### § 560.303 What are the joint bidding requirements?

(a) You must file a Statement of Production with the Director, according to the requirements of §§ 556.38 through 556.44 if:

(1) You submit a joint bid for any OCS oil and gas lease during a 6-month bidding period; and

(2) You were chargeable for the prior production period with an average daily production from all sources in excess of 1.6 million barrels of crude oil, natural gas equivalents, and liquefied petroleum products.

(b) The Statement of Production that you file under paragraph (a) of this section must state that you are chargeable for the prior production period with an average daily production in excess of the quantities listed in paragraph (a) of this section.

(c) If your average daily production in the prior production period met or exceeded the quantities specified in paragraph (a) of this section, you may not submit a joint bid for any OCS oil and gas lease during the applicable 6-month bidding period with any other person similarly chargeable. We will disqualify and reject these bids.

(d) If your average daily production in the prior production period met or exceeded the quantities specified in paragraph (a) of this section, you may not enter into an agreement prior to a lease sale that would result in two or more persons, similarly chargeable, acquiring or holding any interest in the tract for which the bid is submitted. We will disqualify and reject these bids.

# PART 570—NONDISCRIMINATION IN THE OUTER CONTINENTAL SHELF

Sec.
570.1 Purpose.
570.2 Application of this part.
570.3 Definitions.
570.4 Discrimination prohibited.
570.5 Complaint.
570.6 Process.
570.7 Remedies.

AUTHORITY: 43 U.S.C. 1863.

SOURCE: 76 FR 64623, Oct. 18, 2011, unless otherwise noted.

### § 570.1 Purpose.

The purpose of this part is to implement the provisions of section 604 of the OCSLA of 1978 which provides that ''no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from receiving or participating in any activity, sale, or employment, conducted pursuant to the provisions of * * * the Outer Continental Shelf Lands Act.''

### § 570.2 Application of this part.

This part applies to any contract or subcontract entered into by a lessee or by a contractor or subcontractor of a lessee after the effective date of these regulations to provide goods, services, facilities, or property in an amount of $10,000 or more in connection with any activity related to the exploration for

or development and production of oil, gas, or other minerals or materials in the OCS under the Act.

### § 570.3 Definitions.

As used in this part, the following terms shall have the following meaning:

*Contract* means any business agreement or arrangement (in which the parties do not stand in the relationship of employer and employee) between a lessee and any person which creates an obligation to provide goods, services, facilities, or property.

*Lessee* means the party authorized by a lease, grant of right-of-way, or an approved assignment thereof to explore, develop, produce, or transport oil, gas, or other minerals or materials in the OCS pursuant to the Act and this part.

*Person* means a person or company, including but not limited to, a corporation, partnership, association, joint stock venture, trust, mutual fund, or any receiver, trustee in bankruptcy, or other official acting in a similar capacity for such company.

*Subcontract* means any business agreement or arrangement (in which the parties do not stand in the relationship of employer and employee) between a lessee's contractor and any person other than a lessee that is in any way related to the performance of any one or more contracts.

### § 570.4 Discrimination prohibited.

No contract or subcontract to which this part applies shall be denied to or withheld from any person on the grounds of race, creed, color, national origin, or sex.

### § 570.5 Complaint.

(a) Whenever any person believes that he or she has been denied a contract or subcontract to which this part applies on the grounds of race, creed, color, national origin, or sex, such person may complain of such denial or withholding to the Regional Director of the OCS Region in which such action is alleged to have occurred. Any complaint filed under this part must be submitted in writing to the appropriate Regional Director not later than 180 days after the date of the alleged unlawful denial of a contract or subcontract which is the basis of the complaint.

(b) The complaint referred to in paragraph (a) of this section shall be accompanied by such evidence as may be available to a person and which is relevant to the complaint including affidavits and other documents.

(c) Whenever any person files a complaint under this part, the Regional Director with whom such complaint is filed shall give written notice of such filing to all persons cited in the complaint no later than 10 days after receipt of such complaint. Such notice shall include a statement describing the alleged incident of discrimination, including the date and the names of persons involved in it.

### § 570.6 Process.

Whenever a Regional Director determines on the basis of any information, including that which may be obtained under § 570.5 of this part, that a violation of or failure to comply with any provision of this subpart probably occurred, the Regional Director shall undertake to afford the complainant and the person(s) alleged to have violated the provisions of this part an opportunity to engage in informal consultations, meetings, or any other form of communications for the purpose of resolving the complaint. In the event such communications or consultations result in a mutually satisfactory resolution of the complaint, the complainant and all persons cited in the complaint shall notify the Regional Director in writing of their agreement to such resolution. If either the complainant or the person(s) alleged to have wrongfully discriminated fail to provide such written notice within a reasonable period of time, the Regional Director must proceed in accordance with the provisions of 30 CFR part 550, subpart N.

### § 570.7 Remedies.

In addition to the penalties available under 30 CFR part 550, subpart N, the Director may invoke any other remedies available to him or her under the Act or regulations for the lessee's failure to comply with provisions of the Act, regulations, or lease.

# PART 580—PROSPECTING FOR MINERALS OTHER THAN OIL, GAS, AND SULPHUR ON THE OUTER CONTINENTAL SHELF

## Subpart A—General Information

Sec. 580.1 What definitions apply to this part?
580.2 What is the purpose of this part?
580.3 What requirements must I follow when I conduct prospecting or research activities?
580.4 What activities are not covered by this part?

## Subpart B—How To Apply for a Permit or File a Notice

580.10 What must I do before I may conduct prospecting activities?
580.11 What must I do before I may conduct scientific research?
580.12 What must I include in my application or notification?
580.13 Where must I send my application or notification?

## Subpart C—Obligations Under This Part

PROHIBITIONS AND REQUIREMENTS

580.20 What must I not do in conducting Geological and Geophysical (G&G) prospecting or scientific research?
580.21 What must I do in conducting G&G prospecting or scientific research?
580.22 What must I do when seeking approval for modifications?
580.23 How must I cooperate with inspection activities?
580.24 What reports must I file?

INTERRUPTED ACTIVITIES

580.25 When may BOEM require me to stop activities under this part?
580.26 When may I resume activities?
580.27 When may BOEM cancel my permit?
580.28 May I relinquish my permit?

ENVIRONMENTAL ISSUES

580.29 Will BOEM monitor the environmental effects of my activity?
580.30 What activities will not require environmental analysis?
580.31 Whom will BOEM notify about environmental issues?

PENALTIES AND APPEALS

580.32 What penalties may I be subject to?
580.33 How can I appeal a penalty?
580.34 How can I appeal an order or decision?

## Subpart D—Data Requirements

GEOLOGICAL DATA AND INFORMATION

580.40 When do I notify BOEM that geological data and information are available for submission, inspection, and selection?
580.41 What types of geological data and information must I submit to BOEM?
580.42 When geological data and information are obtained by a third party, what must we both do?

YSICAL DATA AND INFORMATION

580.50 When do I notify BOEM that geophysical data and information are available for submission, inspection, and selection?
580.51 What types of geophysical data and information must I submit to BOEM?
580.52 When geophysical data and information are obtained by a third party, what must we both do?

REIMBURSEMENT

580.60 Which of my costs will be reimbursed?
580.61 Which of my costs will not be reimbursed?

PROTECTIONS

580.70 What data and information will be protected from public disclosure?
580.71 What is the timetable for release of data and information?
580.72 What procedure will BOEM follow to disclose acquired data and information to a contractor for reproduction, processing, and interpretation?
580.73 Will BOEM share data and information with coastal States?

## Subpart E—Information Collection

580.80 Paperwork Reduction Act statement—information collection.

AUTHORITY: 31 U.S.C. 9701, 43 U.S.C. 1334.

SOURCE: 76 FR 64623, Oct. 18, 2011, unless otherwise noted.

## Subpart A—General Information

### § 580.1 What definitions apply to this part?

Definitions in this part have the following meaning:

*Act* means the OCS Lands Act, as amended (43 U.S.C. 1331 *et seq.*).

*Adjacent State* means with respect to any activity proposed, conducted, or approved under this part, any coastal State(s):

(1) That is used, or is scheduled to be used, as a support base for geological

and geophysical (G&G) prospecting or scientific research activities; or

(2) In which there is a reasonable probability of significant effect on land or water uses from such activity.

*Analyzed geological information* means data collected under a permit or a lease that have been analyzed. Some examples of analysis include, but are not limited to, identification of lithologic and fossil content, core analyses, laboratory analyses of physical and chemical properties, well logs or charts, results from formation fluid tests, and descriptions of mineral occurrences or hazardous conditions.

*Archaeological interest* means capable of providing scientific or humanistic understandings of past human behavior, cultural adaptation, and related topics through the application of scientific or scholarly techniques, such as controlled observation, contextual measurement, controlled collection, analysis, interpretation, and explanation.

*Archaeological resource* means any material remains of human life or activities that are at least 50 years of age and are of archaeological interest.

*Coastal environment* means the physical, atmospheric, and biological components, conditions, and factors that interactively determine the productivity, state, condition, and quality of the terrestrial ecosystem from the shoreline inward to the boundaries of the coastal zone.

*Coastal zone* means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder) that are strongly influenced by each other and in proximity to the shorelands of the several coastal States. The coastal zone includes islands, transition and intertidal areas, salt marshes, wetlands, and beaches. The coastal zone extends seaward to the outer limit of the United States territorial sea and extends inland from the shorelines to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters, and the inward boundaries of which may be identified by the several coastal States, under the authority in section 305(b)(1) of the Coastal Zone Management Act of 1972.

*Coastal Zone Management Act* means the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 *et seq.*).

*Data* means facts and statistics, measurements, or samples that have not been analyzed, processed, or interpreted.

*Deep stratigraphic test* means drilling that involves the penetration into the sea bottom of more than 500 feet (152 meters).

*Director* means the Director of the Bureau of Ocean Energy Management, U.S. Department of the Interior, or an official authorized to act on the Director's behalf.

*Geological and geophysical (G&G) prospecting activities* mean the commercial search for mineral resources other than oil, gas, or sulphur. Activities classified as prospecting include, but are not limited to:

(1) Geological and geophysical marine and airborne surveys where magnetic, gravity, seismic reflection, seismic refraction, or the gathering through coring or other geological samples are used to detect or imply the presence of hard minerals; and

(2) Any drilling, whether on or off a geological structure.

*Geological and geophysical (G&G) scientific research activities* mean any investigations related to hard minerals that are conducted on the OCS for academic or scientific research. These investigations would involve gathering and analyzing geological, geochemical, or geophysical data and information that are made available to the public for inspection and reproduction at the earliest practical time. The term does not include commercial G&G exploration or commercial G&G prospecting activities.

*Geological data and information* means data and information gathered through or derived from geological and geochemical techniques, e.g., coring and test drilling, well logging, bottom sampling, or other physical sampling or chemical testing process.

*Geological sample* means a collected portion of the seabed, the subseabed, or the overlying waters acquired while conducting prospecting or scientific research activities.

*Geophysical data and information* means any data or information gathered through or derived from geophysical measurement or sensing techniques (e.g., gravity, magnetic, or seismic).

*Governor* means the Governor of a State or the person or entity lawfully designated by or under State law to exercise the powers granted to a Governor under the Act.

*Hard minerals* mean any minerals found on or below the surface of the seabed except for oil, gas, or sulphur.

*Interpreted geological information* means the knowledge, often in the form of schematic cross sections, 3-dimensional representations, and maps, developed by determining the geological significance of geological data and analyzed and processed geologic information.

*Interpreted geophysical information* means knowledge, often in the form of seismic cross sections, 3-dimensional representations, and maps, developed by determining the geological significance of geophysical data and processed geophysical information.

*Lease* means, depending upon the requirements of the context, either:

(1) An agreement issued under section 8 or maintained under section 6 of the Act that authorizes mineral exploration, development and production; or

(2) The area covered by an agreement specified in paragraph (1) of this definition.

*Material remains* means physical evidence of human habitation, occupation, use, or activity, including the site, location, or context in which evidence is situated.

*Minerals* mean all minerals authorized by an Act of Congress to be produced from ''public lands'' as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702). The term includes oil, gas, sulphur, geopressured-geothermal and associated resources.

*Notice* means a written statement of intent to conduct G&G scientific research that is:

(1) Related to hard minerals on the OCS; and

(2) Not covered under a permit.

*Oil, gas, and sulphur* means oil, gas, and sulphur, geopressured-geothermal and associated resources, including gas hydrates.

*Outer Continental Shelf (OCS)* means all submerged lands:

(1) That lie seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (43 U.S.C. 1301); and

(2) Whose subsoil and seabed belong to the United States and are subject to its jurisdiction and control.

*Permit* means the contract or agreement, other than a lease, issued under this part. The permit gives a person the right, under appropriate statutes, regulations, and stipulations, to conduct on the OCS:

(1) Geological prospecting for hard minerals;

(2) Geophysical prospecting for hard minerals;

(3) Geological scientific research; or

(4) Geophysical scientific research.

*Permittee* means the person authorized by a permit issued under this part to conduct activities on the OCS.

*Person* means:

(1) A citizen or national of the United States;

(2) An alien lawfully admitted for permanent residence in the United States as defined in section 8 U.S.C. 1101(a)(20);

(3) A private, public, or municipal corporation organized under the laws of the United States or of any State or territory thereof, and association of such citizens, nationals, resident aliens or private, public, or municipal corporations, States, or political subdivisions of States; or

(4) Anyone operating in a manner provided for by treaty or other applicable international agreements. The term does not include Federal agencies.

*Processed geological or geophysical information* means data collected under a permit and later processed or reprocessed.

(1) Processing involves changing the form of data as to facilitate interpretation. Some examples of processing operations may include, but are not limited to:

(i) Applying corrections for known perturbing causes;

(ii) Rearranging or filtering data; and

(iii) Combining or transforming data elements.

(2) Reprocessing is the additional processing other than ordinary processing used in the general course of evaluation. Reprocessing operations may include varying identified parameters for the detailed study of a specific problem area.

*Secretary* means the Secretary of the Interior or a subordinate authorized to act on the Secretary's behalf.

*Shallow test drilling* means drilling into the sea bottom to depths less than those specified in the definition of a deep stratigraphic test.

*Significant archaeological resource* means those archaeological resources that meet the criteria of significance for eligibility of the National Register of Historic Places as defined in 36 CFR 60.4, or its successor.

*Third party* means any person other than the permittee or a representative of the United States, including all persons who obtain data or information acquired under a permit from the permittee, or from another third party, by sale, trade, license agreement, or other means.

*You* means a person who applies for and/or obtains a permit, or files a notice to conduct G&G prospecting or scientific research related to hard minerals on the OCS.

### § 580.2 What is the purpose of this part?

The purpose of this part is to:

(a) Allow you to conduct prospecting activities or scientific research activities on the OCS in Federal waters related to hard minerals on unleased lands or on lands under lease to a third party.

(b) Ensure that you carry out prospecting activities or scientific research activities in a safe and environmentally sound manner so as to prevent harm or damage to, or waste of, any natural resources (including any hard minerals in areas leased or not leased), any life (including fish and other aquatic life), property, or the marine, coastal, or human environment.

(c) Inform you and third parties of your legal and contractual obligations.

(d) Inform you and third parties of:

(1) The U.S. Government's rights to access G&G data and information collected under permit on the OCS;

(2) Reimbursement we will make for data and information that are submitted; and

(3) The proprietary terms of data and information that we retain.

### § 580.3 What requirements must I follow when I conduct prospecting or research activities?

You must conduct G&G prospecting activities or scientific research activities under this part according to:

(a) The Act;

(b) The regulations in this part;

(c) Orders of the Director/Regional Director (RD); and

(d) Other applicable statutes, regulations, and amendments.

### § 580.4 What activities are not covered by this part?

This part does not apply to:

(a) G&G prospecting activities conducted by, or on behalf of, the lessee on a lease on the OCS;

(b) Federal agencies;

(c) Postlease activities for mineral resources other than oil, gas, and sulphur, which are covered by regulations at 30 CFR parts 582 and 282; and

(d) G&G exploration or G&G scientific research activities related to oil, gas, and sulphur, including gas hydrates, which are covered by regulations at 30 CFR parts 551 and 251.

## Subpart B—How To Apply for a Permit or File a Notice

### § 580.10 What must I do before I may conduct prospecting activities?

You must have a BOEM-approved permit to conduct G&G prospecting activities, including deep stratigraphic tests, for hard minerals. If you conduct both G&G prospecting activities, you must have a separate permit for each.

### § 580.11 What must I do before I may conduct scientific research?

You may conduct G&G scientific research activities related to hard minerals on the OCS only after you obtain a BOEM-approved permit or file a notice.

(a) *Permit*. You must obtain a permit if the research activities you want to conduct involve:

(1) Using solid or liquid explosives;

(2) Drilling a deep stratigraphic test; or

(3) Developing data and information for proprietary use or sale.

(b) *Notice*. If you conduct research activities (including federally funded research) not covered by paragraph (a) of this section, you must file a notice with the regional director at least 30 days before you begin. If you cannot file a 30-day notice, you must provide oral notification before you begin and follow up in writing. You must also inform BOEM in writing when you conclude your work.

### § 580.12 What must I include in my application or notification?

(a) *Permits*. You must submit to the Regional Director a signed original and three copies of the permit application form (Form BOEM–0134) at least 30 days before the startup date for activities in the permit area. If unusual circumstances prevent you from meeting this deadline, you must immediately contact the Regional Director to arrange an acceptable deadline. The form includes names of persons; the type, location, purpose, and dates of activity; and environmental and other information. A nonrefundable service fee of $2,012 must be paid electronically through *Pay.gov* at: *https://www.pay.gov/paygov/* and you must include a copy of the *Pay.gov* confirmation receipt page with your application.

(b) *Disapproval of permit application*. If we disapprove your application for a permit, the RD will explain the reasons for the disapproval and what you must do to obtain approval.

(c) *Notices*. You must sign and date a notice that includes:

(1) The name(s) of the person(s) who will conduct the proposed research;

(2) The name(s) of any other person(s) participating in the proposed research, including the sponsor;

(3) The type of research and a brief description of how you will conduct it;

(4) A map, plat, or chart, that shows the location where you will conduct research;

(5) The proposed projected starting and ending dates for your research activity;

(6) The name, registry number, registered owner, and port of registry of vessels used in the operation;

(7) The earliest practical time you expect to make the data and information resulting from your research activity available to the public;

(8) Your plan of how you will make the data and information you collect available to the public;

(9) A statement that you and others involved will not sell or withhold the data and information resulting from your research; and

(10) At your option, the nonexclusive use agreement for scientific research attachment to Form BOEM–0134. (If you submit this agreement, you do not have to submit the material required in paragraphs (c)(7), (c)(8), and (c)(9) of this section.)

### § 580.13 Where must I send my application or notification?

You must apply for a permit or file a notice at one of the following locations:

| For the OCS off the . . . | Apply to . . . |
|---|---|
| (a) State of Alaska | Regional Supervisor for Resource Evaluation, Bureau of Ocean Energy Management, Alaska OCS Region, 3801 Centerpoint Drive, Suite 500, Anchorage, AK 99503. |
| (b) Atlantic Coast, Gulf of Mexico, Puerto Rico, or U.S. territories in the Caribbean Sea. | Regional Supervisor for Resource Evaluation, Bureau of Ocean Energy Management, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, LA 70123. |
| (c) States of California, Oregon, Washington, Hawaii, or U.S. territories in the Pacific Ocean. | Regional Supervisor for Resource Evaluation, Bureau of Ocean Energy Management, Pacific OCS Region, 770 Paseo Camarillo, Camarillo, CA 93010. |

## Subpart C—Obligations Under This Part

PROHIBITIONS AND REQUIREMENTS

### § 580.20 What must I not do in conducting Geological and Geophysical (G&G) prospecting or scientific research?

While conducting G&G prospecting or scientific research activities under a permit or notice, you must not:

(a) Interfere with or endanger operations under any lease, right-of-way, easement, right-of-use, notice, or permit issued or maintained under the Act;

(b) Cause harm or damage to life (including fish and other aquatic life), property, or the marine, coastal, or human environment;

(c) Cause harm or damage to any mineral resources (in areas leased or not leased);

(d) Cause pollution;

(e) Disturb archaeological resources;

(f) Create hazardous or unsafe conditions;

(g) Unreasonably interfere with or cause harm to other uses of the area; or

(h) Claim any oil, gas, sulphur, or other minerals you discover while conducting operations under a permit or notice.

### § 580.21 What must I do in conducting G&G prospecting or scientific research?

While conducting G&G prospecting or scientific research activities under a permit or notice, you must:

(a) Immediately report to the Regional Director if you:

(1) Detect hydrocarbon or any other mineral occurrences;

(2) Detect environmental hazards that imminently threaten life and property; or

(3) Adversely affect the environment, aquatic life, archaeological resources, or other uses of the area where you are prospecting or conducting scientific research activities.

(b) Consult and coordinate your G&G activities with other users of the area for navigation and safety purposes.

(c) If you conduct shallow test drilling or deep stratigraphic test drilling activities, you must use the best available and safest technologies that the Regional Director considers economically feasible.

### § 580.22 What must I do when seeking approval for modifications?

Before you begin modified operations, you must submit a written request describing the modifications and receive the Regional Director's oral or written approval. If circumstances preclude a written request, you must make an oral request and follow up in writing.

### § 580.23 How must I cooperate with inspection activities?

(a) You must allow our representatives to inspect your G&G prospecting or any scientific research activities that are being conducted under a permit. They will determine whether operations are adversely affecting the environment, aquatic life, archaeological resources, or other uses of the area.

(b) BOEM will reimburse you for food, quarters, and transportation that you provide for our representatives if you send in your reimbursement request to the region that issued the permit within 90 days of the inspection.

### § 580.24 What reports must I file?

(a) You must submit status reports on a schedule specified in the permit and include a daily log of operations.

(b) You must submit a final report of G&G prospecting or scientific research activities under a permit within 30 days after you complete acquisition activities under the permit. You may combine the final report with the last status report and must include each of the following:

(1) A description of the work performed.

(2) Charts, maps, plats and digital navigation data in a format specified by the Regional Director, showing the areas and blocks in which any G&G prospecting or permitted scientific research activities were conducted. Identify the lines of geophysical traverses and their locations including a reference sufficient to identify the data produced during each activity.

(3) The dates on which you conducted the actual prospecting or scientific research activities.

(4) A summary of any:

(i) Hard mineral, hydrocarbon, or sulphur occurrences encountered;

(ii) Environmental hazards; and

(iii) Adverse effects of the G&G prospecting or scientific research activities on the environment, aquatic life, archaeological resources, or other uses of the area in which the activities were conducted.

(5) Other descriptions of the activities conducted as specified by the Regional Director.

INTERRUPTED ACTIVITIES

### § 580.25 When may BOEM require me to stop activities under this part?

(a) We may temporarily stop prospecting or scientific research activities under a permit when the Regional Director determines that:

(1) Activities pose a threat of serious, irreparable, or immediate harm. This includes damage to life (including fish and other aquatic life), property, and any minerals (in areas leased or not leased), to the marine, coastal, or human environment, or to an archaeological resource;

(2) You failed to comply with any applicable law, regulation, order or provision of the permit. This would include our required submission of reports, well records or logs, and G&G data and information within the time specified; or

(3) Stopping the activities is in the interest of National security or defense.

(b) The Regional Director will advise you either orally or in writing of the procedures to temporarily stop activities. We will confirm an oral notification in writing and deliver all written notifications by courier or certified/registered mail. You must stop all activities under a permit as soon as you receive an oral or written notification.

### § 580.26 When may I resume activities?

The Regional Director will advise you when you may start your permit activities again.

### § 580.27 When may BOEM cancel my permit?

The Regional Director may cancel a permit at any time.

(a) If we cancel your permit, the Regional Director will advise you by certified or registered mail 30 days before the cancellation date and will state the reason.

(b) After we cancel your permit, you are still responsible for proper abandonment of any drill site according to the requirements of 30 CFR 251.7(b)(8). You must comply with all other obligations specified in this part or in the permit.

### § 580.28 May I relinquish my permit?

(a) You may relinquish your permit at any time by advising the Regional Director by certified or registered mail 30 days in advance.

(b) After you relinquish your permit, you are still responsible for proper abandonment of any drill sites according to the requirements of 30 CFR 251.7(b)(8). You must also comply with all other obligations specified in this part or in the permit.

ENVIRONMENTAL ISSUES

### § 580.29 Will BOEM monitor the environmental effects of my activity?

We will evaluate the potential of proposed prospecting or scientific research activities for adverse impact on the environment to determine the need for mitigation measures.

### § 580.30 What activities will not require environmental analysis?

We anticipate that activities of the type listed below typically will not cause significant environmental impact and will normally be categorically excluded from additional environmental analysis. The types of activities include:

(a) Gravity and magnetometric observations and measurements;

(b) Bottom and subbottom acoustic profiling or imaging without the use of explosives;

(c) Hard minerals sampling of a limited nature such as shallow test drilling;

(d) Water and biotic sampling, if the sampling does not adversely affect shellfish beds, marine mammals, or an endangered species or if permitted by the National Marine Fisheries Service or another Federal agency;

(e) Meteorological observations and measurements, including the setting of instruments;

(f) Hydrographic and oceanographic observations and measurements, including the setting of instruments;

(g) Sampling by box core or grab sampler to determine seabed geological or geotechnical properties;

(h) Television and still photographic observation and measurements;

(i) Shipboard hard mineral assaying and analysis; and

(j) Placement of positioning systems, including bottom transponders and surface and subsurface buoys reported in Notices to Mariners.

### § 580.31 Whom will BOEM notify about environmental issues?

(a) In cases where Coastal Zone Management Act consistency review is required, the Director will notify the Governor of each adjacent State with a copy of the application for a permit immediately upon the submission for approval.

(b) In cases where an environmental assessment is to be prepared, the Director will invite the Governor of each adjacent State to review and provide comments regarding the proposed activities. The Director's invitation to provide comments will allow the Governor a specified period of time to comment.

(c) When a permit is issued, the Director will notify affected parties including each affected coastal State, Federal agency, local government, and special interest organization that has expressed an interest.

PENALTIES AND APPEALS

### § 580.32 What penalties may I be subject to?

(a) *Penalties for noncompliance under a permit.* You are subject to the penalty provisions of section 24 of the Act (43 U.S.C. 1350) and the procedures contained in 30 CFR part 550, subpart N for noncompliance with:

(1) Any provision of the Act;

(2) Any provisions of a G&G or drilling permit; or

(3) Any regulation or order issued under the Act.

(b) *Penalties under other laws and regulations.* The penalties prescribed in this section are in addition to any other penalty imposed by any other law or regulation.

### § 580.33 How can I appeal a penalty?

See 30 CFR part 550.1409 and 30 CFR part 590, subpart A, for instructions on how to appeal any decision assessing a civil penalty under 43 U.S.C. 1350 and 30 CFR part 550, subpart A.

### § 580.34 How can I appeal an order or decision?

See 30 CFR part 590, subpart A, for instructions on how to appeal an order or decision.

## Subpart D—Data Requirements

GEOLOGICAL DATA AND INFORMATION

### § 580.40 When do I notify BOEM that geological data and information are available for submission, inspection, and selection?

(a) You must notify the Regional Director, in writing, when you complete the initial analysis, processing, or interpretation of any geological data and information. Initial analysis and processing are the stages of analysis or processing where the data and information first become available for in-house interpretation by the permittee or become available commercially to third parties via sale, trade, license agreement, or other means.

(b) The Regional Director may ask if you have further analyzed, processed, or interpreted any geological data and information. When asked, you must respond to us in writing within 30 days.

(c) The Regional Director may ask you or a third party to submit the analyzed, processed, or interpreted geologic data and information for us to inspect or permanently retain. You must submit the data and information within 30 days after such a request.

### § 580.41 What types of geological data and information must I submit to BOEM?

Unless the Regional Director specifies otherwise, you must submit geological data and information that include:

(a) An accurate and complete record of all geological (including geochemical) data and information describing each operation of analysis, processing, and interpretation;

(b) Paleontological reports identifying by depth any microscopic fossils collected, including the reference datum to which paleontological sample depths are related and, if the Regional Director requests, washed samples, that you maintain for paleontological determinations;

(c) Copies of well logs or charts in a digital format, if available;

(d) Results and data obtained from formation fluid tests;

(e) Analyses of core or bottom samples and/or a representative cut or split of the core or bottom sample;

(f) Detailed descriptions of any hydrocarbons or other minerals or hazardous conditions encountered during operations, including near losses of well control, abnormal geopressures, and losses of circulation; and

(g) Other geological data and information that the RD may specify.

### § 580.42 When geological data and information are obtained by a third party, what must we both do?

A third party may obtain geological data and information from a permittee, or from another third party, by sale, trade, license agreement, or other means. If this happens:

(a) The third-party recipient of the data and information assumes the obligations under this part, except for the notification provisions of § 580.40(a) and is subject to the penalty provisions of § 580.32(a)(1) and 30 CFR part 550, subpart N; and

(b) A permittee or third party that sells, trades, licenses, or otherwise provides data and information to a third party must advise the recipient, in writing, that accepting these obligations is a condition precedent of the sale, trade, license, or other agreement; and

(c) Except for license agreements, a permittee or third party that sells, trades, or otherwise provides data and information to a third party must advise the Regional Director in writing within 30 days of the sale, trade, or other agreement, including the identity of the recipient of the data and information; or

(d) For license agreements, a permittee or third party that licenses data and information to a third party must, within 30 days of a request by the Regional Director, advise the Regional Director, in writing, of the license agreement, including the identity of the recipient of the data and information.

## GEOPHYSICAL DATA AND INFORMATION

### § 580.50 When do I notify BOEM that geophysical data and information are available for submission, inspection, and selection?

(a) You must notify the Regional Director in writing when you complete the initial processing and interpretation of any geophysical data and information. Initial processing is the stage of processing where the data and information become available for in-house interpretation by the permittee, or become available commercially to third parties via sale, trade, license agreement, or other means.

(b) The Regional Director may ask whether you have further processed or interpreted any geophysical data and information. When asked, you must respond to us in writing within 30 days.

(c) The Regional Director may request that the permittee or third party submit geophysical data and information before making a final selection for retention. Our representatives may inspect and select the data and information on your premises, or the Regional Director can request delivery of the data and information to the appropriate regional office for review.

(d) You must submit the geophysical data and information within 30 days of receiving the request, unless the Regional Director extends the delivery time.

(e) At any time before final selection, the Regional Director may review and return any or all geophysical data and information. We will notify you in writing of any data the RD decides to retain.

### § 580.51 What types of geophysical data and information must I submit to BOEM?

Unless the Regional Director specifies otherwise, you must include:

(a) An accurate and complete record of each geophysical survey conducted under the permit, including digital navigational data and final location maps;

(b) All seismic data collected under a permit presented in a format and of a quality suitable for processing;

(c) Processed geophysical information derived from seismic data with extraneous signals and interference removed, presented in a quality format suitable for interpretive evaluation, reflecting state-of-the-art processing techniques; and

(d) Other geophysical data, processed geophysical information, and interpreted geophysical information including, but not limited to, shallow and deep subbottom profiles, bathymetry, sidescan sonar, gravity and magnetic surveys, and special studies such as refraction and velocity surveys.

### § 580.52 When geophysical data and information are obtained by a third party, what must we both do?

A third party may obtain geophysical data, processed geophysical information, or interpreted geophysical information from a permittee, or from another third party, by sale, trade, license agreement, or other means. If this happens:

(a) The third-party recipient of the data and information assumes the obligations under this part, except for the notification provisions of § 580.50(a) and is subject to the penalty provisions of § 580.32(a)(1) and 30 CFR 550, subpart N; and

(b) A permittee or third party that sells, trades, licenses, or otherwise provides data and information to a third party must advise the recipient, in writing, that accepting these obligations is a condition precedent of the sale, trade, license, or other agreement; and

(c) Except for license agreements, a permittee or third party that sells, trades, or otherwise provides data and information to a third party must advise the Regional Director, in writing within 30 days of the sale, trade, or other agreements, including the identity of the recipient of the data and information; or

(d) For license agreements, a permittee or third party that licenses data and information to a third party must, within 30 days of a request by the Regional Director, advise the Regional Director, in writing, of the license agreement, including the identity of the recipient of the data and information.

## REIMBURSEMENT

### § 580.60 Which of my costs will be reimbursed?

(a) We will reimburse you or a third party for reasonable costs of reproducing data and information that the Regional Director requests if:

(1) You deliver G&G data and information to us for the Regional Director to inspect or select and retain (according to §§ 580.40 and 580.50);

(2) We receive your request for reimbursement and the Regional Director determines that the requested reimbursement is proper; and

(3) The cost is at your lowest rate (or a third party's) or at the lowest commercial rate established in the area, whichever is less.

(b) We will reimburse you or the third party for the reasonable costs of processing geophysical information (which does not include cost of data acquisition) if, at the request of the Regional Director, you processed the geophysical data or information in a form or manner other than that used in the normal conduct of business.

### § 580.61 Which of my costs will not be reimbursed?

(a) When you request reimbursement, you must identify reproduction and processing costs separately from acquisition costs.

(b) We will not reimburse you or a third party for data acquisition costs or for the costs of analyzing or processing geological information or interpreting geological or geophysical information.

PROTECTIONS

### § 580.70 What data and information will be protected from public disclosure?

In making data and information available to the public, the Regional Director will follow the applicable requirements of:

(a) The Freedom of Information Act (5 U.S.C. 552);

(b) The implementing regulations at 43 CFR part 2;

(c) The Act; and

(d) The regulations at 30 CFR parts 550 and 552.

(1) If the RD determines that any data or information is exempt from disclosure under the Freedom of Information Act, we will not disclose the data and information unless either:

(i) You and all third parties agree to the disclosure; or

(ii) A provision of 30 CFR parts 550 and 552 allows us to make the disclosure.

(2) We will keep confidential the identity of third-party recipients of data and information collected under a permit. We will not release the identity unless you and the third parties agree to the disclosure.

(3) When you detect any significant hydrocarbon occurrences or environmental hazards on unleased lands during drilling operations, the Regional Director will immediately issue a public announcement. The announcement must further the National interest without unduly damaging your competitive position.

### § 580.71 What is the timetable for release of data and information?

We will release data and information that you or a third party submits and we retain according to paragraphs (a) and (b) of this section.

(a) If the data and information are not related to a deep stratigraphic test, we will release them to the public according to items (1), (2), and (3) in the following table:

| If you or a third party submits and we retain . . . | The Regional Director will disclose them to the public . . . |
|---|---|
| (1) Geological data and information, | 10 years after issuing the permit. |
| (2) Geophysical data, | 50 years after you or a third party submit the data. |
| (3) Geophysical information, | 25 years after you or a third party submit the information. |
| (4) Data and information related to a deep stratigraphic test, | 25 years after you complete the test, unless the provisions of paragraph (b) of this section apply. |

(b) This paragraph applies if you are covered by paragraph (a)(4) of this section and a lease sale is held or a noncompetitive agreement is negotiated after you complete a test well. We will release the data and information related to the deep stratigraphic test at the earlier of the following times:

(1) Twenty-five years after you complete the test; or

(2) Sixty calendar days after we issue a lease, located partly or totally within 50 geographic miles (92.7 kilometers) of the test.

### § 580.72 What procedure will BOEM follow to disclose acquired data and information to a contractor for reproduction, processing, and interpretation?

(a) When practical, the Regional Director will advise the person who submitted data and information under § 580.40 or § 580.50 of the intent to provide the data or information to an independent contractor or agent for reproduction, processing, and interpretation.

(b) The person notified will have at least five working days to comment on the action.

(c) When the Regional Director advises the person who submitted the data and information, all other owners of the data or information will be considered to have been notified.

(d) The independent contractor or agent must sign a written commitment not to sell, trade, license, or disclose data or information to anyone without the Regional Director's consent.

### § 580.73 Will BOEM share data and information with coastal States?

(a) We can disclose proprietary data, information, and samples submitted to us by permittees or third parties that

we receive under this part to the Governor of any adjacent State that requests it according to paragraphs (b), (c), and (d) of this section. The permittee or third parties who submitted proprietary data, information, and samples will be notified about the disclosure and will have at least five working days to comment on the action.

(b) We will make a disclosure under this section only after the Governor and the Secretary have entered into an agreement containing all of the following provisions:

(1) The confidentiality of the information will be maintained.

(2) In any action taken for failure to protect the confidentiality of proprietary information, neither the Federal Government nor the State may raise as a defense:

(i) Any claim of sovereign immunity; or

(ii) Any claim that the employee who revealed the proprietary information was acting outside the scope of his/her employment in revealing the information.

(3) The State agrees to hold the Federal Government harmless for any violation by the State or its employees or contractors of the agreement to protect the confidentiality of proprietary data and information and samples.

(4) The materials containing the proprietary data, information, and samples will remain the property of the Federal Government.

(c) The data, information, and samples available for reproduction to the State(s) under an agreement must be related to leased lands. Data and information on unleased lands may be viewed but not copied or reproduced.

(d) The State must return to us the materials containing the proprietary data, information, and samples when we ask for them or when the State no longer needs them.

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

(1) The Act; and

(2) The regulations at 30 CFR parts 580, 581, and 582.

## Subpart E—Information Collection

### § 580.80 Paperwork Reduction Act statement—information collection.

(a) The Office of Management and Budget (OMB) has approved the information collection requirements in this part under 44 U.S.C. 3501 *et seq.* and assigned OMB control number 1010–0072. The title of this information collection is ''30 CFR part 580, Prospecting for Minerals other than Oil, Gas, and Sulphur on the Outer Continental Shelf.''

(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 prospecting does 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 prospecting permit.

(5) Inspect and select G&G data and information collected under an OCS prospecting 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 § 580.70 and 30 CFR part 581.

(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, Bureau of Ocean Energy Management, 381 Elden Street, Herndon, VA 20170.

# PART 581—LEASING OF MINERALS OTHER THAN OIL, GAS, AND SULPHUR IN THE OUTER CONTINENTAL SHELF

## Subpart A—General

Sec.
581.0 Authority for information collection.
581.1 Purpose and applicability.
581.2 Authority.
581.3 Definitions.
581.4 Qualifications of lessees.
581.5 False statements.
581.6 Appeals.
581.7 Disclosure of information to the public.
581.8 Rights to minerals.
581.9 Jurisdictional controversies.

## Subpart B—Leasing Procedures

581.11 Unsolicited request for a lease sale.
581.12 Request for OCS mineral information and interest.
581.13 Joint State/Federal coordination.
581.14 OCS mining area identification.
581.15 Tract size.
581.16 Proposed leasing notice.
581.17 Leasing notice.
581.18 Bidding system.
581.19 Lease term.
581.20 Submission of bids.
581.21 Award of leases.
581.22 Lease form.
581.23 Effective date of leases.

## Subpart C—Financial Considerations

581.26 Payments.
581.27 Annual rental.
581.28 Royalty.
581.29 Royalty valuation.
581.30 Minimum royalty.
581.31 Overriding royalties.
581.32 Waiver, suspension, or reduction of rental, minimum royalty, or production royalty.
581.33 Bonds and bonding requirements.

## Subpart D—Assignments and Lease Extensions

581.40 Assignment of leases or interests therein.
581.41 Requirements for filing for transfers.
581.42 Effect of assignment on particular lease.
581.43 Effect of suspensions on lease term.

## Subpart E—Termination of Leases

581.46 Relinquishment of leases or parts of leases.
581.47 Cancellation of leases.

AUTHORITY: 31 U.S.C. 9701, 43 U.S.C. 1334.

SOURCE: 76 FR 64623, Oct. 18, 2011, unless otherwise noted.

## Subpart A—General

### § 581.0 Authority for information collection.

The information collection requirements contained in part 581 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1010–0082. The information is being collected to determine if the applicant for a lease on the Outer Continental Shelf (OCS) is qualified to hold such a lease or to determine if a requested action is warranted. The information will be used to make those determinations. An applicant must respond to obtain or retain a benefit.

### § 581.1 Purpose and applicability.

The purpose of these regulations is to establish procedures under which the Secretary of the Interior (Secretary) will exercise the authority granted to administer a leasing program for minerals other than oil, gas, and sulphur in the OCS. The rules in this part apply exclusively to leasing activities for minerals other than oil, gas, and sulphur in the OCS pursuant to the Act.

### § 581.2 Authority.

The Act authorizes the Secretary to grant leases for any mineral other than oil, gas, and sulphur in any area of the OCS to the qualified persons offering the highest cash bonuses on the basis of competitive bidding upon such royalty, rental, and other terms and conditions as the Secretary may prescribe at the time of offering the area for lease (43 U.S.C. 1337(k)). The Secretary is to administer the leasing provisions of the Act and prescribe the rules and regulations necessary to carry out those provisions (43 U.S.C. 1334(a)).

### § 581.3 Definitions.

When used in this part, the following terms shall have the following meaning:

*Act* means the OCS Lands Act, as amended (43 U.S.C. 1331 *et seq.*).

*Adjacent State* means with respect to any activity proposed, conducted, or

approved under this part, any coastal State—

(1) That is, or is proposed to be, receiving for processing, refining, or transshipping OCS mineral resources commercially recovered from the seabed;

(2) That is used, or is scheduled to be used, as a support base for prospecting, exploration, testing, and mining activities; or

(3) In which there is a reasonable probability of significant effect on land or water uses from such activity.

*Director* means the Director of the Bureau of Ocean Energy Management (BOEM) of the U.S. Department of the Interior or an official authorized to act on the Director's behalf.

*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 such Governor pursuant to the Act.

*Lease* means any form of authorization which is issued under section 8 of the Act and which authorizes exploration for, and development and production of, minerals, or the area covered by that authorization, whichever is required by the context.

*Lessee* means the person 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 this chapter. The term includes all persons holding that authority by or through the lessee.

*OCS mineral* means a mineral deposit or accretion found on or below the surface of the seabed but does not include oil, gas, sulphur; salt or sand and gravel intended for use in association with the development of oil, gas, or sulphur; or source materials essential to production of fissionable materials which are reserved to the United States pursuant to section 12(e) of the Act.

*Outer Continental Shelf* means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (43 U.S.C. 1301) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

*Overriding royalty* means a royalty created out of the lessee's interest which is over and above the royalty reserved to the lessor in the original lease.

*Person* means a citizen or national of the United States; an alien lawfully admitted for permanent residency in the United States as defined in 8 U.S.C. 1101(a)(20); a private, public, or municipal corporation organized under the laws of the United States or of any State or territory thereof; an association of such citizens, nationals, resident aliens or private, public, or municipal corporations, States, or political subdivisions of States; or anyone operating in a manner provided for by treaty or other applicable international agreements. The term does not include Federal Agencies.

*Secretary* means the Secretary of the Interior or an official authorized to act on the Secretary's behalf.

### §581.4 Qualifications of lessees.

(a) In accordance with section 8(k) of the Act, leases shall be awarded only to qualified persons offering the highest cash bonus bid.

(b) Mineral leases issued pursuant to section 8 of the Act may be held only by:

(1) Citizens and nationals of the United States;

(2) Aliens lawfully admitted for permanent residence in the United States as defined in 8 U.S.C. 1101(a)(20);

(3) Private, public, or municipal corporations organized under the laws of the United States or of any State or of the District of Columbia or territory thereof; or

(4) Associations of such citizens, nationals, resident aliens, or private, public, or municipal corporations, States, or political subdivisions of States.

### §581.5 False statements.

Under the provisions of 18 U.S.C. 1001, it is a crime punishable by up to 5 years imprisonment or a fine of $10,000, or both, for anyone knowingly and willfully to submit or cause to be submitted to any Agency of the United States any false or fraudulent statement(s) to any matters within the Agency's jurisdiction.

### § 581.6 Appeals.

Any party adversely affected by a decision of a BOEM official made pursuant to the provisions of this part shall have the right of appeal pursuant to 30 CFR part 590, except as provided otherwise in § 581.21 of this part.

### § 581.7 Disclosure of information to the public.

The Secretary shall make data and information available to the public in accordance with the requirements and subject to the limitations of the Act, the Freedom of Information Act (5 U.S.C. 552), and the implementing regulations (30 CFR parts 580, 582, and 43 CFR part 2).

### § 581.8 Rights to minerals.

(a) Unless otherwise specified in the leasing notice, a lease for OCS minerals shall include rights to all minerals within the leased area except the following;

(1) Minerals subject to rights granted by existing leases;

(2) Oil;

(3) Gas;

(4) Sulphur;

(5) Minerals produced in direct association with oil, gas, or sulphur;

(6) Salt deposits which are identified in the leasing notice as being reserved;

(7) Sand and gravel deposits which are identified in the leasing notice as being reserved; and

(8) Source materials essential to production of fissionable materials which are reserved pursuant to section 12(a) of the Act.

(b) When an OCS mineral lease issued under this part limits the minerals to which rights are granted, such lease shall include rights to minerals produced in direct association with the OCS mineral specified in the lease but not the rights to minerals specifically reserved.

(c) The existence of an OCS mineral, oil and gas, or sulphur lease shall not preclude the issuance of a lease(s) for other OCS minerals in the same area. However, no OCS mineral lease shall authorize or permit the lessee thereunder to unreasonably interfere with or endanger operations under an existing OCS mineral, oil and gas, or sulphur lease.

### § 581.9 Jurisdictional controversies.

In the event of a controversy between the United States and a State as to whether certain lands are subject to Federal or State jurisdiction (43 U.S.C. 1336), either the Governor or the Secretary may initiate negotiations in an attempt to settle the jurisdictional controversy. With the concurrence of the Attorney General, the Secretary may enter into an agreement with a State with respect to OCS mineral activities under the Act or under State authority and to payment and impounding of rents, royalties, and other sums and with respect to the offering of lands for lease pending settlement of the controversy.

## Subpart B—Leasing Procedures

### § 581.11 Unsolicited request for a lease sale.

(a) Any person may at any time request that OCS minerals be offered for lease. A request that OCS minerals be offered for lease shall be submitted to the Director and shall contain the following information:

(1) The area to be offered for lease.

(2) The OCS minerals of primary interest.

(3) The available OCS mineral resource and environmental information pertaining to the area of interest to be offered for lease which supports the request.

(b) Within 45 days after receipt of a request submitted under paragraph (a) of this section, the Director shall either initiate steps leading to the offer of OCS minerals for lease and notify the applicant of the action taken or inform the applicant of the reasons for not initiating steps leading to the offer of OCS minerals for lease.

(c) Any interested party may at any time submit information to the Director concerning the scheduling of proposed lease sales of OCS minerals in any area of the OCS. Such information may include but not be limited to any of the following:

(1) Benefits of conducting a lease sale in an area.

(2) Costs of conducting a lease sale in an area.

(3) Geohazards which could be encountered in an area.

(4) Geological information about an area and mineral resource potential.

(5) Environmental information about an area.

(6) Information about known archaeological resources in an area.

### § 581.12 Request for OCS mineral information and interest.

(a) When considering whether to offer OCS minerals for lease, the Secretary, upon the Department of the Interior's own initiative or as a result of a submission under § 581.11, may request indications of interest in the leasing of a specific OCS mineral, a group of OCS minerals, or all OCS minerals in the area being considered for lease. Requests for information and interest shall be published in the FEDERAL REGISTER and may be published elsewhere.

(b) States and local governments, industry, other Federal Agencies, and all interested parties (including the public) may respond to a request for information and interest. All information provided to the Secretary will be considered in the decision whether to proceed with additional steps leading to the offering of OCS minerals for lease.

(c) The Secretary may request specific information concerning the offering of a specific OCS mineral, a group of OCS minerals, or all OCS minerals in a broad area for lease or the offering of one or more discrete tracts which represent a minable orebody. The Secretary's request may ask for comments on OCS areas which have been determined to warrant special consideration and analysis. Requests may be for comments concerning geological conditions or archaeological resources on the seabed; multiple uses of the area proposed for leasing, including navigation, recreation and fisheries; and other socioeconomic, biological, and environmental information relating to the area proposed for leasing.

### § 581.13 Joint State/Federal coordination.

(a) The Secretary may invite the adjacent State Governor(s) to join in, or the adjacent State Governor(s) may request that the Secretary join in, the establishment of a State/Federal task force or some other joint planning or coordination arrangement when industry interest exists for OCS mineral leasing or geological information appears to support the leasing of OCS minerals in specific areas. Participation in joint State/Federal task forces or other arrangements will afford the adjacent State Governor(s) opportunity for access to available data and information about the area; knowledge of progress made in the leasing process and of the results of subsequent exploration and development activities; facilitate the resolution of issues of mutual interest; and provide a mechanism for planning, coordination, consultation, and other activities which the Secretary and the Governor(s) may identify as contributing to the leasing process.

(b) State/Federal task forces or other such arrangements are to be constituted pursuant to such terms and conditions (consistent with Federal law and these regulations) as the Secretary and the adjacent State Governor(s) may agree.

(c) State/Federal task forces or other such arrangements will provide a forum which the Secretary and adjacent State Governor(s) may use for planning, consultation, and coordination on concerns associated with the offering of OCS minerals other than oil, gas, or sulphur for lease.

(d) With respect to the activities authorized under these regulations each State/Federal task force may make recommendations to the Secretary and adjacent State Governor(s) concerning:

(1) The identification of areas in which OCS minerals might be offered for lease;

(2) The potential for conflicts between the exploration and development of OCS mineral resources, other users and uses of the area, and means for resolution or mitigation of these conflicts;

(3) The economic feasibility of developing OCS mineral resources in the area proposed for leasing;

(4) Potential environmental problems and measures that might be taken to mitigate these problems;

(5) Development of guidelines and procedures for safe, environmentally responsible exploration and development practices; and

(6) Other issues of concern to the Secretary and adjacent State Governor(s).

(e) State/Federal task forces or other such arrangements might also be used to conduct or oversee research, studies, or reports (e.g., Environmental Impact Statements).

### § 581.14 OCS mining area identification.

The Secretary, after considering the available OCS mineral resources and environmental data and information, the recommendation of any joint State/Federal task force established pursuant to § 581.13 of this part, and the comments received from interested parties, shall select the tracts to be considered for offering for lease. The selected tracts will be considered in the environmental analysis conducted for the proposed lease offering.

### § 581.15 Tract size.

The size of the tracts to be offered for lease shall be as determined by the Secretary and specified in the leasing notice. It is intended that tracts offered for lease be sufficiently large to include potentially minable OCS mineral orebodies. When the presence of any minable orebody is unknown and additional prospecting is needed to discover and delineate OCS minerals, the size of tracts specified in the leasing notice may be relatively large.

### § 581.16 Proposed leasing notice.

(a) Prior to offering OCS minerals in an area for lease, the Director shall assess the available information including recommendations of any joint State/Federal task force established pursuant to § 581.13 of this part to determine lease sale procedures to be prescribed and to develop a proposed leasing notice which sets out the proposed primary term of the OCS mineral leases to be offered; lease stipulations including measures to mitigate potentially adverse impacts on the environment; and such rental, royalty, and other terms and conditions as the Secretary may prescribe in the leasing notice.

(b) The proposed leasing notice shall be sent to the Governor(s) of any adjacent State(s), and a Notice of its availability shall be published in the FEDERAL REGISTER at least 60 days prior to the publication of the leasing notice.

(c) Written comments of the adjacent State Governor(s) submitted within 60 days after publication of the Notice of Availability of the proposed leasing notice shall be considered by the Secretary.

(d) Prior to publication of the leasing notice, the Secretary shall respond in writing to the comments of the adjacent State Governor(s) stating the reasons for accepting or rejecting the Governor's recommendations, or for implementing any alternative mutually acceptable approach identified in consultation with the Governor(s) as a means to provide a reasonable balance between the National interest and the well being of the citizens of the adjacent State.

### § 581.17 Leasing notice.

(a) The Director shall publish the leasing notice in the FEDERAL REGISTER at least 30 days prior to the date that OCS minerals will be offered for lease. The leasing notice shall state whether oral or sealed bids or a combination thereof will be used; the place, date, and time at which sealed bids shall be filed; and the place, date, and time at which sealed bids shall be opened and/or oral bids received. The leasing notice shall contain or reference a description of the tract(s) to be offered for lease; specify the mineral(s) to be offered for lease (if less than all OCS minerals are being offered); specify the period of time the primary term of the lease shall cover; and any stipulation(s), term(s), and condition(s) of the offer to lease (43 U.S.C. 1337(k)).

(b) The leasing notice shall contain a reference to the OCS minerals lease form which shall be issued to successful bidders.

(c) The leasing notice shall specify the terms and conditions governing the payment of the winning bid.

### § 581.18 Bidding system.

(a) The OCS minerals shall be offered by competitive, cash bonus bidding under terms and conditions specified in the leasing notice and in accordance with all applicable laws and regulations.

(b)(1) When the leasing notice specifies the use of sealed bids, such bids received in response to the leasing notice shall be opened at the place, date, and time specified in the leasing notice. The sole purpose of opening bids is to publicly announce and record the bids received, and no bids shall be accepted or rejected at that time.

(2) The Secretary reserves the right to reject any and all sealed bids received for any tract, regardless of the amount offered.

(3) In the event the highest bids are tie bids when using sealed bidding procedures, the tied bidders may be permitted to submit oral bids to determine the highest cash bonus bidder.

(c)(1) When the leasing notice specifies the use of oral bids, oral bids shall be received at the place, time, and date and in accordance with the procedures specified in the leasing notice.

(2) The Secretary reserves the right to reject all oral bids received for any tract, regardless of the amount offered.

(d) When the leasing notice specifies the use of deferred cash bonus bidding, bids shall be received in accordance with paragraph (b) or (c) of this section, as appropriate. The high bid will be determined based upon the net present value of each total bid. The appropriate discount rate will be specified in the leasing notice. High bidders using the deferred bonus option shall pay a minimum of 20 percent of the cash bonus bid prior to lease issuance. At least a total of 60 percent of the cash bonus bid shall be due on or before the 5th anniversary of the lease, and payment of the remainder of the cash bonus bid shall be due on the 10th anniversary of the lease. The lessee shall submit a bond guaranteeing payment of the deferred portion of the bonus, in accordance with § 581.33.

### § 581.19 Lease term.

An OCS mineral lease for OCS minerals other than sand and gravel shall be for a primary term of not less than 20 years as stipulated in the leasing notice. The primary lease term for each OCS mineral shall be determined based on exploration and development requirements for the OCS minerals being offered by the Secretary. An OCS mineral lease for sand and gravel shall be for a primary term of 10 years unless otherwise stipulated in the leasing notice. A lease will continue beyond the specified primary term for so long thereafter as leased OCS minerals are being produced in accordance with an approved mining operation or the lessee is otherwise in compliance with provisions of the lease and the regulations in this chapter under which a lessee can earn continuance of the OCS mineral lease in effect.

### § 581.20 Submission of bids.

(a) If the bidder is an individual, a statement of citizenship shall accompany the bid.

(b) If the bidder is an association (including a partnership), the bid shall be accompanied by a certified statement indicating the State in which it is registered and that the association is authorized to hold mineral leases on the OCS, or appropriate reference to statements or records previously submitted to a BOEM OCS office (including material submitted in compliance with prior regulations).

(c) If the bidder is a corporation, the bid shall be accompanied by the following information:

(1) Either a statement certified by the corporate Secretary or Assistant Secretary over the corporate seal showing the State in which it was incorporated and that it is authorized to hold mineral leases on the OCS or appropriate reference to statements or record previously submitted to a BOEM OCS office (including material submitted in compliance with prior regulations).

(2) Evidence of authority of persons signing to bind the corporation. Such evidence may be in the form of a certified copy of either the minutes of the board of directors or of the bylaws indicating that the person signing has authority to do so, or a certificate to that effect signed by the Secretary or Assistant Secretary of the corporation over the corporate seal, or appropriate reference to statements or records previously submitted to a BOEM OCS office (including material submitted in compliance with prior regulations). Bidders are advised to keep their filings current.

(3) The bid shall be executed in conformance with corporate requirements.

(d) Bidders should be aware of the provisions of 18 U.S.C. 1860, which prohibits unlawful combination or intimidation of bidders.

(e) When sealed bidding is specified in the leasing notice, a separate sealed bid shall be submitted for each bid unit that is bid upon as described in the leasing notice. A bid may not be submitted for less than a bidding unit identified in the leasing notice.

(f) When oral bidding is specified in the leasing notice, information which must accompany a bid pursuant to paragraph (a), (b), or (c) of this section, shall be presented to BOEM at the lease sale prior to the offering of an oral bid.

### § 581.21 Award of leases.

(a)(1) The decision of the Director on bids shall be the final action of the Department, subject only to reconsideration by the Secretary, pursuant to a written request in accordance with paragraph (a)(2) of this section. The delegation of review authority to the Office of Hearings and Appeals shall not be applicable to decisions on high bids for leases in the OCS.

(2) Any bidder whose bid is rejected by the Director may file a written request for reconsideration with the Secretary within 15 days of notice of rejection, accompanied by a statement of reasons with a copy to the Director. The Secretary shall respond in writing either affirming or reversing the decision.

(b) Written notice of the Director's action in accepting or rejecting bids shall be transmitted promptly to those bidders whose deposits have been held. If a bid is accepted, such notice shall transmit three copies of the lease form to the successful bidder. As provided in § 581.26 of this part, the bidder shall, not later than the 10th business day after receipt of the lease, execute the lease, pay the first year's rental, and unless payment of a portion of the bid is deferred, pay the balance of the bonus bid. When payment of a portion of the bid is deferred, the successful bidder shall also file a bond to guarantee payment of the deferred portion as required in § 581.33. Deposits shall be refunded on high bids subsequently rejected. When three copies of the lease have been executed by the successful bidder and returned to the Director, the lease shall be executed on behalf of the United States; and one fully executed copy shall be transmitted to the successful bidder.

(c) If the successful bidder fails to execute the lease within the prescribed time or to otherwise comply with the applicable regulations, the successful bidder's deposit shall be forfeited and disposed of in the same manner as other receipts under the Act.

(d) If, before the lease is executed on behalf of the United States, the land which would be subject to the lease is withdrawn or restricted from leasing, the deposit shall be refunded.

(e) If the awarded lease is executed by an agent acting on behalf of the bidder, the bidder shall submit with the executed lease, evidence that the agent is authorized to act on behalf of the bidder.

### § 581.22 Lease form.

The OCS mineral leases shall be issued on the lease form prescribed by the Secretary in the leasing notice.

### § 581.23 Effective date of leases.

Leases issued under the regulations in this part shall be dated and become effective as of the first day of the month following the date leases are signed on behalf of the lessor except that, upon written request, a lease may be dated and become effective as of the first day of the month within which it is signed on behalf of the lessor.

## Subpart C—Financial Considerations

### § 581.26 Payments.

(a) For sealed bids, a bonus bid deposit of a specified percentage of the total amount bid is required to be submitted with the bid. The percentage of bonus bid required to be deposited will be specified in the leasing notice. The remittance may be made in cash or by Federal Reserve check, commercial check, bank draft, money order, certified check, or cashier's check made payable to ''Department of the Interior—BOEM.'' Payment of this portion

of the bonus bid may not be made by Electronic Funds Transfer.

(b) For oral bids, a bonus bid deposit of a specified percentage of the total amount bid must be submitted to the official designated in the leasing notice following the completion of the oral bidding. The percentage of bonus bid required to be deposited will be specified in the leasing notice. Payment of this portion of the bonus bid must be made by Electronic Fund Transfer within the timeframe specified in the leasing notice.

(c) The deposit received from high bidders will be placed in a Treasury account pending acceptance or rejection of the bid. Other bids submitted under paragraph (a) of this section will be returned to the bidders. If the high bid is subsequently rejected, an amount equal to that deposited with the high bid will be returned according to applicable regulations.

(d) The balance of the winning bonus bid and all rentals and royalties must be paid in accordance with the terms and conditions of this part, the Leasing Notice, and Subchapter A of this chapter.

(e) For each lease issued pursuant to this subpart, there shall be one person identified who shall be solely responsible for all payments due and payable under the provisions of the lease. The single responsible person shall be designated as the payor for the lease and shall be so identified on the Solid Minerals Production and Royalty Report (P&R) (Form ONRR–4430) in accordance with 30 CFR 1210.201 of this title. The designated person shall be responsible for all bonus, rental, and royalty payments.

(f) Royalty shall be computed at the rate specified in the leasing notice, and paid in value unless the Secretary elects to have the royalty delivered in kind.

(g) For leases which provide for minimum royalty payments, each lessee shall pay the minimum royalty specified in the lease at the end of each lease year beginning with the lease year in which production royalty is paid (whether the full amount specified in the lease or ½ the amount specified in the lease pursuant to § 581.28(b) on this part) of OCS minerals produced (sold, transferred, used, or otherwise disposed of) from the leasehold.

(h)(1) Unless stated otherwise in the lease, product valuation will be in accordance with the regulations in part 1206 of chapter XII. The value used in the computation of royalty shall be determined by the Director of the Office of Natural Resources Revenue. The value, for royalty purposes, shall be the gross proceeds received by the lessee for produced substances at the point the product is produced and placed in its first marketable condition, consistent with prevailing practices in the industry. In establishing the value, the Director shall consider, in this order:

(i) The price received by the lessee;

(ii) Commodity and spot market transactions;

(iii) Any other valuation method proposed by the lessee and approved by the Director; and

(iv) Value or cost netback.

(2) For non-arm's length transactions, the first benchmark will only be accepted if it is not less than the second benchmark.

(i) All payors must submit payments and payment forms and maintain auditable records in accordance with 30 CFR chapter XII, Subchapter A—Natural Resources Revenue.

### § 581.27 Annual rental.

(a) The annual lease rental shall be due and payable in accordance with the provisions of this section. No rental shall be due or payable under a lease commencing with the first lease anniversary date following the commencement of royalty payments on leasehold production computed on the basis of the royalty rate specified in the lease except that annual rental shall be due for any year in which production from the leasehold is not subject to royalty pursuant to § 581.28.

(b) Unless otherwise specified in the leasing notice and subsequently issued lease, no annual rental payment shall be due during the first 5 years in the life of a lease.

(c) The leasee shall pay an annual rental in the amount specified in the leasing notice and subsequently issued lease not later than the last day prior

to the commencement of the rental year.

(d) A rental adjustment schedule and amount may be specified in a leasing notice and subsequently issued lease when a variance is warranted by geologic, geographic, technical, or economic conditions.

### § 581.28 Royalty.

(a) The royalty due the lessor on OCS minerals produced (*i.e.*, sold, transferred, used, or otherwise disposed of) from a lease shall be set out in a separate schedule attached to and made a part of each lease and shall be as specified in the leasing notice. The royalty due on production shall be based on a percentage of the value or amount of the OCS mineral(s) produced, a sum assessed per unit of product, or other such method as the Secretary may prescribe in the leasing notice. When the royalty specified is a sum assessed per unit of product, the amount of the royalty shall be subject to an annual adjustment based on changes in the appropriate price index, when specified in the leasing notice. When the royalty is specified as a percentage of the value or amount of the OCS minerals produced, the Secretary will notify the lessee when and where royalty is to be delivered in kind. Unless stated otherwise in the lease, product valuation will be in accordance with the regulations in part 1206 of chapter XII. The value used in the computation of royalty shall be determined by the Director of the Office of Natural Resources Revenue.

(b) When prescribed in the leasing notice and subsequently issued lease, royalty due on OCS minerals produced from a leasehold will be reduced for up to any 5 consecutive years, as specified by the lessee prior to the commencement of production, during the 1st through 15th year in the life of the lease. No royalty shall be due in any year of the specified 5-year period that occurs during the 1st through 10th years in the life of the lease, and a royalty of one-half the amount specified in the lease shall be due in any year of the specified 5-year period that occurs in the 11th through 15th year in the life of the lease. The lessee shall pay the amount specified in the lease rental for any royalty free year. The minimum royalty specified in the lease shall apply during any year of reduced royalty.

### § 581.29 Royalty valuation.

Unless stated otherwise in the leasing notice and subsequently issued lease, product valuation will be in accordance with the regulations in part 1206 of chapter XII. The value used in the computation of royalty shall be determined by the Director of the Office of Natural Resources Revenue.

### § 581.30 Minimum royalty.

Unless otherwise specified in the leasing notice, each lease issued pursuant to the regulations in this part shall require the payment of a specified minimum annual royalty beginning with the year in which OCS minerals are produced (sold, transferred, used, or otherwise disposed of) from the leasehold except that the annual rentals shall apply during any year that royalty free production is in effect pursuant to § 581.28(b). Minimum royalty payments shall be offset by royalty paid on production during the lease year. Minimum royalty payments are due at the beginning of the lease year and payable by the end of the month following the end of the lease year for which they are due.

### § 581.31 Overriding royalties.

(a) Subject to the approval of the Secretary, an overriding royalty interest may be created by an assignment pursuant to section 8(e) of the Act. The Secretary may deny approval of an assignment which creates an overriding royalty on a lease whenever that denial is determined to be in the interest of conservation, necessary to prevent premature abandonment of a producing mine, or to make possible the mining of economically marginal or low-grade ore deposits. In any case, the total of applicable overriding royalties may not exceed 2.5 percent or one-half the base royalty due the Federal Government, whichever is less.

(b) No transfer or agreement may be made which creates an overriding royalty interest unless the owner of that interest files an agreement in writing

that such interest is subject to the limitations provided in § 581.30 of this part, paragraph (a) of this section, and § 581.32 of this part.

**§ 581.32 Waiver, suspension, or reduction of rental, minimum royalty, or production royalty.**

(a) The Secretary may waive, suspend, or reduce the rental, minimum royalty, and/or production royalty prescribed in a lease for a specified time period when the Secretary determines that it is in the National interest, it will result in the conservation of natural resources of the OCS, it will promote development, or the mine cannot be successfully operated under existing conditions.

(b) An application for waiver, suspension, or reduction of rental, minimum royalty, or production royalty under paragraph (a) of this section shall be filed in duplicate with the Director. The application shall contain the serial number(s) of the lease(s), the name of the lessee(s) of record, and the operator(s) if applicable. The application shall either:

(1)(i) Show the location and extent of all mining operations and a tabulated statement of the minerals mined and subject to royalty for each of the last 12 months immediately prior to filing the application:

(ii) Contain a detailed statement of expenses and costs of operating the lease, the income from the sale of any lease products, and the amount of all overriding royalties and payments out of production paid to others than the United States; and

(iii) All facts showing whether or not the mine(s) can be successfully operated under the royalty fixed in the lease; or

(2) If no production has occurred from the lease, show that the lease cannot be successfully operated under the rental, royalty, and other conditions specified in the lease.

(c) The applicant for a waiver, suspension, or reduction under this section shall file documentation that the lessee and the royalty holders agree to a reduction of all other royalties from the lease so that the aggregate of all other royalties does not exceed one-half the amount of the reduced royalties that would be paid to the United States.

**§ 581.33 Bonds and bonding requirements.**

(a) When the leasing notice specifies that payment of a portion of the bonus bid can be deferred, the lessee shall be required to submit a surety or personal bond to guarantee payment of a deferred portion of the bid. Upon the payment of the full amount of the cash bonus bid, the lessee's bond will be released.

(b) All bonds to guarantee payment of the deferred portion of the high cash bonus bid furnished by the lessee must be in a form or on a form approved by the Associate Director for BOEM. A single copy of the required form is to be executed by the principal or, in the case of surety bonds, by both the principal and an acceptable surety.

(1) Only those surety bonds issued by qualified surety companies approved by the Department of the Treasury shall be accepted (see Department of the Treasury Circular No. 570 and any supplemental or replacement circulars).

(2) Personal bonds shall be accompanied by a cashier's check, certified check, or negotiable U.S. Treasury bonds of an equal value to the amount specified in the bond. Negotiable Treasury bonds shall be accompanied by a proper conveyance of full authority to the Director to sell such securities in case of default in the performance of the terms and conditions of the lease.

(c) Prior to the commencement of any activity on a lease(s), the lessee shall submit a surety or personal bond as described in § 582.40 of this title. Prior to the approval of a Delineation, Testing, or Mining Plan, the bond amount shall be adjusted, if appropriate, to cover the operations and activities described in the proposed plan.

## Subpart D—Assignments and Lease Extensions

**§ 581.40 Assignment of leases or interests therein.**

(a) Subject to the approval of the Secretary, a lease may be assigned, in whole or in part, pursuant to section 8(e) of the Act to anyone qualified to hold a lease.

(b) Any approved assignment shall be deemed to be effective on the first day of the lease month following the date that it is submitted to the Director for approval unless by written request the parties request that the effective date be the first of the month in which the Director approves the assignment.

(c) The assignor shall be liable for all obligations under the lease occurring prior to the effective date of an assignment.

(d) The assignee shall be liable for all obligations under the lease occurring on or after the effective date of an assignment and shall comply with all terms and conditions of the lease and applicable regulations issued under the Act.

### § 581.41 Requirements for filing for transfers.

(a)(1) All instruments of transfer of a lease or of an interest therein including subleases and assignments of record interest shall be filed in triplicate for approval within 90 days from the date of final execution. They shall include a statement over the transferee's own signature with respect to citizenship and qualifications similar to that required of a lessee and shall contain all of the terms and conditions agreed upon by the parties thereto.

(2) An application for approval of any instrument required to be filed will not be accepted unless a nonrefundable fee of $50 is paid electronically through *Pay.gov* at: *https://www.pay.gov/paygov/* and a copy of the *Pay.gov* confirmation receipt page is included with your application. For any document you are not required to file by these regulations but which you submit for record purposes, you must also pay electronically through *Pay.gov* a nonrefundable fee of $50 per lease affected, and you must include a copy of the *Pay.gov* confirmation receipt page with your document. Such documents may be rejected at the discretion of the authorized officer.

(b) An attorney in fact signing on behalf of the holder of a lease or sublease, shall furnish evidence of authority to execute the assignment or application for approval and the statement required by § 581.20 of this part.

(c) Where an assignment creates separate leases, a bond shall be furnished for each of the resulting leases in the amount prescribed in § 582.40 of this title. Where an assignment does not create separate leases, the assignee, if the assignment so provides and the surety consents, may become a joint principal on the bond with the assignor.

(d) An heir or devisee of a deceased holder of a lease or any interest therein shall be recognized as the lawful successor to such lease or interest if evidence of status as an heir or devisee is furnished in the form of:

(1) A certified copy of an appropriate order or decree of the court having jurisdiction over the distribution of the estate, or

(2) If no court action is necessary, the statement of two disinterested persons having knowledge of the fact or a certified copy of the will.

(e) The heirs or devisee shall file statements that they are the persons named as successors to the estate with evidence of their qualifications to hold such lease or interest therein.

(f) In the event an heir or devisee is unable to qualify to hold the lease or interest, the heir or devisee shall be recognized as the lawful successor of the deceased and be entitled to hold the lease for a period not to exceed 2 years from the date of death of the predecessor in interest.

(g) Each obligation under any lease and under the regulations in this part shall inure to the heirs, executors, administrators, successors, or assignees of the lease.

### § 581.42 Effect of assignment on particular lease.

(a) When an assignment is made of all the record title to a portion of the acreage in a lease, the assigned and retained portions of the lease area become segregated into separate and distinct leases. In such a case, the assignee becomes a lessee of the Government as to the segregated tract that is the subject of the assignment and is bound by the terms of the lease as though the lease had been obtained from the United States in the assignee's own name, and the assignment, after its approval, shall be the basis of

a new record. Royalty, minimum royalty, and annual rental provisions of the lease shall apply separately to each segregated portion.

(b) Each lease of an OCS mineral created by the segregation of a lease under paragraph (a) of this section shall continue in full force and effect for the remainder of the primary term of the original lease and so long thereafter as minerals are produced from the portion of the lease created by segregation in accordance with operations approved by the Director or the lessee is otherwise in compliance with provisions of the lease or regulations for earning the continuation of the lease in effect.

### § 581.43 Effect of suspensions on lease term.

(a) If the BSEE Director orders the suspension of either operations or production, or both, with respect to any lease in its primary term, the primary term of the lease shall be extended by a period of time equivalent to the period of the directed suspension.

(b) If the BSEE Director orders or approves the suspension of either operations or production, or both, with respect to any lease that is in force beyond its primary term, the term of the lease shall not be deemed to expire so long as the suspension remains in effect.

## Subpart E—Termination of Leases

### § 581.46 Relinquishment of leases or parts of leases.

(a) A lease or any part thereof may be surrendered by the record title holder by filing a written relinquishment with the Director. A relinquishment shall take effect on the date it is filed subject to the continued obligation of the lessee and the surety to:

(1) Make all payments due, including any accrued rentals and royalties; and

(2) Abandon all operations, remove all facilities, and clear the land to be relinquished to the satisfaction of the Director.

(b) Upon relinquishment of a lease, the data and information submitted under the lease will no longer be held confidential and will be available to the public.

### § 581.47 Cancellation of leases.

(a) Whenever the owner of a nonproducing lease fails to comply with any of the provisions of the Act, the lease, or the regulations issued under the Act, and the default continues for a period of 30 days after mailing of notice by registered or certified letter to the lease owner at the owner's record post office address, the Secretary may cancel the lease pursuant to section 5(c) of the Act, and the lessee shall not be entitled to compensation. Any such cancellation is subject to judicial review as provided by section 23(b) of the Act.

(b) Whenever the owner of any producing lease fails to comply with any of the provisions of the Act, the lease, or the regulations issued under the Act, the Secretary may cancel the lease only after judicial proceedings pursuant to section 5(d) of the Act, and the lessee shall not be entitled to compensation.

(c) Any lease issued under the Act, whether producing or not, may be canceled by the Secretary upon proof that it was obtained by fraud or misrepresentation and after notice and opportunity to be heard has been afforded to the lessee.

(d) The Secretary may cancel a lease in accordance with the following:

(1) Cancellation may occur at any time if the Secretary determines after a hearing that:

(i) Continued activity pursuant to such lease would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral (in areas leased or not leased), to the National security or defense, or to the marine, coastal, or human environment;

(ii) The threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time; and

(iii) The advantages of cancellation outweigh the advantages of continuing such lease in force;

(2) Cancellation shall not occur unless and until operations under such lease shall have been under suspension or temporary prohibition by the Secretary, with due extension of any lease term continuously for a period of 5 years, or for a lesser period upon request of the lessee; and

(3) Cancellation shall entitle the lessee to receive such compensation as is shown to the Secretary as being equal to the lesser of:

(i) The fair value of the canceled rights as of the date of cancellation, taking into account both anticipated revenues from the lease and anticipated costs, including costs of compliance with all applicable regulations and operating orders, liability for cleanup costs or damages, or both, and all other costs reasonably anticipated on the lease, or

(ii) The excess, if any, over the lessee's revenues from the lease (plus interest thereon from the date of receipt to date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from date of payment to date of reimbursement), except that in the case of joint leases which are canceled due to the failure of one or more partners to exercise due diligence, the innocent parties shall have the right to seek damages for such loss from the responsible party or parties and the right to acquire the interests of the negligent party or parties and be issued the lease in question.

(iii) The lessee shall not be entitled to compensation where one of the following circumstances exists when a lease is canceled:

(A) A producing lease is forfeited or is canceled pursuant to section (5)(d) of the Act;

(B) A Testing Plan or Mining Plan is disapproved because of the lessee's failure to demonstrate compliance with the requirements of applicable Federal Law; or

(C) The lessee(s) of a nonproducing lease fails to comply with a provision of the Act, the lease, or regulations issued under the Act, and the noncompliance continues for a period of 30 days or more after the mailing of a notice of noncompliance by registered or certified letter to the lessee(s).

# PART 582—OPERATIONS IN THE OUTER CONTINENTAL SHELF FOR MINERALS OTHER THAN OIL, GAS, AND SULPHUR

## Subpart A—General

Sec.
582.0 Authority for information collection.
582.1 Purpose and authority.
582.2 Scope.
582.3 Definitions.
582.4 Opportunities for review and comment.
582.5 Disclosure of data and information to the public.
582.6 Disclosure of data and information to an adjacent State.
582.7 Jurisdictional controversies.

## Subpart B—Jurisdiction and Responsibilities of Director

582.10 Jurisdiction and responsibilities of Director.
582.11 Director's authority.
582.12 Director's responsibilities.
582.13 [Reserved]
582.14 Noncompliance, remedies, and penalties.
582.15 Cancellation of leases.

## Subpart C—Obligations and Responsibilities of Lessees

582.20 Obligations and responsibilities of lessees.
582.21 Plans, general.
582.22 Delineation Plan.
582.23 Testing Plan.
582.24 Mining Plan.
582.25 Plan modification.
582.26 Contingency Plan.
582.27 Conduct of operations.
582.28 Environmental protection measures.
582.29 Reports and records.
582.30 Right of use and easement.
582.31 [Reserved]

## Subpart D—Payments

582.40 Bonds.
582.41 Method of royalty calculation.
582.42 Payments.

## Subpart E—Appeals

582.50 Appeals.

AUTHORITY: 43 U.S.C. 1334.

SOURCE: 76 FR 64623, Oct. 18, 2011, unless otherwise noted.

## Subpart A—General

### § 582.0 Authority for information collection.

The information collection requirements in this part have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1010–0081. The information is being collected to inform the Bureau of Ocean Energy Management (BOEM) of general mining operations in the Outer Continental Shelf (OCS). The information will be used to ensure that operations are conducted in a safe and environmentally responsible manner in compliance with governing laws and regulations. The requirement to respond is mandatory.

### § 582.1 Purpose and authority.

(a) The Act authorizes the Secretary to prescribe such rules and regulations as may be necessary to carry out the provisions of the Act (43 U.S.C. 1334). The Secretary is authorized to prescribe and amend regulations that the Secretary determines to be necessary and proper in order to provide for the prevention of waste, conservation of the natural resources of the OCS, and the protection of correlative rights therein. In the enforcement of safety, environmental, and conservation laws and regulations, the Secretary is authorized to cooperate with adjacent States and other Departments and Agencies of the Federal Government.

(b) Subject to the supervisory authority of the Secretary, and unless otherwise specified, the regulations in this part shall be administered by the Director of BOEM.

### § 582.2 Scope.

The rules and regulations in this part apply as of their effective date to all operations conducted under a mineral lease for OCS minerals other than oil, gas, or sulphur issued under the provisions of section 8(k) of the Act.

### § 582.3 Definitions.

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

*Act* means the OCS Lands Act, as amended (43 U.S.C. 1331 *et seq.*).

*Adjacent State* means with respect to any activity proposed, conducted, or approved under this part, any coastal State:

(1) That is, or is proposed to be, receiving for processing, refining, or transshipment OCS mineral resources commercially recovered from the seabed;

(2) That is used, or is scheduled to be used, as a support base for prospecting, exploration, testing, or mining activities; or

(3) In which there is a reasonable probability of significant effect on land or water uses from such activity.

*Contingency Plan* means a plan for action to be taken in emergency situations.

*Data* means geological and geophysical (G&G) facts and statistics or samples which have not been analyzed, processed, or interpreted.

*Development* means those activities which take place following the discovery of minerals in paying quantities including geophysical activities, drilling, construction of offshore facilities, and operation of all onshore support facilities, which are for the purpose of ultimately producing the minerals discovered.

*Director* means the Director of BOEM of the U.S. Department of the Interior or an official authorized to act on the Director's behalf.

*Exploration* means the process of searching for minerals on a lease including:

(1) Geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of minerals;

(2) Any drilling including the drilling of a borehole in which the discovery of a mineral other than oil, gas, or sulphur is made and the drilling of any additional boreholes needed to delineate any mineral deposits; and

(3) The taking of sample portions of a mineral deposit to enable the lessee to determine whether to proceed with development and production.

*Geological sample* means a collected portion of the seabed, the subseabed, or the overlying waters (when obtained for geochemical analysis) acquired while conducting postlease mining activities.

*Governor* means the Governor of a State or the person or entity designated by, or pursuant to, State law to exercise the power granted to a Governor.

*Information* means G&G data that have been analyzed, processed, or interpreted.

*Lease* means one of the following, whichever is required by the context: Any form of authorization which is issued under section 8 or maintained under section 6 of the Acts and which authorizes exploration for, and development and production of, specific minerals; or the area covered by that authorization.

*Lessee* means the person 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 this chapter. The term includes all parties holding that authority by or through the lessee.

*Major Federal action* means any action or proposal by the Secretary which is subject to the provisions of section 102(2)(C) of the National Environmental Policy Act (NEPA) (*i.e.*, an action which will have a significant impact on the quality of the human environment requiring preparation of an Environmental Impact Statement (EIS) pursuant to section 102(2)(C) of NEPA).

*Marine environment* means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the marine ecosystem, including the waters of the high seas, the contiguous zone, transitional and intertidal areas, salt marshes, and wetlands within the coastal zone and on the OCS.

*Minerals* include oil, gas, sulphur, geopressured-geothermal and associated resources, and all other minerals which are authorized by an Act of Congress to be produced from ''public lands'' as defined in section 103 of the Federal Land Policy and Management Act of 1976.

*OCS mineral* means any mineral deposit or accretion found on or below the surface of the seabed but does not include oil, gas, or sulphur; salt or sand and gravel intended for use in association with the development of oil, gas, or sulphur; or source materials essential to production of fissionable materials which are reserved to the United States pursuant to section 12(e) of the Act.

*Operator* means the individual, partnership, firm, or corporation having control or management of operations on the lease or a portion thereof. The operator may be a lessee, designated agent of the lessee, or holder of rights under an approved operating agreement.

*Outer Continental Shelf* means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of Submerged Lands Act (43 U.S.C. 1301) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

*Person* means a citizen or national of the United States; an alien lawfully admitted for permanent residency in the United States as defined in 8 U.S.C. 1101(a)(20); a private, public, or municipal corporation organized under the laws of the United States or of any State or territory thereof; an association of such citizens, nationals, resident aliens or private, public, or municipal corporations, States, or political subdivisions of States; or anyone operating in a manner provided for by treaty or other applicable international agreements. The term does not include Federal Agencies.

*Secretary* means the Secretary of the Interior or an official authorized to act on the Secretary's behalf.

*Testing* means removing bulk samples for processing tests and feasibility studies and/or the testing of mining equipment to obtain information needed to develop a detailed Mining Plan.

### § 582.4 Opportunities for review and comment.

(a) In carrying out BOEM's responsibilities under the Act and regulations in this part, the Director shall provide opportunities for Governors of adjacent States, State/Federal task forces, lessees and operators, other Federal Agencies, and other interested parties to review proposed activities described in a Delineation, Testing, or Mining Plan together with an analysis of potential

impacts on the environment and to provide comments and recommendations for the disposition of the proposed plan.

(b)(1) For Delineation Plans, the adjacent State Governor(s) shall be notified by the Director within 15 days following the submission of a request for approval of a Delineation Plan. Notification shall include a copy of the proposed Delineation Plan and the accompanying environmental information. The adjacent State Governor(s) who wishes to comment on a proposed Delineation Plan may do so within 30 days of the receipt of the proposed plan and the accompanying information.

(2) In cases where an Environmental Assessment is to be prepared, the Director's invitation to provide comments may allow the adjacent State Governor(s) more than 30 days following receipt of the proposed plan to provide comments.

(3) The Director shall notify Federal Agencies, as appropriate, with a copy of the proposed Delineation Plan and the accompanying environmental information within 15 days following the submission of the request. Agencies that wish to comment on a proposed Delineation Plan shall do so within 30 days following receipt of the plan and the accompanying information.

(c)(1) For Testing Plans, the adjacent State Governor(s) shall be notified by the Director within 20 days following submission of a request for approval of a proposed Testing Plan. Notification shall include a copy of the proposed Testing Plan and the accompanying environmental information. The adjacent State Governor(s) who wishes to comment on a proposed Testing Plan may do so within 60 days of the receipt of a plan and the accompanying information.

(2) In cases where an EIS is to be prepared, the Director's invitation to provide comments may allow the adjacent State Governor(s) more than 60 days following receipt of the proposed plan to provide comments.

(3) The Director shall notify Federal Agencies, as appropriate, with a copy of the proposed Testing Plan and the accompanying environmental information within 20 days following the submission of the request. Agencies that wish to comment on a proposed Testing Plan shall do so within 60 days following receipt of the plan and the accompanying information.

(d)(1) For Mining Plans, the adjacent State Governor(s) shall be notified by the Director within 20 days following the submission of a request for approval of a proposed Mining Plan. Notification shall include a copy of the proposed Mining Plan and the accompanying environmental information. The adjacent State Governor(s) who wishes to comment on a proposed Mining Plan may do so within 60 days of the receipt of a plan and the accompanying information.

(2) In cases where an EIS is to be prepared, the Director's invitation to provide comments may allow the adjacent State Governor(s) more than 60 days following receipt of the proposed plan to provide comments.

(3) The Director shall notify Federal Agencies, as appropriate, with a copy of the proposed Mining Plan and the accompanying environmental information within 20 days following the submission of the request. Agencies that wish to comment on a proposed Mining Plan shall do so within 60 days following receipt of the plan and the accompanying information.

(e) When an adjacent State Governor(s) has provided comments pursuant to paragraphs (b), (c), and (d) of this section, the Governor(s) shall be given, in writing, a list of recommendations which are adopted and the reasons for rejecting any of the recommendations of the Governor(s) or for implementing any alternative means identified during consultations with the Governor(s).

### § 582.5 Disclosure of data and information to the public.

(a) The Director shall make data, information, and samples available in accordance with the requirements and subject to the limitations of the Act, the Freedom of Information Act (5 U.S.C. 552), and the implementing regulations (43 CFR part 2).

(b) Geophysical data, processed G&G information, interpreted G&G information, and other data and information

submitted pursuant to the requirements of this part shall not be available for public inspection without the consent of the lessee so long as the lease remains in effect, unless the Director determines that earlier limited release of such information is necessary for the unitization of operations on two or more leases, to ensure proper Mining Plans for a common orebody, or to promote operational safety. When the Director determines that early limited release of data and information is necessary, the data and information shall be shown only to persons with a direct interest in the affected lease(s), unitization agreement, or joint Mining Plan.

(c) Geophysical data, processed geophysical information, and interpreted geophysical information collected on a lease with high resolution systems (including, but not limited to, bathymetry, side-scan sonar, subbottom profiler, and magnetometer) in compliance with stipulations or orders concerning protection of environmental aspects of the lease may be made available to the public 60 days after submittal to the Director, unless the lessee can demonstrate to the satisfaction of the Director that release of the information or data would unduly damage the lessee's competitive position.

### § 582.6 Disclosure of data and information to an adjacent State.

(a) Proprietary data, information, and samples submitted to BOEM pursuant to the requirements of this part shall be made available for inspection by representatives of adjacent State(s) upon request by the Governor(s) in accordance with paragraphs (b), (c), and (d) of this section.

(b) Disclosure shall occur only after the Governor has entered into an agreement with the Secretary providing that:

(1) The confidentiality of the information shall be maintained;

(2) In any action commenced against the Federal Government or the State for failure to protect the confidentiality of proprietary information, the Federal Government or the 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 proprietary information, which is the basis of the suit, was acting outside the scope of the person's employment in revealing the information;

(3) The State agrees to hold the United States harmless for any violation by the State or its employees or contractors of the agreement to protect the confidentiality of proprietary data, information, and samples; and

(c) The data, information, and samples available for inspection by representatives of adjacent State(s) pursuant to an agreement shall be related to leased lands.

### § 582.7 Jurisdictional controversies.

In the event of a controversy between the United States and a State as to whether certain lands are subject to Federal or State jurisdiction, either the Governor of the State or the Secretary may initiate negotiations in an attempt to settle the jurisdictional controversy. With the concurrence of the Attorney General, the Secretary may enter into an agreement with a State with respect to OCS mineral activities and to payment and impounding of rents, royalties, and other sums and with respect to the issuance or nonissuance of new leases pending settlement of the controversy.

## Subpart B—Jurisdiction and Responsibilities of Director

### § 582.10 Jurisdiction and responsibilities of Director.

Subject to the authority of the Secretary, the following activities are subject to the regulations in this part and are under the jurisdiction of the Director: Exploration, testing, and mining operations together with the associated environmental protection measures needed to permit those activities to be conducted in an environmentally responsible manner; handling, measurement, and transportation of OCS minerals; and other operations and activities conducted pursuant to a lease issued under 30 CFR part 581, or pursuant to a right of use and easement granted under this part, by or on behalf of a lessee or the holder of a right of use and easement.

**§ 582.11 Director's authority.**

(a) In the exercise of jurisdiction under § 582.10, the Director is authorized and directed to act upon the requests, applications, and notices submitted under the regulations in this part; to issue either written or oral orders to govern lease operations; and to require compliance with applicable laws, regulations, and lease terms so that all operations conform to sound conservation practices and are conducted in a manner which is consistent with the following:

(1) Make such OCS minerals available to meet the nation's needs in a timely manner;

(2) Balance OCS mineral resource development with protection of the human, marine, and coastal environments;

(3) Ensure the public a fair and equitable return on OCS minerals leased on the OCS; and

(4) Foster and encourage private enterprise.

(b)(1) The Director is to be provided ready access to all OCS mineral resource data and all environmental data acquired by the lessee or holder of a right of use and easement in the course of operations on a lease or right of use and easement and may require a lessee or holder to obtain additional environmental data when deemed necessary to assure adequate protection of the human, marine, and coastal environments.

(2) The Director is to be provided an opportunity to inspect, cut, and remove representative portions of all samples acquired by a lessee in the course of operations on the lease.

(c) In addition to the rights and privileges granted to a lessee under any lease issued or maintained under the Act, on request, the Director may grant a lessee, subject to such conditions as the Director may prescribe, a right of use and easement to construct and maintain platforms, artificial islands, and/or other installations and devices which are permanently or temporarily attached to the seabed and which are needed for the conduct of leasehold exploration, testing, development, production, and processing activities or other leasehold related operations whether on or off the lease.

(d)(1) The Director may approve the consolidation of two or more OCS mineral leases or portions of two or more OCS mineral leases into a single mining unit requested by lessees, or the Director may require such consolidation when the operation of those leases or portions of leases as a single mining unit is in the interest of conservation of the natural resources of the OCS or the prevention of waste. A mining unit may also include all or portions of one or more OCS mineral leases with all or portions of one or more adjacent State leases for minerals in a common orebody. A single unit operator shall be responsible for submission of required Delineation, Testing, and Mining Plans covering OCS mineral operations for an approved mining unit.

(2) Operations such as exploration, testing, and mining activities conducted in accordance with an approved plan on any lease or portion of a lease which is subject to an approved mining unit shall be considered operations on each of the leases that is made subject to the approved mining unit.

(3) Minimum royalty paid pursuant to a Federal lease, which is subject to an approved mining unit, is creditable against the production royalties allocated to that Federal lease during the lease year for which the minimum royalty is paid.

(4) Any OCS minerals produced from State and Federal leases which are subject to an approved mining unit shall be accounted for separately unless a method of allocating production between State and Federal leases has been approved by the Director and the appropriate State official.

**§ 582.12 Director's responsibilities.**

(a) The Director is responsible for the regulation of activities to assure that all operations conducted under a lease or right of use and easement are conducted in a manner that protects the environment and promotes orderly development of OCS mineral resources. Those activities are to be designed to prevent serious harm or damage to, or waste of, any natural resource (including OCS mineral deposits and oil, gas, and sulphur resources in areas leased or not leased), any life (including fish and other aquatic life), property, or the

marine, coastal, or human environment.

(b)(1) In the evaluation of a Delineation Plan, the Director shall consider whether the plan is consistent with:

(i) The provisions of the lease;

(ii) The provisions of the Act;

(iii) The provisions of the regulations prescribed under the Act;

(iv) Other applicable Federal law; and

(v) Requirements for the protection of the environment, health, and safety.

(2) Within 30 days following the completion of an environmental assessment or other NEPA document prepared pursuant to the regulations implementing NEPA or within 30 days following the comment period provided in § 582.4(b) of this part, the Director shall:

(i) Approve any Delineation Plan which is consistent with the criteria in paragraph (b)(1) of this section;

(ii) Require the lessee to modify any Delineation Plan that is inconsistent with the criteria in paragraph (b)(1) of this section; or

(iii) Disapprove a Delineation Plan when it is determined that an activity proposed in the plan would probably cause serious harm or damage to life (including fish and other aquatic life); to property; to natural resources of the OCS including mineral deposits (in areas leased or not leased); or to the marine, coastal, or human environment, and the proposed activity cannot be modified to avoid the conditions.

(3) The Director shall notify the lessee in writing of the reasons for disapproving a Delineation Plan or for requiring modification of a plan and the conditions that must be met for plan approval.

(c)(1) In the evaluation of a Testing Plan, the Director shall consider whether the plan is consistent with:

(i) The provisions of the lease;

(ii) The provisions of the Act;

(iii) The provisions of the regulations prescribed under the Act;

(iv) Other applicable Federal law;

(v) Environmental, safety, and health requirements; and

(vi) The statutory requirement to protect property, natural resources of the OCS, including mineral deposits (in areas leased or not leased), and the National security or defense.

(2) Within 60 days following the release of a final EIS prepared pursuant to NEPA or within 60 days following the comment period provided in § 582.4(c) of this part, the Director shall:

(i) Approve any Testing Plan which is consistent with the criteria in paragraph (c)(1) of this section;

(ii) Require the lessee to modify any Testing Plan which is inconsistent with the criteria in paragraph (c)(1) of this section; or

(iii) Disapprove any Testing Plan when the Director determines the existence of exceptional geological conditions in the lease area, exceptional resource values in the marine or coastal environment, or other exceptional circumstances and that (A) implementation of the activities described in the plan would probably cause serious harm and damage to life (including fish and other aquatic life), to property, to any mineral deposit (in areas leased or not leased), to the National security or defense, or to the marine, coastal, or human environments; (B) that the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time; and (C) the advantages of disapproving the Testing Plan outweigh the advantages of development and production of the OCS mineral resources.

(3) The Director shall notify the lessee in writing of the reason(s) for disapproving a Testing Plan or for requiring modification of a Testing Plan and the conditions that must be met for approval of the plan.

(d)(1) In the evaluation of a Mining Plan, the Director shall consider whether the plan is consistent with:

(i) The provisions of the lease;

(ii) The provisions of the Act;

(iii) The provisions of the regulations prescribed under the Act;

(iv) Other applicable Federal law;

(v) Environmental, safety, and health requirements; and

(vi) The statutory requirements to protect property, natural resources of the OCS, including mineral deposits (in areas leased or not leased), and the National security or defense.

(2) Within 60 days following the release of a final EIS prepared pursuant

to NEPA or within 60 days following the comment period provided in § 582.4(d) of this part, the Director shall:

(i) Approve any Mining Plan which is consistent with the criteria in paragraph (d)(1) of this section;

(ii) Require the lessee to modify any Mining Plan which is inconsistent with the criteria in paragraph (d)(1) of this section; or

(iii) Disapprove any Mining Plan when the Director determines the existence of exceptional geological conditions in the lease area, exceptional resource values in the marine or coastal environment, or other exceptional circumstances, and that:

(A) Implementation of the activities described in the plan would probably cause serious harm and damage to life (including fish and other aquatic life), to property, to any mineral deposit (in areas leased or not leased), to the National security or defense, or to the marine, coastal, or human environments;

(B) That the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time; and

(C) The advantages of disapproving the Mining Plan outweigh the advantages of development and production of the OCS mineral resources.

(3) The Director shall notify the lessee in writing of the reason(s) for disapproving a Mining Plan or for requiring modification of a Mining Plan and the conditions that must be met for approval of the plan.

(e)–(f) [Reserved]

(g) The Director shall establish practices and procedures to govern the collection of all rents, royalties, and other payments due the Federal Government in accordance with terms of the leasing notice, the lease, and the applicable Royalty Management regulations listed in § 581.26(i) of this chapter.

(h) [Reserved]

### § 582.13 [Reserved]

### § 582.14 Noncompliance, remedies, and penalties.

(a)(1) If the Director determines that a lessee has failed to comply with applicable provisions of law; the regulations in this part; other applicable regulations; the lease; the approved Delineation, Testing, or Mining Plan; or the Director's orders or instructions, and the Director determines that such noncompliance poses a threat of immediate, serious, or irreparable damage to the environment, the mine or the deposit being mined, or other valuable mineral deposits or other resources, the Director shall order the lessee to take immediate and appropriate remedial action to alleviate the threat. Any oral orders shall be followed up by service of a notice of noncompliance upon the lessee by delivery in person to the lessee or agent, or by certified or registered mail addressed to the lessee at the last known address.

(2) If the Director determines that the lessee has failed to comply with applicable provisions of law; the regulations in this part; other applicable regulations; the lease; the requirements of an approved Delineation, Testing, or Mining Plan; or the Director's orders or instructions, and such noncompliance does not pose a threat of immediate, serious, or irreparable damage to the environment, the mine or the deposit being mined, or other valuable mineral deposits or other resources, the Director shall serve a notice of noncompliance upon the lessee by delivery in person to the lessee or agent or by certified or registered mail addressed to the lessee at the last known address.

(b) A notice of noncompliance shall specify in what respect(s) the lessee has failed to comply with the provisions of applicable law; regulations; the lease; the requirements of an approved Delineation, Testing, or Mining Plan; or the Director's orders or instructions, and shall specify the action(s) which must be taken to correct the noncompliance and the time limits within which such action must be taken.

(c) Failure of a lessee to take the actions specified in the notice of noncompliance within the time limit specified shall be grounds for a suspension of operations and other appropriate actions, including but not limited to the assessment of a civil penalty of up to $10,000 per day for each violation that is not corrected within the time period specified (43 U.S.C. 1350(b)).

(d) Whenever the Director determines that a violation of or failure to comply with any provision of the Act; or any provision of a lease, license, or permit issued pursuant to the Act; or any provision of any regulation promulgated under the Act probably occurred and that such apparent violation continued beyond notice of the violation and the expiration of the reasonable time period allowed for corrective action, the Director shall follow the procedures concerning remedies and penalties in subpart N, Remedies and Penalties, of 30 CFR part 550 to determine and assess an appropriate penalty.

(e) The remedies and penalties prescribed in this section shall be concurrent and cumulative, and the exercise of one shall not preclude the exercise of the other. Further, the remedies and penalties prescribed in this section shall be in addition to any other remedies and penalties afforded by any other law or regulation (43 U.S.C. 1350(e)).

### § 582.15 Cancellation of leases.

(a) Whenever the owner of a nonproducing lease fails to comply with any of the provisions of the Act, the lease, or the regulations issued under the Act, and the default continues for a period of 30 days after mailing of notice by registered or certified letter to the lease owner at the owner's record post office address, the Secretary may cancel the lease pursuant to section 5(c) of the Act, and the lessee shall not be entitled to compensation. Any such cancellation is subject to judicial review as provided by section 23(b) of the Act.

(b) Whenever the owner of any producing lease fails to comply with any of the provisions of the Act, the lease, or the regulations issued under the Act, the Secretary may cancel the lease only after judicial proceedings pursuant to section 5(d) of the Act, and the lessee shall not be entitled to compensation.

(c) Any lease issued under the Act, whether producing or not, may be canceled by the Secretary upon proof that it was obtained by fraud or misrepresentation and after notice and opportunity to be heard has been afforded to the lessee.

(d) The Secretary may cancel a lease in accordance with the following:

(1) Cancellation may occur at any time if the Secretary determines after a hearing that:

(i) Continued activity pursuant to such lease would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral (in areas leased or not leased), to the National security or defense, or to the marine, coastal, or human environment;

(ii) The threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time; and

(iii) The advantages of cancellation outweigh the advantages of continuing such lease in force.

(2) Cancellation shall not occur unless and until operations under such lease shall have been under suspension or temporary prohibition by the Secretary, with due extension of any lease term continuously for a period of 5 years or for a lesser period upon request of the lessee;

(3) Cancellation shall entitle the lessee to receive such compensation as is shown to the Secretary as being equal to the lesser of:

(i) The fair value of the canceled rights as of the date of cancellation, taking account of both anticipated revenues from the lease and anticipated costs, including costs of compliance with all applicable regulations and operating orders, liability for cleanup costs or damages, or both, and all other costs reasonably anticipated on the lease, or

(ii) The excess, if any, over the lessee's revenue from the lease (plus interest thereon from the date of receipt to date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from date of payment to date of reimbursement), except that in the case of joint leases which are canceled due to the failure of one or more partners to exercise due diligence, the innocent parties shall have the right to seek damages for

such loss from the responsible party or parties and the right to acquire the interests of the negligent party or parties and be issued the lease in question.

(iii) The lessee shall not be entitled to compensation where one of the following circumstances exists when a lease is canceled:

(A) A producing lease is forfeited or is canceled pursuant to section (5)(d) of the Act;

(B) A Testing Plan or Mining Plan is disapproved because the lessee's failure to demonstrate compliance with the requirements of applicable Federal law; or

(C) The lessee of a nonproducing lease fails to comply with a provision of the Act, the lease, or regulations issued under the Act, and the noncompliance continues for a period of 30 days or more after the mailing of a notice of noncompliance by registered or certified letter to the lessee.

## Subpart C—Obligations and Responsibilities of Lessees

### § 582.20 Obligations and responsibilities of lessees.

(a) The lessee shall comply with the provisions of applicable laws; regulations; the lease; the requirements of the approved Delineation, Testing, or Mining Plans; and other written or oral orders or instructions issued by the Director when performing exploration, testing, development, and production activities pursuant to a lease issued under 30 CFR part 581. The lessee shall take all necessary precautions to prevent waste and damage to oil, gas, sulphur, and other OCS mineral-bearing formations and shall conduct operations in such manner that does not cause or threaten to cause harm or damage to life (including fish and other aquatic life); to property; to the National security or defense; or to the marine, coastal, or human environment (including onshore air quality). The lessee shall make all mineral resource data and information and all environmental data and information acquired by the lessee in the course of exploration, testing, development, and production operations on the lease available to the Director for examination and copying at the lease site or an onshore location convenient to the Director.

(b) In all cases where there is more than one lease owner of record, one person shall be designated payor for the lease. The payor shall be responsible for making all rental, minimum royalty, and royalty payments.

(c) In all cases where lease operations are not conducted by the sole lessee, a ''designation of operator'' shall be submitted to and accepted by the Director prior to the commencement of leasehold operations. This designation when accepted will be recognized as authority for the designee to act on behalf of the lessees and to fulfill the lessees' obligations under the Act, the lease, and the regulations of this part. All changes of address and any termination of a designation of operator shall be reported immediately, in writing, to the Director. In the case of a termination of a designation of operator or in the event of a controversy between the lessee and the designated operator, both the lessee and the designated operator will be responsible for the protection of the interests of the lessor.

(d) When required by the Director or at the option of the lessee, the lessee shall submit to the Director the designation of a local representative empowered to receive notices, provide access to OCS mineral and environmental data and information, and comply with orders issued pursuant to the regulations of this part. If there is a change in the designated representative, the Director shall be notified immediately.

(e) Before beginning operations, the lessee shall inform the Director in writing of any designation of a local representative under paragraph (d) of this section and the address of the mine office responsible for the exploration, testing, development, or production activities; the lessee's temporary and permanent addresses; or the name and address of the designated operator who will be responsible for the operations, and who will act as the local representative of the lessee. The Director shall also be informed of each change thereafter in the address of the mine office or in the name or address of the local representative.

(f) The holder of a right-of-use and easement shall exercise its rights under the right of use and easement in accordance with the regulations of this part.

(g) A lessee shall submit reports and maintain records in accordance with § 582.29 of this part.

(h) When an oral approval is given by BOEM in response to an oral request under these regulations, the oral request shall be confirmed in writing by the lessee or holder of a right of use and easement within 72 hours.

(i) The lessee is responsible for obtaining all permits and approvals from BOEM, BSEE or other Agencies needed to carry out exploration, testing, development, and production activities under a lease issued under 30 CFR part 581 of this title.

**§ 582.21 Plans, general.**

(a) No exploration, testing, development, or production activities, except preliminary activities, shall be commenced or conducted on any lease except in accordance with a plan submitted by the lessee and approved by the Director. Plans will not be approved before completion of comprehensive technical and environmental evaluations to assure that the activities described will be carried out in a safe and environmentally responsible manner. Prior to the approval of a plan, the Director will assure that the lessee is prepared to take adequate measures to prevent waste; conserve natural resources of the OCS; and protect the environment, human life, and correlative rights. The lessee shall demonstrate to the satisfaction of the Director that the lease is in good standing, the lessee is authorized and capable of conducting the activities described in the plan, and that an acceptable bond has been provided.

(b) Plans shall be submitted to the Director for approval. The lessee shall submit the number of copies prescribed by the Director. Such plans shall describe in detail the activities that are to be conducted and shall demonstrate that the proposed exploration, testing, development, and production activities will be conducted in an operationally safe and environmentally responsible manner that is consistent with the provisions of the lease, applicable laws, and regulations. The Governor of an affected State and other Federal Agencies shall be provided an opportunity to review and provide comments on proposed Delineation, Testing, and Mining Plans and any proposal for a significant modification to an approved plan. Following review, including the technical and environmental evaluations, the Director shall either approve, disapprove, or require the lessee to modify its proposed plan.

(c) Lessees are not required to submit a Delineation or Testing Plan prior to submittal of a proposed Testing or Mining Plan if the lessee has sufficient data and information on which to base a Testing or Mining Plan without carrying out postlease exploration and/or testing activities. A Mining Plan may include proposed exploration or testing activities where those activities are needed to obtain additional data and information on which to base plans for future mining activities. A Testing Plan may include exploration activities when those activities are needed to obtain additional data or information on which to base plans for future testing or mining activities.

(d) Preliminary activities are bathymetric, geological, geophysical, mapping, and other surveys necessary to develop a comprehensive Delineation, Testing, or Mining Plan. Such activities are those which have no significant adverse impact on the natural resources of the OCS. The lessee shall give notice to the Director at least 30 days prior to initiating the proposed preliminary activities on the lease. The notice shall describe in detail those activities that are to be conducted and the time schedule for conducting those activities.

(e) Leasehold activities shall be carried out with due regard to conservation of resources, paying particular attention to the wise management of OCS mineral resources, minimizing waste of the leased resource(s) in mining and processing, and preventing damage to unmined parts of the mineral deposit and other resources of the OCS.

**§ 582.22 Delineation Plan.**

All exploration activities shall be conducted in accordance with a Delineation Plan submitted by the lessee and approved by the Director. The Delineation Plan shall describe the proposed activities necessary to locate leased OCS minerals, characterize the quantity and quality of the minerals, and generate other information needed for the development of a comprehensive Testing or Mining Plan. A Delineation Plan at a minimum shall include the following:

(a) The OCS mineral(s) or primary interest.

(b) A brief narrative description of the activities to be conducted and how the activities will lead to the discovery and evaluation of a commercially minable deposit on the lease.

(c) The name, registration, and type of equipment to be used, including vessel types as well as their navigation and mobile communication systems, and transportation corridors to be used between the lease and shore.

(d) Information showing that the equipment to be used (including the vessel) is capable of performing the intended operation in the environment which will be encountered.

(e) Maps showing the proposed locations of test drill holes, the anticipated depth of penetration of test drill holes, the locations where surficial samples were taken, and the location of proposed geophysical survey lines for each surveying method being employed.

(f) A description of measures to be taken to avoid, minimize, or otherwise mitigate air, land, and water pollution and damage to aquatic and wildlife species and their habitats; any unique or special features in the lease area; aquifers; other natural resources of the OCS; and hazards to public health, safety, and navigation.

(g) A schedule indicating the starting and completion dates for each proposed exploration activity.

(h) A list of any known archaeological resources on the lease and measures to assure that the proposed exploration activities do not damage those resources.

(i) A description of any potential conflicts with other uses and users of the area.

(j) A description of measures to be taken to monitor the effects of the proposed exploration activities on the environment in accordance with § 582.28(c) of this part.

(k) A detailed description of practices and procedures to effect the abandonment of exploration activities, e.g., plugging of test drill holes. The proposed procedures shall indicate the steps to be taken to assure that test drill holes and other testing procedures which penetrate the seafloor to a significant depth are properly sealed and that the seafloor is left free of obstructions or structures that may present a hazard to other uses or users of the OCS such as navigation or commercial fishing.

(l) A detailed description of the cycle of all materials, the method for discharge and disposal of waste and refuse, and the chemical and physical characteristics of waste and refuse.

(m) A description of the potential environmental impacts of the proposed exploration activities including the following:

(1) The location of associated port, transport, processing, and waste disposal facilities and affected environment (e.g., maps, land use, and layout);

(2) A description of the nature and degree of environmental impacts and the domestic socioeconomic effects of construction and operation of the associated facilities, including waste characteristics and toxicity;

(3) Any proposed mitigation measures to avoid or minimize adverse impacts on the environment;

(4) A certificate of consistency with the federally approved State coastal zone management program, where applicable; and

(5) Alternative sites and technologies considered by the lessee and the reasons why they were not chosen.

(n) Any other information needed for technical evaluation of the planned activity, such as sample analyses to be conducted at sea, and the evaluation of potential environmental impacts.

**§ 582.23 Testing Plan.**

All testing activities shall be conducted in accordance with a Testing Plan submitted by the lessee and approved by the Director. Where a lessee

needs more information to develop a detailed Mining Plan than is obtainable under an approved Delineation Plan, to prepare feasibility studies, to carry out a pilot program to evaluate processing techniques or technology or mining equipment, or to determine environmental effects by a pilot test mining operation, the lessee shall submit a comprehensive Testing Plan for the Director's approval. Any OCS minerals acquired during activities conducted under an approved Testing Plan will be subject to the payment of royalty pursuant to the governing lease terms. A Testing Plan at a minimum shall include the following:

(a) The nature and purpose of the proposed testing program.

(b) A comprehensive description of the activities to be performed including descriptions of the proposed methods for analysis of samples taken.

(c) A narrative description and maps showing water depths and the locations of the proposed pilot mining or other testing activities.

(d) A comprehensive description of the method and manner in which testing activities will be conducted and the results the lessee expects to obtain as a result of those activities.

(e) The name, registration, and type of equipment to be used, including vessel types together with their navigation and mobile communication systems, and transportation corridors to be used between the lease and shore.

(f) Information showing that the equipment to be used (including the vessel) is capable of performing the intended operation in the environment which will be encountered.

(g) A schedule specifying the starting and completion dates for each of the testing activities.

(h) A list of known archaeological resources on the lease and measures to be used to assure that the proposed testing activities do not damage those resources.

(i) A description of any potential conflicts with other uses and users of the area.

(j) A description of measures to be taken to avoid, minimize, or otherwise mitigate air, land, and water pollution and damage to aquatic and wildlife species and their habitat; any unique or special features in the lease area, other natural resources of the OCS; and hazards to public health, safety, and navigation.

(k) A description of the measures to be taken to monitor the impacts of the proposed testing activities in accordance with § 582.28(c) of this part.

(l) A detailed description of the cycle of all materials including samples and wastes, the method for discharge and disposal of waste and refuse, and the chemical and physical characteristics of such waste and refuse.

(m) A detailed description of practices and procedures to effect the abandonment of testing activities, e.g., abandonment of a pilot mining facility. The proposed procedures shall indicate the steps to be taken to assure that mined areas do not pose a threat to the environment and that the seafloor is left free of obstructions and structures that may present a hazard to other uses or users of the OCS such as navigation or commercial fishing.

(n) A description of potential environmental impacts of testing activities including the following:

(1) The location of associated port, transport, processing, and waste disposal facilities and affected environment (e.g., maps, land use, and layout);

(2) A description of the nature and degree of potential environmental impacts of the proposed testing activities and the domestic socioeconomic effects of construction and operation of the proposed testing facilities, including waste characteristics and toxicity;

(3) Any proposed mitigation measures to avoid or minimize adverse impacts on the environment;

(4) A certificate of consistency with the federally approved State coastal zone management program, where applicable; and

(5) Alternate sites and technologies considered by the lessee and the reasons why they were not selected.

(o) Any other information needed for technical evaluation of the planned activities and for evaluation of the impact of those activities on the human, marine, and coastal environments.

**§ 582.24 Mining Plan.**

All OCS mineral development and production activities shall be conducted in accordance with a Mining Plan submitted by the lessee and approved by the Director. A Mining Plan shall include comprehensive detailed descriptions, illustrations, and explanations of the proposed OCS mineral development, production, and processing activities and accurately present the lessee's proposed plan of operation. A Mining Plan at a minimum shall include the following:

(a) A narrative description of the mining activities including:

(1) The OCS mineral(s) or material(s) to be recovered;

(2) Estimates of the number of tons and grade(s) of ore to be recovered;

(3) Anticipated annual production;

(4) Volume of ocean bottom expected to be disturbed (area and depth of disruption) each year; and

(5) All activities of the mining cycle from extraction through processing and waste disposal.

(b) Maps of the lease showing water depths, the outline of the mineral deposit(s) to be mined with cross sections showing thickness, and the area(s) anticipated to be mined each year.

(c) The name, registration, and type of equipment to be used, including vessel types as well as their navigation and mobile communication systems, and transportation corridors to be used between the lease and shore.

(d) Information showing that the equipment to be used (including the vessel) is capable of performing the intended operation in the environment which will be encountered.

(e) A description of equipment to be used in mining, processing, and transporting of the ore.

(f) A schedule indicating the anticipated starting and completion dates for each activity described in the plan.

(g) For onshore processing, a description of how OCS minerals are to be processed and how the produced OCS minerals will be weighed, assayed, and royalty determinations made.

(h) For at-sea processing, additional information including type and size of installation or structures and the method of tailings disposal.

(i) A list of known archaeological resources on the lease and the measures to be taken to assure that the proposed mining activities do not damage those resources.

(j) Description of any potential conflicts with other uses and users of the area.

(k) A detailed description of the nature and occurrence of the OCS mineral deposit(s) in the leased area with adequate maps and sections.

(l) A detailed description of development and mining methods to be used, the proposed sequence of mining or development, the expected production rate, the method and location of the proposed processing operation, and the method of measuring production.

(m) A detailed description of the method of transporting the produced OCS minerals from the lease to shore and adequate maps showing the locations of pipelines, conveyors, and other transportation facilities and corridors.

(n) A detailed description of the cycle of all materials including samples and wastes, the method of discharge and disposal of waste and refuse, and the chemical and physical characteristics of the waste and refuse.

(o) A description of measures to be taken to avoid, minimize, or otherwise mitigate air, land, and water pollution and damage to aquatic and wildlife species and their habitats; any unique or special features in the lease area, aquifers, or other natural resources of the OCS; and hazards to public health, safety, and navigation.

(p) A detailed description of measures to be taken to monitor the impacts of the proposed mining and processing activities on the environment in accordance with § 582.28(c) of this part.

(q) A detailed description of practices and procedures to effect the abandonment of mining and processing activities. The proposed procedures shall indicate the steps to be taken to assure that mined areas on tailing deposits do not pose a threat to the environment and that the seafloor is left free of obstructions and structures that present a hazard to other users or uses of the OCS such as navigation or commercial fishing.

(r) A description of potential environmental impacts of mining activities including the following:

(1) The location of associated port, transport, processing, and waste disposal facilities and the affected environment (e.g., maps, land use, and layout);

(2) A description of the nature and degree of potential environmental impacts of the proposed mining activities and the domestic socioeconomic effects of construction and operation of the associated facilities, including waste characteristics and toxicity;

(3) Any proposed mitigation measures to avoid or minimize adverse impacts on the environment;

(4) A certificate of consistency with the federally approved State coastal zone management program, where applicable; and

(5) Alternative sites and technologies considered by the lessee and the reasons why they were not chosen.

(s) Any other information needed for technical evaluation of the proposed activities and for the evaluation of potential impacts on the environment.

### § 582.25 Plan modification.

Approved Delineation, Testing, and Mining Plans may be modified upon the Director's approval of the changes proposed. When circumstances warrant, the Director may direct the lessee to modify an approved plan to adjust to changed conditions. If the lessee requests the change, the lessee shall submit a detailed, written statement of the proposed modifications, potential impacts, and the justification for the proposed changes. Revision of an approved plan whether initiated by the lessee or ordered by the Director shall be submitted to the Director for approval. When the Director determines that a proposed revision could result in significant change in the impacts previously identified and evaluated or requires additional permits, the proposed plan revision shall be subject to the applicable review and approval procedures of §§ 582.21, 582.22, 582.23, and 582.24 of this part.

### § 582.26 Contingency Plan.

(a) When required by the Director, a lessee shall include a Contingency Plan as part of its request for approval of a Delineation, Testing, or Mining Plan. The Contingency Plan shall comply with the requirements of § 582.28(e) of this part.

(b) The Director may order or the lessee may request the Director's approval of a modification of the Contingency Plan when such a change is necessary to reflect any new information concerning the nature, magnitude, and significance of potential equipment or procedural failures or the effectiveness of the corrective actions described in the Contingency Plan.

### § 582.27 Conduct of operations.

(a)–(h) [Reserved]

(i) Any bulk sampling or testing that is necessary to be conducted prior to submission of a Mining Plan shall be in accordance with an approved Testing Plan. The sale of any OCS minerals acquired under an approved Testing Plan shall be subject to the payment of the royalty specified in the lease to the United States.

(j)–(m) [Reserved]

### § 582.28 Environmental protection measures.

(a) Exploration, testing, development, production, and processing activities proposed to be conducted under a lease will only be approved by the Director upon the determination that the adverse impacts of the proposed activities can be avoided, minimized, or otherwise mitigated. The Director shall take into account the information contained in the sale-specific environmental evaluation prepared in association with the lease offering as well as the site- and operational-specific environmental evaluations prepared in association with the review and evaluation of the approved Delineation, Testing, or Mining Plan. The Director's review of the air quality consequences of proposed OCS activities will follow the practices and procedures specified in 30 CFR 250.194, §§ 550.194, 550.218, 550.249, and 550.303.

(b) If the baseline data available are judged by the Director to be inadequate to support an environmental evaluation of a proposed Delineation, Testing, or Mining Plan, the Director

may require the lessee to collect additional environmental baseline data prior to the approval of the activities proposed.

(c)(1) [Reserved]

(2) Monitoring of environmental effects shall include determination of the spatial and temporal environmental changes induced by the exploration, testing, development, production, and processing activities on the flora and fauna of the sea surface, the water column, and/or the seafloor.

(3)–(4) [Reserved]

(5) When prototype test mining is proposed, the lessee shall include a monitoring strategy for assessing the impacts of the testing activities and for developing a strategy for monitoring commercial-scale recovery and mitigating the impacts of commercial-scale recovery more effectively. At a minimum, the proposed monitoring activities shall address specific concerns expressed in the lease-sale environmental analysis.

(6) When required, the monitoring plan shall specify:

(i) The sampling techniques and procedures to be used to acquire the needed data and information;

(ii) The format to be used in analysis and presentation of the data and information;

(iii) The equipment, techniques, and procedures to be used in carrying out the monitoring program; and

(iv) The name and qualifications of person(s) designated to be responsible for carrying out the environmental monitoring.

(d) [Reserved]

(e) In the event that equipment or procedural failure might result in significant additional damage to the environment, the lessee shall submit a Contingency Plan which specifies the procedures to be followed to institute corrective actions in response to such a failure and to minimize adverse impacts on the environment. Such procedures shall be designed for the site and mining activities described in the approved Delineation, Testing, or Mining Plan.

### § 582.29 Reports and records.

(a) A report of the amount and value of each OCS mineral produced from each lease shall be made by the payor for the lease for each calendar month, beginning with the month in which approved testing, development, or production activities are initiated and shall be filed in duplicate with the Director on or before the 20th day of the succeeding month, unless an extension of time for the filing of such report is granted by the Director. The report shall disclose accurately and in detail all operations conducted during each month and present a general summary of the status of leasehold activities. The report shall be submitted each month until the lease is terminated or relinquished unless the Director authorizes omission of the report during an approved suspension of production. The report shall show for each calendar month the location of each mining and processing activity; the number of days operations were conducted; the identity, quantity, quality, and value of each OCS mineral produced, sold, transferred, used or otherwise disposed of; identity, quantity, and quality of an inventory maintained prior to the point of royalty determination; and other information as may be required by the Director.

(b) The lessee shall submit a status report on exploration and/or testing activities under an approved Delineation or Testing Plan to the Director within 30 days of the close of each calendar quarter which shall include:

(1) A summary of activities conducted;

(2) A listing of all geophysical and geochemical data acquired and developed such as acoustic or seismic profiling records;

(3) A map showing location of holes drilled and where bottom samples were taken; and

(4) Identification of samples analyzed.

(c) Each lessee shall submit to the Director a report of exploration and/or testing activities within 3 months after the completion of operations. The final report of exploration and/or testing activities conducted on the lease shall include:

(1) A description of work performed;

(2) Charts, maps, or plats depicting the area and leases in which activities were conducted specifically identifying

the lines of geophysical traverses and/or the locations where geological activity was conducted and/or the locations of other exploration and testing activities;

(3) The dates on which the actual operations were performed;

(4) A narrative summary of any mineral occurrences; environmental hazards; and effects of the activities on the environment, aquatic life, archaeological resources, or other uses and users of the area in which the activities were conducted;

(5) Such other descriptions of the activities conducted as may be specified by the Director; and

(6) Records of all samples from core drilling or other tests made on the lease. The records shall be in such form that the location and direction of the samples can be accurately located on a map. The records shall include logs of all strata penetrated and conditions encountered, such as minerals, water, gas, or unusual conditions, and copies of analyses of all samples analyzed.

(d) The lessee shall report the results of environmental monitoring activities required in § 582.28 of this part and shall submit such other environmental data as the Director may require to conform with the requirements of these regulations.

(e)(1) All maps shall be appropriately marked with reference to official lease boundaries and elevations marked with reference to sea level. When required by the Director, vertical projections and cross sections shall accompany plan views. The maps shall be kept current and submitted to the Director annually, or more often when required by the Director. The accuracy of maps furnished shall be certified by a professional engineer or land surveyor.

(2) The lessee shall prepare such maps of the leased lands as are necessary to show the geological conditions as determined from G&G surveys, bottom sampling, drill holes, trenching, dredging, or mining. All excavations shall be shown in such manner that the volume of OCS minerals produced during a royalty period can be accurately ascertained.

(f) Any lessee who acquires rock, mineral, and core samples under a lease shall keep a representative split of each geological sample and a quarter longitudinal segment of each core for 5 years during which time the samples shall be available for inspection at the convenience of the Director who may take cuts of such cores, cuttings, and samples.

(g)(1) The lessee shall keep all original data and information available for inspection or duplication, by the Director at the expense of the lessor, as long as the lease continues in force. Should the lessee choose to dispose of original data and information once the lease has expired, said data and information shall be offered to the lessor free of costs and shall, if accepted, become the property of the lessor.

(2) Navigation tapes showing the location(s) where samples were taken and test drilling conducted shall be retained for as long as the lease continues in force.

(h) Lessees shall maintain records in which will be kept an accurate account of all ore and rock mined; all ore put through a mill; all mineral products produced; all ore and mineral products sold, transferred, used, or otherwise disposed of and to whom sold or transferred, and the inventory weight, assay value, moisture content, base sales price, dates, penalties, and price received. The percentage of each of the mineral products recovered and the percentages lost shall be shown. The records associated with activities on a lease shall be available to the Director for auditing.

(i) When special forms or reports other than those referred to in the regulations in this part may be necessary, instructions for the filing of such forms or reports will be given by the Director.

### § 582.30 Right of use and easement.

(a) A right of use and easement that includes any area subject to a lease issued or maintained under the Act shall be granted only after the lessee has been notified by the requestor and afforded the opportunity to comment on the request. A holder of a right under a right of use and easement shall exercise that right in accordance with the requirements of the regulations in this part. A right of use and easement shall be exercised only in a manner

which does not interfere unreasonably with operations of any lessee on its lease.

(b) Once a right of use and easement has been exercised, the right shall continue, beyond the termination of any lease on which it may be situated, as long as it is demonstrated to the Director that the right of use and easement is being exercised by the holder of the right and that the right of use and easement continues to serve the purpose specified in the grant. If the right of use and easement extends beyond the termination of any lease on which the right may be situated or if it is situated on an unleased portion of the OCS, the rights of all subsequent lessees shall be subject to such right. Upon termination of a right of use and easement, the holder of the right shall abandon the premises in the same manner that a lessee abandons activities on a lease to the satisfaction of the Director.

**§ 582.31 [Reserved]**

## Subpart D—Payments

**§ 582.40 Bonds.**

(a) Pursuant to the requirements for a bond in § 581.33 of this title, prior to the commencement of any activity on a lease, the lessee shall submit a surety or personal bond to cover the lessee's royalty and other obligations under the lease as specified in this section.

(b) All bonds furnished by a lessee or operator must be in a form approved by the Associate Director for Offshore Energy and Minerals Management. A single copy of the required form is to be executed by the principal or, in the case of surety bonds, by both the principal and an acceptable surety.

(c) Only those surety bonds issued by qualified surety companies approved by the Department of the Treasury shall be accepted (see Department of Treasury Circular No. 570 and any supplemental or replacement circulars).

(d) Personal bonds shall be accompanied by a cashier's check, certified check, or negotiable U.S. Treasury bonds of an equal value to the amount specified in the bond. Negotiable Treasury bonds shall be accompanied by a proper conveyance of full authority to the Director to sell such securities in case of default in the performance of the terms and conditions of the lease.

(e) A bond in the minimum amount of $50,000 to cover the lessee's obligations under the lease shall be submitted prior to the commencement of any activity on a leasehold. A $50,000 bond shall not be required on a lease if the lessee already maintains or furnishes a $300,000 bond conditioned on compliance with the terms of leases for OCS minerals other than oil, gas, and sulphur held by the lessee on the OCS for the area in which the lease is located. A bond submitted pursuant to § 556.58(a) of this chapter may be amended to include the aforementioned condition for compliance. Prior to approval of a Delineation, Testing, or Mining Plan, the bond amount shall be adjusted, if appropriate, to cover the operations and activities described in the proposed plan.

(f) For the purposes of this section there are three areas:

(1) The Gulf of Mexico and the area offshore the Atlantic Ocean;

(2) The area offshore the Pacific Coast States of California, Oregon, Washington, and Hawaii; and

(3) The area offshore the coast of Alaska.

(g) A separate bond shall be required for each area. An operator's bond may be submitted for a specific lease(s) in the same amount as the lessee's bond(s) applicable to the lease(s) involved.

(h) Where, upon a default, the surety makes a payment to the United States of an obligation incurred under a lease, the face amount of the surety bond and the surety's liability thereunder shall be reduced by the amount of such payment.

(i) After default, the principal shall, within 6 months after notice or within such shorter period as may be fixed by the Director, either post a new bond or increase the existing bond to the amount previously held. In lieu thereof, the principal may, within that time, file separate or substitute bonds for each lease. Failure to meet these requirements may result in a suspension of operations including production on leases covered by such bonds.

(j) The Director shall not consent to termination of the period of liability of any bond unless an acceptable alternative bond has been filed or until all the terms and conditions of the lease covered by the bond have been met.

### § 582.41 Method of royalty calculation.

In the event that the provisions of royalty management regulations in part 1206 of chapter XII do not apply to the specific commodities produced under regulations in this part, the lessee shall comply with procedures specified in the leasing notice.

### § 582.42 Payments.

Rentals, royalties, and other payments due the Federal Government on leases for OCS minerals shall be paid and reports submitted by the payor for a lease in accordance with § 581.26.

## Subpart E—Appeals

### § 582.50 Appeals.

See 30 CFR part 590 for instructions on how to appeal any order or decision that we issue under this part.

# PART 585—RENEWABLE ENERGY AND ALTERNATE USES OF EXISTING FACILITIES ON THE OUTER CONTINENTAL SHELF

## Subpart A—General Provisions

Sec.
585.100 Authority.
585.101 What is the purpose of this part?
585.102 What are BOEM's responsibilities under this part?
585.103 When may BOEM prescribe or approve departures from these regulations?
585.104 Do I need a BOEM lease or other authorization to produce or support the production of electricity or other energy product from a renewable energy resource on the OCS?
585.105 What are my responsibilities under this part?
585.106 Who can hold a lease or grant under this part?
585.107 How do I show that I am qualified to be a lessee or grant holder?
585.108 When must I notify BOEM if an action has been filed alleging that I am insolvent or bankrupt?
585.109 When must I notify BOEM of mergers, name changes, or changes of business form?
585.110 How do I submit plans, applications, reports, or notices required by this part?
585.111 When and how does BOEM charge me processing fees on a case-by-case basis?
585.112 Definitions.
585.113 How will data and information obtained by BOEM under this part be disclosed to the public?
585.114 Paperwork Reduction Act statements—information collection.
585.115 Documents incorporated by reference.
585.116 Requests for information on the state of the offshore renewable energy industry.
585.117 [Reserved]
585.118 What are my appeal rights?

## Subpart B—Issuance of OCS Renewable Energy Leases

GENERAL LEASE INFORMATION

585.200 What rights are granted with a lease issued under this part?
585.201 How will BOEM issue leases?
585.202 What types of leases will BOEM issue?
585.203 With whom will BOEM consult before issuance of a lease?
585.204 What areas are available for leasing consideration?
585.205 How will leases be mapped?
585.206 What is the lease size?
585.207–585.209 [Reserved]

COMPETITIVE LEASE PROCESS

585.210 How does BOEM initiate the competitive leasing process?
585.211 What is the process for competitive issuance of leases?
585.212 What is the process BOEM will follow if there is reason to believe that competitors have withdrawn before the Final Sale Notice is issued?
585.213 What must I submit in response to a Request for Interest or a Call for Information and Nominations?
585.214 What will BOEM do with information from the Requests for Information or Calls for Information and Nominations?
585.215 What areas will BOEM offer in a lease sale?
585.216 What information will BOEM publish in the Proposed Sale Notice and Final Sale Notice?
585.217–585.219 [Reserved]

COMPETITIVE LEASE AWARD PROCESS

585.220 What auction format may BOEM use in a lease sale?
585.221 What bidding systems may BOEM use for commercial leases and limited leases?
585.222 What does BOEM do with my bid?

585.223 What does BOEM do if there is a tie for the highest bid?
585.224 What happens if BOEM accepts my bid?
585.225 What happens if my bid is rejected, and what are my appeal rights?
585.226–585.229 [Reserved]

NONCOMPETITIVE LEASE AWARD PROCESS

585.230 May I request a lease if there is no Call?
585.231 How will BOEM process my unsolicited request for a noncompetitive lease?
585.232 May I acquire a lease noncompetitively after responding to a Request for Interest or Call for Information and Nominations?
585.233–585.234 [Reserved]

COMMERCIAL AND LIMITED LEASE TERMS

585.235 If I have a commercial lease, how long will my lease remain in effect?
585.236 If I have a limited lease, how long will my lease remain in effect?
585.237 What is the effective date of a lease?
585.238 Are there any other renewable energy research activities that will be allowed on the OCS?

## Subpart C—Rights-of-Way Grants and Rights-of-Use and Easement Grants for Renewable Energy Activities

ROW GRANTS AND RUE GRANTS

585.300 What types of activities are authorized by ROW grants and RUE grants issued under this part?
585.301 What do ROW grants and RUE grants include?
585.302 What are the general requirements for ROW grant and RUE grant holders?
585.303 How long will my ROW grant or RUE grant remain in effect?
585.304 [Reserved]

OBTAINING ROW GRANTS AND RUE GRANTS

585.305 How do I request an ROW grant or RUE grant?
585.306 What action will BOEM take on my request?
585.307 How will BOEM determine whether competitive interest exists for ROW grants and RUE grants?
585.308 How will BOEM conduct an auction for ROW grants and RUE grants?
585.309 When will BOEM issue a noncompetitive ROW grant or RUE grant?
585.310 What is the effective date of an ROW grant or RUE grant?
585.311–585.314 [Reserved]

FINANCIAL REQUIREMENTS FOR ROW GRANTS AND RUE GRANTS

585.315 What deposits are required for a competitive ROW grant or RUE grant?
585.316 What payments are required for ROW grants or RUE grants?

## Subpart D—Lease and Grant Administration

NONCOMPLIANCE AND CESSATION ORDERS

585.400 What happens if I fail to comply with this part?
585.401 When may BOEM issue a cessation order?
585.402 What is the effect of a cessation order?
585.403–585.404 [Reserved]

DESIGNATION OF OPERATOR

585.405 How do I designate an operator?
585.406 Who is responsible for fulfilling lease and grant obligations?
585.407 [Reserved]

LEASE OR GRANT ASSIGNMENT

585.408 May I assign my lease or grant interest?
585.409 How do I request approval of a lease or grant assignment?
585.410 How does an assignment affect the assignor's liability?
585.411 How does an assignment affect the assignee's liability?
585.412–585.414 [Reserved]

LEASE OR GRANT SUSPENSION

585.415 What is a lease or grant suspension?
585.416 How do I request a lease or grant suspension?
585.417 When may BOEM order a suspension?
585.418 How will BOEM issue a suspension?
585.419 What are my immediate responsibilities if I receive a suspension order?
585.420 What effect does a suspension order have on my payments?
585.421 How long will a suspension be in effect?
585.422–585.424 [Reserved]

LEASE OR GRANT RENEWAL

585.425 May I obtain a renewal of my lease or grant before it terminates?
585.426 When must I submit my request for renewal?
585.427 How long is a renewal?
585.428 What effect does applying for a renewal have on my activities and payments?
585.429 What criteria will BOEM consider in deciding whether to renew a lease or grant?
585.430–585.431 [Reserved]

LEASE OR GRANT TERMINATION

585.432 When does my lease or grant terminate?

585.433 What must I do after my lease or grant terminates?
585.434 [Reserved]

LEASE OR GRANT RELINQUISHMENT

585.435 How can I relinquish a lease or a grant or parts of a lease or grant?

LEASE OR GRANT CONTRACTION

585.436 Can BOEM require lease or grant contraction?

LEASE OR GRANT CANCELLATION

585.437 When can my lease or grant be canceled?

## Subpart E—Payments and Financial Assurance Requirements

PAYMENTS

585.500 How do I make payments under this part?
585.501 What deposits must I submit for a competitively issued lease, ROW grant, or RUE grant?
585.502 What initial payment requirements must I meet to obtain a noncompetitive lease, ROW grant, or RUE grant?
585.503 What are the rent and operating fee requirements for a commercial lease?
585.504 How are my payments affected if I develop my lease in phases?
585.505 What are the rent and operating fee requirements for a limited lease?
585.506 What operating fees must I pay on a commercial lease?
585.507 What rent payments must I pay on a project easement?
585.508 What rent payments must I pay on ROW grants or RUE grants associated with renewable energy projects?
585.509 Who is responsible for submitting lease or grant payments to BOEM?
585.510 May BOEM reduce or waive my lease or grant payments?
585.511–585.514 [Reserved]

FINANCIAL ASSURANCE REQUIREMENTS FOR COMMERCIAL LEASES

585.515 What financial assurance must I provide when I obtain my commercial lease?
585.516 What are the financial assurance requirements for each stage of my commercial lease?
585.517 How will BOEM determine the amounts of the supplemental and decommissioning financial assurance requirements associated with commercial leases?
585.518–585.519 [Reserved]

FINANCIAL ASSURANCE FOR LIMITED LEASES, ROW GRANTS, AND RUE GRANTS

585.520 What financial assurance must I provide when I obtain my limited lease, ROW grant, or RUE grant?
585.521 Do my financial assurance requirements change as activities progress on my limited lease or grant?
585.522–585.524 [Reserved]

REQUIREMENTS FOR FINANCIAL ASSURANCE INSTRUMENTS

585.525 What general requirements must a financial assurance instrument meet?
585.526 What instruments other than a surety bond may I use to meet the financial assurance requirement?
585.527 May I demonstrate financial strength and reliability to meet the financial assurance requirement for lease or grant activities?
585.528 May I use a third-party guaranty to meet the financial assurance requirement for lease or grant activities?
585.529 Can I use a lease- or grant-specific decommissioning account to meet the financial assurance requirements related to decommissioning?

CHANGES IN FINANCIAL ASSURANCE

585.530 What must I do if my financial assurance lapses?
585.531 What happens if the value of my financial assurance is reduced?
585.532 What happens if my surety wants to terminate the period of liability of my bond?
585.533 How does my surety obtain cancellation of my bond?
585.534 When may BOEM cancel my bond?
585.535 Why might BOEM call for forfeiture of my bond?
585.536 How will I be notified of a call for forfeiture?
585.537 How will BOEM proceed once my bond or other security is forfeited?
585.538–585.539 [Reserved]

REVENUE SHARING WITH STATES

585.540 How will BOEM equitably distribute revenues to States?
585.541 What is a qualified project for revenue sharing purposes?
585.542 What makes a State eligible for payment of revenues?
585.543 Example of how the inverse distance formula works.

## Subpart F—Plans and Information Requirements

585.600 What plans and information must I submit to BOEM before I conduct activities on my lease or grant?
585.601 When am I required to submit my plans to BOEM?

585.602 What records must I maintain?
585.603–585.604 [Reserved]

SITE ASSESSMENT PLAN AND INFORMATION REQUIREMENTS FOR COMMERCIAL LEASES

585.605 What is a Site Assessment Plan (SAP)?
585.606 What must I demonstrate in my SAP?
585.607 How do I submit my SAP?
585.608–585.609 [Reserved]

CONTENTS OF THE SITE ASSESSMENT PLAN

585.610 What must I include in my SAP?
585.611 What information must I submit with my SAP to assist BOEM in complying with NEPA and other relevant laws?
585.612 How will my SAP be processed for Federal consistency under the Coastal Zone Management Act?
585.613 How will BOEM process my SAP?

ACTIVITIES UNDER AN APPROVED SAP

585.614 When may I begin conducting activities under my approved SAP?
585.615 What other reports or notices must I submit to BOEM under my approved SAP?
585.616 [Reserved]
585.617 What activities require a revision to my SAP, and when will BOEM approve the revision?
585.618 What must I do upon completion of approved site assessment activities?
585.619 [Reserved]

CONSTRUCTION AND OPERATIONS PLAN FOR COMMERCIAL LEASES

585.620 What is a Construction and Operations Plan (COP)?
585.621 What must I demonstrate in my COP?
585.622 How do I submit my COP?
585.623–585.625 [Reserved]

CONTENTS OF THE CONSTRUCTION AND OPERATIONS PLAN

585.626 What must I include in my COP?
585.627 What information and certifications must I submit with my COP to assist the BOEM in complying with NEPA and other relevant laws?
585.628 How will BOEM process my COP?
585.629 May I develop my lease in phases?
585.630 [Reserved]

ACTIVITIES UNDER AN APPROVED COP

585.631 When must I initiate activities under an approved COP?
585.632 What documents must I submit before I may construct and install facilities under my approved COP?
585.633 How do I comply with my COP?
585.634 What activities require a revision to my COP, and when will BOEM approve the revision?
585.635 What must I do if I cease activities approved in my COP before the end of my commercial lease?
585.636 What notices must I provide BOEM following approval of my COP?
585.637 When may I commence commercial operations on my commercial lease?
585.638 What must I do upon completion of my commercial operations as approved in my COP or FERC license?
585.639 [Reserved]

GENERAL ACTIVITIES PLAN REQUIREMENTS FOR LIMITED LEASES, ROW GRANTS, AND RUE GRANTS

585.640 What is a General Activities Plan (GAP)?
585.641 What must I demonstrate in my GAP?
585.642 How do I submit my GAP?
585.643–585.644 [Reserved]

CONTENTS OF THE GENERAL ACTIVITIES PLAN

585.645 What must I include in my GAP?
585.646 What information and certifications must I submit with my GAP to assist BOEM in complying with NEPA and other relevant laws?
585.647 How will my GAP be processed for Federal consistency under the Coastal Zone Management Act?
585.648 How will BOEM process my GAP?
585.649 [Reserved]

ACTIVITIES UNDER AN APPROVED GAP

585.650 When may I begin conducting activities under my GAP?
585.651 When may I construct complex or significant OCS facilities on my limited lease or any facilities on my project easement proposed under my GAP?
585.652 How long do I have to conduct activities under an approved GAP?
585.653 What other reports or notices must I submit to BOEM under my approved GAP?
585.654 [Reserved]
585.655 What activities require a revision to my GAP, and when will BOEM approve the revision?
585.656 What must I do if I cease activities approved in my GAP before the end of my term?
585.657 What must I do upon completion of approved activities under my GAP?

CABLE AND PIPELINE DEVIATIONS

585.658 Can my cable or pipeline construction deviate from my approved COP or GAP?
585.659 What requirements must I include in my SAP, COP, or GAP regarding air quality?

## Subpart G—Facility Design, Fabrication, and Installation

REPORTS

585.700 What reports must I submit to BOEM before installing facilities described in my approved SAP, COP, or GAP?
585.701 What must I include in my Facility Design Report?
585.702 What must I include in my Fabrication and Installation Report?
585.703 What reports must I submit for project modifications and repairs?
585.704 [Reserved]

CERTIFIED VERIFICATION AGENT

585.705 When must I use a Certified Verification Agent (CVA)?
585.706 How do I nominate a CVA for BOEM approval?
585.707 What are the CVA's primary duties for facility design review?
585.708 What are the CVA's or project engineer's primary duties for fabrication and installation review?
585.709 When conducting onsite fabrication inspections, what must the CVA or project engineer verify?
585.710 When conducting onsite installation inspections, what must the CVA or project engineer do?
585.711 [Reserved]
585.712 What are the CVA's or project engineer's reporting requirements?
585.713 What must I do after the CVA or project engineer confirms conformance with the Fabrication and Installation Report on my commercial lease?
585.714 What records relating to SAPs, COPs, and GAPs must I keep?

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

585.800 How must I conduct my activities to comply with safety and environmental requirements?
585.801 How must I conduct my approved activities to protect marine mammals, threatened and endangered species, and designated critical habitat?
585.802 What must I do if I discover a potential archaeological resource while conducting my approved activities?
585.803 How must I conduct my approved activities to protect essential fish habitats identified and described under the Magnuson-Stevens Fishery Conservation and Management Act?
585.804–585.809 [Reserved]

SAFETY MANAGEMENT SYSTEMS

585.810 What must I include in my Safety Management System?
585.811 When must I follow my Safety Management System?
585.812 [Reserved]

MAINTENANCE AND SHUTDOWNS

585.813 When do I have to report removing equipment from service?
585.814 [Reserved]

EQUIPMENT FAILURE AND ADVERSE ENVIRONMENTAL EFFECTS

585.815 What must I do if I have facility damage or an equipment failure?
585.816 What must I do if environmental or other conditions adversely affect a cable, pipeline, or facility?
585.817–585.819 [Reserved]

INSPECTIONS AND ASSESSMENTS

585.820 Will BOEM conduct inspections?
585.821 Will BOEM conduct scheduled and unscheduled inspections?
585.822 What must I do when BOEM conducts an inspection?
585.823 Will BOEM reimburse me for my expenses related to inspections?
585.824 How must I conduct self-inspections?
585.825 When must I assess my facilities?
585.826–585.829 [Reserved]

INCIDENT REPORTING AND INVESTIGATION

585.830 What are my incident reporting requirements?
585.831 What incidents must I report, and when must I report them?
585.832 How do I report incidents requiring immediate notification?
585.833 What are the reporting requirements for incidents requiring written notification?

## Subpart I—Decommissioning

DECOMMISSIONING OBLIGATIONS AND REQUIREMENTS

585.900 Who must meet the decommissioning obligations in this subpart?
585.901 When do I accrue decommissioning obligations?
585.902 What are the general requirements for decommissioning for facilities authorized under my SAP, COP, or GAP?
585.903 What are the requirements for decommissioning FERC-licensed hydrokinetic facilities?
585.904 Can I request a departure from the decommissioning requirements?

DECOMMISSIONING APPLICATIONS

585.905 When must I submit my decommissioning application?

585.906 What must my decommissioning application include?
585.907 How will BOEM process my decommissioning application?
585.908 What must I include in my decommissioning notice?

FACILITY REMOVAL

585.909 When may BOEM authorize facilities to remain in place following termination of a lease or grant?
585.910 What must I do when I remove my facility?
585.911 [Reserved]

DECOMMISSIONING REPORT

585.912 After I remove a facility, cable, or pipeline, what information must I submit?

COMPLIANCE WITH AN APPROVED DECOMMISSIONING APPLICATION

585.913 What happens if I fail to comply with my approved decommissioning application?

**Subpart J—Rights of Use and Easement for Energy- and Marine-Related Activities Using Existing OCS Facilities**

REGULATED ACTIVITIES

585.1000 What activities does this subpart regulate?
585.1001–585.1003 [Reserved]

REQUESTING AN ALTERNATE USE RUE

585.1004 What must I do before I request an Alternate Use RUE?
585.1005 How do I request an Alternate Use RUE?
585.1006 How will BOEM decide whether to issue an Alternate Use RUE?
585.1007 What process will BOEM use for competitively offering an Alternate Use RUE?
585.1008–585.1009 [Reserved]

ALTERNATE USE RUE ADMINISTRATION

585.1010 How long may I conduct activities under an Alternate Use RUE?
585.1011 What payments are required for an Alternate Use RUE?
585.1012 What financial assurance is required for an Alternate Use RUE?
585.1013 Is an Alternate Use RUE assignable?
585.1014 When will BOEM suspend an Alternate Use RUE?
585.1015 How do I relinquish an Alternate Use RUE?
585.1016 When will an Alternate Use RUE be cancelled?
585.1017 [Reserved]

DECOMMISSIONING AN ALTERNATE USE RUE

585.1018 Who is responsible for decommissioning an OCS facility subject to an Alternate Use RUE?
585.1019 What are the decommissioning requirements for an Alternate Use RUE?

AUTHORITY: 43 U.S.C. 1331 *et seq.*, 43 U.S.C. 1337.

SOURCE: 76 FR 64623, Oct. 18, 2011, unless otherwise noted.

## Subpart A—General Provisions

### § 585.100 Authority.

The authority for this part derives from amendments to subsection 8 of the Outer Continental Shelf Lands Act (OCS Lands Act) (43 U.S.C. 1337), as set forth in section 388(a) of the Energy Policy Act of 2005 (EPAct) (Pub. L. 109–58). The Secretary of the Interior delegated to the Bureau of Ocean Energy Management (BOEM) the authority to regulate activities under section 388(a) of the EPAct. These regulations specifically apply to activities that:

(a) Produce or support production, transportation, or transmission of energy from sources other than oil and gas; or

(b) Use, for energy-related purposes or for other authorized marine-related purposes, facilities currently or previously used for activities authorized under the OCS Lands Act.

### § 585.101 What is the purpose of this part?

The purpose of this part is to:

(a) Establish procedures for issuance and administration of leases, right-of-way (ROW) grants, and right-of-use and easement (RUE) grants for renewable energy production on the Outer Continental Shelf (OCS) and RUEs for the alternate use of OCS facilities for energy or marine-related purposes;

(b) Inform you and third parties of your obligations when you undertake activities authorized in this part; and

(c) Ensure that renewable energy activities on the OCS and activities involving the alternate use of OCS facilities for energy or marine-related purposes are conducted in a safe and environmentally sound manner, in conformance with the requirements of subsection 8(p) of the OCS Lands Act, other applicable laws and regulations,

and the terms of your lease, ROW grant, RUE grant, or Alternate Use RUE grant.

(d) This part will not convey access rights for oil, gas, or other minerals.

### § 585.102 What are BOEM's responsibilities under this part?

(a) BOEM will ensure that any activities authorized in this part are carried out in a manner that provides for:

(1) Safety;

(2) Protection of the environment;

(3) Prevention of waste;

(4) Conservation of the natural resources of the OCS;

(5) Coordination with relevant Federal agencies (including, in particular, those agencies involved in planning activities that are undertaken to avoid conflicts among users and maximize the economic and ecological benefits of the OCS, including multifaceted spatial planning efforts);

(6) Protection of National security interests of the United States;

(7) Protection of the rights of other authorized users of the OCS;

(8) A fair return to the United States;

(9) Prevention of interference with reasonable uses (as determined by the Secretary or Director) of the exclusive economic zone, the high seas, and the territorial seas;

(10) Consideration of the location of and any schedule relating to a lease or grant under this part for an area of the OCS, and any other use of the sea or seabed;

(11) Public notice and comment on any proposal submitted for a lease or grant under this part; and

(12) Oversight, inspection, research, monitoring, and enforcement of activities authorized by a lease or grant under this part.

(b) BOEM will require compliance with all applicable laws, regulations, other requirements, and the terms of your lease or grant under this part and approved plans. BOEM will approve, disapprove, or approve with conditions any plans, applications, or other documents submitted to BOEM for approval under the provisions of this part.

(c) Unless otherwise provided in this part, BOEM may give oral directives or decisions whenever prior BOEM approval is required under this part. BOEM will document in writing any such oral directives within 10 business days.

(d) BOEM will establish practices and procedures to govern the collection of all payments due to the Federal Government, including any cost recovery fees, rents, operating fees, and other fees or payments. BOEM will do this in accordance with the terms of this part, the leasing notice, the lease or grant under this part, and applicable Office of Natural Resources Revenue regulations or guidance.

(e) BOEM will provide for coordination and consultation with the Governor of any State or the executive of any local government or Indian Tribe that may be affected by a lease, easement, or ROW under this subsection. BOEM may invite any affected State Governor, representative of an affected Indian Tribe, and affected local government executive to join in establishing a task force or other joint planning or coordination agreement in carrying out our responsibilities under this part.

### § 585.103 When may BOEM prescribe or approve departures from these regulations?

(a) BOEM may prescribe or approve departures from these regulations when departures are necessary to:

(1) Facilitate the appropriate activities on a lease or grant under this part;

(2) Conserve natural resources;

(3) Protect life (including human and wildlife), property, or the marine, coastal, or human environment; or

(4) Protect sites, structures, or objects of historical or archaeological significance.

(b) Any departure approved under this section and its rationale must:

(1) Be consistent with subsection 8(p) of the OCS Lands Act;

(2) Protect the environment and the public health and safety to the same degree as if there was no approved departure from the regulations;

(3) Not impair the rights of third parties; and

(4) Be documented in writing.

### § 585.104 Do I need a BOEM lease or other authorization to produce or support the production of electricity or other energy product from a renewable energy resource on the OCS?

Except as otherwise authorized by law, it will be unlawful for any person to construct, operate, or maintain any facility to produce, transport, or support generation of electricity or other energy product derived from a renewable energy resource on any part of the OCS, except under and in accordance with the terms of a lease, easement, or ROW issued pursuant to the OCS Lands Act.

### § 585.105 What are my responsibilities under this part?

As a lessee, applicant, operator, or holder of a ROW grant, RUE grant, or Alternate Use RUE grant, you must:

(a) Design your projects and conduct all activities in a manner that ensures safety and will not cause undue harm or damage to natural resources, including their physical, atmospheric, and biological components to the extent practicable; and take measures to prevent unauthorized discharge of pollutants including marine trash and debris into the offshore environment.

(b) Submit requests, applications, plans, notices, modifications, and supplemental information to BOEM as required by this part;

(c) Follow up, in writing, any oral request or notification you made, within 3 business days;

(d) Comply with the terms, conditions, and provisions of all reports and notices submitted to BOEM, and of all plans, revisions, and other BOEM approvals, as provided in this part;

(e) Make all applicable payments on time;

(f) Comply with the DOI's nonprocurement debarment regulations at 2 CFR part 1400;

(g) Include the requirement to comply with 2 CFR part 1400 in all contracts and transactions related to a lease or grant under this part;

(h) Conduct all activities authorized by the lease or grant in a manner consistent with the provisions of subsection 8(p) of the OCS Lands Act;

(i) Compile, retain, and make available to BOEM representatives, within the time specified by BOEM, any data and information related to the site assessment, design, and operations of your project; and

(j) Respond to requests from the Director in a timely manner.

### § 585.106 Who can hold a lease or grant under this part?

(a) You may hold a lease or grant under this part if you can demonstrate that you have the technical and financial capabilities to conduct the activities authorized by the lease or grant and you are a(n):

(1) Citizen or national of the United States;

(2) Alien lawfully admitted for permanent residence in the United States as defined in 8 U.S.C. 1101(a)(20);

(3) Private, public, or municipal corporations organized under the laws of any State of the United States, the District of Columbia, or any territory or insular possession subject to U.S. jurisdiction;

(4) Association of such citizens, nationals, resident aliens, or corporations;

(5) Executive Agency of the United States as defined in section 105 of Title 5 of the U.S. Code;

(6) State of the United States; and

(7) Political subdivision of States of the United States.

(b) You may not hold a lease or grant under this part or acquire an interest in a lease or grant under this part if:

(1) You or your principals are excluded or disqualified from participating in transactions covered by the Federal nonprocurement debarment and suspension system (2 CFR part 1400), unless BOEM explicitly has approved an exception for this transaction;

(2) BOEM determines or has previously determined after notice and opportunity for a hearing that you or your principals have failed to meet or exercise due diligence under any OCS lease or grant; or

(3) BOEM determines or has previously determined after notice and opportunity for a hearing that you:

(i) Remained in violation of the terms and conditions of any lease or

grant issued under the OCS Lands Act for a period extending longer than 30 days (or such other period BOEM allowed for compliance) after BOEM directed you to comply; and

(ii) You took no action to correct the noncompliance within that time period.

### § 585.107 How do I show that I am qualified to be a lessee or grant holder?

(a) You must demonstrate your technical and financial capability to construct, operate, maintain, and terminate/decommission projects for which you are requesting authorization. Documentation can include:

(1) Descriptions of international or domestic experience with renewable energy projects or other types of electric-energy-related projects; and

(2) Information establishing access to sufficient capital to carry out development.

(b) An individual must submit a written statement of citizenship status attesting to U.S. citizenship. It does not need to be notarized nor give the age of individual. A resident alien may submit a photocopy of the Immigration and Naturalization Service form evidencing legal status of the resident alien.

(c) A corporation or association must submit evidence, as specified in the table in paragraph (d) of this section, acceptable to BOEM that:

(1) It is qualified to hold leases or grants under this part;

(2) It is authorized to conduct business under the laws of its State;

(3) It is authorized to hold leases or grants on the OCS under the operating rules of its business; and

(4) The persons holding the titles listed are authorized to bind the corporation or association when conducting business with BOEM.

(d) Acceptable evidence under paragraph (c) of this section includes, but is not limited to the following:

| Requirements to qualify to hold leases or grants on the OCS: | Corp. | Ltd. Prtnsp. | Gen. Prtnsp. | LLC | Trust |
|---|---|---|---|---|---|
| (1) Original certificate or certified copy from the State of incorporation stating the name of the corporation exactly as it must appear on all legal documents. | XX | ..... | ..... | ..... | |
| (2) Certified statement by Secretary/Assistant Secretary over corporate seal, certifying that the corporation is authorized to hold OCS leases. | XX | ..... | ..... | ..... | |
| (3) Evidence of authority of titled positions to bind corporation, certified by Secretary/Assistant Secretary over corporate seal, including the following: | XX | ..... | ..... | ..... | |
| (i) Certified copy of resolution of the board of directors with titles of officers authorized to bind corporation. | | | | | |
| (ii) Certified copy of resolutions granting corporate officer authority to issue a power of attorney. | | | | | |
| (iii) Certified copy of power of attorney or certified copy of resolution granting power of attorney. | | | | | |
| (4) Original certificate or certified copy of partnership or organization paperwork registering with the appropriate State official. | ..... | XX | XX | XX | |
| (5) Copy of articles of partnership or organization evidencing filing with appropriate Secretary of State, certified by Secretary/Assistant Secretary of partnership or member or manager of LLC. | ..... | XX | XX | XX | |
| (6) Original certificate or certified copy evidencing State where partnership or LLC is registered. Statement of authority to hold OCS leases, certified by Secretary/Assistant Secretary, *OR* original paperwork registering with the appropriate State official. | ..... | XX | XX | XX | |
| (7) Statements from each partner or LLC member indicating the following: | ..... | XX | XX | XX | |
| (i) If a corporation or partnership, statement of State of organization and authorization to hold OCS leases, certified by Secretary/Assistant Secretary over corporate seal, if a corporation. | | | | | |
| (ii) If an individual, a statement of citizenship. | | | | | |

| Requirements to qualify to hold leases or grants on the OCS: | Corp. | Ltd. Prtnsp. | Gen. Prtnsp. | LLC | Trust |
|---|---|---|---|---|---|
| (8) Statement from general partner, certified by Secretary/Assistant Secretary that:<br>(i) Each individual limited partner is a U.S. citizen and;<br>(ii) Each corporate limited partner or other entity is incorporated or formed and organized under the laws of a U.S. State or territory. | ..... | XX | ..... | ..... | |
| (9) Evidence of authority to bind partnership or LLC, if not specified in partnership agreement, articles of organization, or LLC regulations, *i.e.,* certificates of authority from Secretary/Assistant Secretary reflecting authority of officers. | ..... | XX | XX | XX | |
| (10) Listing of members of LLC certified by Secretary/Assistant Secretary or any member or manager of LLC. | ..... | ..... | ..... | XX | |
| (11) Copy of trust agreement or document establishing the trust and all amendments, properly certified by the trustee with reference to where the original documents are filed. | ..... | ..... | ..... | ..... | XX |
| (12) Statement indicating the law under which the trust is established and that the trust is authorized to hold OCS leases or grants. | ..... | ..... | ..... | ..... | XX |

(e) A local, State, or Federal executive entity must submit a written statement that:

(1) It is qualified to hold leases or grants under this part; and

(2) The person(s) acting on behalf of the entity is authorized to bind the entity when conducting business with us.

(f) BOEM may require you to submit additional information at any time considering your bid or request for a noncompetitive lease.

### § 585.108 When must I notify BOEM if an action has been filed alleging that I am insolvent or bankrupt?

You must notify BOEM within 3 business days after you learn of any action filed alleging that you are insolvent or bankrupt.

### § 585.109 When must I notify BOEM of mergers, name changes, or changes of business form?

You must notify BOEM in writing of any merger, name change, or change of business form. You must notify BOEM as soon as practicable following the merger, name change, or change in business form, but no later than 120 days after the earliest of either the effective date, or the date of filing the change or action with the Secretary of the State or other authorized official in the State of original registry.

### § 585.110 How do I submit plans, applications, reports, or notices required by this part?

(a) You must submit all plans, applications, reports, or notices required by this part to BOEM at the following address: Associate Director, Bureau of Ocean Energy Management, MS–4001, 381 Elden Street, Herndon, VA 20170.

(b) Unless otherwise stated, you must submit one paper copy and one electronic copy of all plans, applications, reports, or notices required by this part.

### § 585.111 When and how does BOEM charge me processing fees on a case-by-case basis?

(a) BOEM will charge a processing fee on a case-by-case basis under the procedures in this section with regard to any application or request under this part if we decide at any time that the preparation of a particular document or study is necessary for the application or request and it will have a unique processing cost, such as the preparation of an Environmental Assessment (EA) or Environmental Impact Statement (EIS).

(1) Processing costs will include contract oversight and efforts to review and approve documents prepared by contractors, whether the contractor is paid directly by the applicant or through BOEM.

(2) We may apply a standard overhead rate to direct processing costs.

(b) We will assess the ongoing processing fee for each individual application or request according to the following procedures:

(1) Before we process your application or request, we will give you a written estimate of the proposed fee based on reasonable processing costs.

(2) You may comment on the proposed fee.

(3) You may:

(i) Ask for our approval to perform, or to directly pay a contractor to perform, all or part of any document, study, or other activity according to standards we specify, thereby reducing our costs for processing your application or request; or

(ii) Ask to pay us to perform, or contract for, all or part of any document, study, or other activity.

(4) We will then give you the final estimate of the processing fee amount with payment terms and instructions after considering your comments and any BOEM-approved work you will do.

(i) If we encounter higher or lower processing costs than anticipated, we will re-estimate our reasonable processing costs following the procedures in paragraphs (b)(1) through (4) of this section, but we will not stop ongoing processing unless you do not pay in accordance with paragraph (b)(5) of this section.

(ii) Once processing is complete, we will refund to you the amount of money that we did not spend on processing costs.

(5)(i) Consistent with the payment and billing terms provided in the final estimate, we will periodically estimate what our reasonable processing costs will be for a specific period and will bill you for that period. Payment is due to us 30 days after you receive your bill. We will stop processing your document if you do not pay the bill by the date payment is due.

(ii) If a periodic payment turns out to be more or less than our reasonable processing costs for the period, we will adjust the next billing accordingly or make a refund. Do not deduct any amount from a payment without our prior written approval.

(6) You must pay the entire fee before we will issue the final document or take final action on your application or request.

(7) You may appeal our estimated processing costs in accordance with the regulations in 43 CFR part 4. We will not process the document further until the appeal is resolved, unless you pay the fee under protest while the appeal is pending. If the appeal results in a decision changing the proposed fee, we will adjust the fee in accordance with paragraph (b)(5)(ii) of this section. If we adjust the fee downward, we will not pay interest.

**§ 585.112 Definitions.**

Terms used in this part have the meanings as defined in this section:

*Affected local government* means with respect to any activities proposed, conducted, or approved under this part, any locality—

(1) That is, or is proposed to be, the site of gathering, transmitting, or distributing electricity or other energy product, or is otherwise receiving, processing, refining, or transshipping product, or services derived from activities approved under this part;

(2) That is used, or is proposed to be used, as a support base for activities approved under this part; or

(3) In which there is a reasonable probability of significant effect on land or water uses from activities approved under this part.

*Affected State* means with respect to any activities proposed, conducted, or approved under this part, any coastal State—

(1) That is, or is proposed to be, the site of gathering, transmitting, or distributing energy or is otherwise receiving, processing, refining, or transshipping products, or services derived from activities approved under this part;

(2) That is used, or is scheduled to be used, as a support base for activities approved under this part; or

(3) In which there is a reasonable probability of significant effect on land or water uses from activities approved under this part.

*Alternate Use* refers to the energy- or marine-related use of an existing OCS

facility for activities not otherwise authorized by this subchapter or other applicable law.

*Alternate Use RUE* means a right-of-use and easement issued for activities authorized under subpart J of this part.

*Archaeological resource* means any material remains of human life or activities that are at least 50 years of age and that are of archaeological interest (*i.e.*, which are capable of providing scientific or humanistic understanding of past human behavior, cultural adaptation, and related topics through the application of scientific or scholarly techniques, such as controlled observation, contextual measurement, controlled collection, analysis, interpretation, and explanation).

*Best available and safest technology* means the best available and safest technologies that BOEM determines to be economically feasible wherever failure of equipment would have a significant effect on safety, health, or the environment.

*Best management practices* mean practices recognized within their respective industry, or by Government, as one of the best for achieving the desired output while reducing undesirable outcomes.

*BOEM* means Bureau of Ocean Energy Management of the Department of the Interior.

*Certified Verification Agent (CVA)* means an individual or organization, experienced in the design, fabrication, and installation of offshore marine facilities or structures, who will conduct specified third-party reviews, inspections, and verifications in accordance with this part.

*Coastline* means the same as the term ''coast line'' in section 2 of the Submerged Lands Act (43 U.S.C. 1301(c)).

*Commercial activities* mean, for renewable energy leases and grants, all activities associated with the generation, storage, or transmission of electricity or other energy product from a renewable energy project on the OCS, and for which such electricity or other energy product is intended for distribution, sale, or other commercial use, except for electricity or other energy product distributed or sold pursuant to technology-testing activities on a limited lease. This term also includes activities associated with all stages of development, including initial site characterization and assessment, facility construction, and project decommissioning.

*Commercial lease* means a lease issued under this part that specifies the terms and conditions under which a person can conduct commercial activities.

*Commercial operations* mean the generation of electricity or other energy product for commercial use, sale, or distribution on a commercial lease.

*Decommissioning* means removing BOEM-approved facilities and returning the site of the lease or grant to a condition that meets the requirements under subpart I of this part.

*Director* means the Director of the Bureau of Ocean Energy Management (BOEM), of the U.S. Department of the Interior, or an official authorized to act on the Director's behalf.

*Distance* means the minimum great circle distance.

*Eligible State* means a coastal State having a coastline (measured from the nearest point) no more than 15 miles from the geographic center of a qualified project area.

*Facility* means an installation that is permanently or temporarily attached to the seabed of the OCS. Facilities include any structures; devices; appurtenances; gathering, transmission, and distribution cables; pipelines; and permanently moored vessels. Any group of OCS installations interconnected with walkways, or any group of installations that includes a central or primary installation with one or more satellite or secondary installations, is a single facility. BOEM may decide that the complexity of the installations justifies their classification as separate facilities.

*Geographic center of a project* means the centroid (geometric center point) of a qualified project area. The centroid represents the point that is the weighted average of coordinates of the same dimension within the mapping system, with the weights determined by the density function of the system. For example, in the case of a project area shaped as a rectangle or other parallelogram, the geographic center would be that point where lines between opposing corners intersect. The

geographic center of a project could be outside the project area itself if that area is irregularly shaped.

*Governor* means the Governor of a State or the person or entity lawfully designated by or under State law to exercise the powers granted to a Governor.

*Grant* means a right-of-way, right-of-use and easement, or alternate use right-of-use and easement issued under the provisions of this part.

*Human environment* means the physical, social, and economic components, conditions, and factors that interactively determine the state, condition, and quality of living conditions, employment, and health of those affected, directly or indirectly, by activities occurring on the OCS.

*Income,* unless clearly specified to the contrary, refers to the money received by the project owner or holder of the lease or grant issued under this part. The term does not mean that project receipts exceed project expenses.

*Lease* means an agreement authorizing the use of a designated portion of the OCS for activities allowed under this part. The term also means the area covered by that agreement, when the context requires.

*Lessee* means the holder of a lease, a BOEM-approved assignee, and, when describing the conduct required of parties engaged in activities on the lease, it also refers to the operator and all persons authorized by the holder of the lease or operator to conduct activities on the lease.

*Limited lease* means a lease issued under this part that specifies the terms and conditions under which a person may conduct activities on the OCS that support the production of energy, but do not result in the production of electricity or other energy product for sale, distribution, or other commercial use exceeding a limit specified in the lease.

*Marine environment* means the physical, atmospheric, and biological components, conditions, and factors that interactively determine the productivity, state, condition, and quality of the marine ecosystem. These include the waters of the high seas, the contiguous zone, transitional and intertidal areas, salt marshes, and wetlands within the coastal zone and on the OCS.

*Miles* mean nautical miles, as opposed to statute miles.

*Natural resources* include, without limiting the generality thereof, renewable energy, oil, gas, and all other minerals (as defined in section 2(q) of the OCS Lands Act), and marine animal and marine plant life.

*Operator* means the individual, corporation, or association having control or management of activities on the lease or grant under this part. The operator may be a lessee, grant holder, or a contractor designated by the lessee or holder of a grant under this part.

*Outer Continental Shelf (OCS)* means all submerged lands lying seaward and outside of the area of lands beneath navigable waters, as defined in section 2 of the Submerged Lands Act (43 U.S.C. 1301), whose subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

*Person* means, in addition to a natural person, an association (including partnerships and joint ventures); a Federal agency; a State; a political subdivision of a State; a Native American Tribal government; or a private, public, or municipal corporation.

*Project,* for the purposes of defining the source of revenues to be shared, means a lease ROW, RUE, or Alternate Use RUE on which the activities authorized under this part are conducted on the OCS. The term ''project'' may be used elsewhere in this rule to refer to these same authorized activities, the facilities used to conduct these activities, or to the geographic area of the project, *i.e.,* the project area.

*Project area* means the geographic surface leased, or granted, for the purpose of a specific project. If OCS acreage is granted for a project under some form of agreement other than a lease (*i.e.,* a ROW, RUE, or Alternate Use RUE issued under this part), the Federal acreage granted would be considered the project area. To avoid distortions in the calculation of the geometric center of the project area, project easements issued under this part are not considered part of the qualified project's area.

*Project easement* means an easement to which, upon approval of your Construction and Operations Plan (COP) or General Activities Plan (GAP), you are entitled as part of the lease for the purpose of installing, gathering, transmission, and distribution cables, pipelines, and appurtenances on the OCS as necessary for the full enjoyment of the lease.

*Renewable Energy* means energy resources other than oil and gas and minerals as defined in 30 CFR part 580. Such resources include, but are not limited to, wind, solar, and ocean waves, tides, and current.

*Revenues* mean bonuses, rents, operating fees, and similar payments made in connection with a project or project area. It does not include administrative fees such as those assessed for cost recovery, civil penalties, and forfeiture of financial assurance.

*Right-of-use and easement (RUE) grant* means an easement issued by BOEM under this part that authorizes use of a designated portion of the OCS to support activities on a lease or other use authorization for renewable energy activities. The term also means the area covered by the authorization.

*Right-of-way (ROW) grant* means an authorization issued by BOEM under this part to use a portion of the OCS for the construction and use of a cable or pipeline for the purpose of gathering, transmitting, distributing, or otherwise transporting electricity or other energy product generated or produced from renewable energy, but does not constitute a project easement under this part. The term also means the area covered by the authorization.

*Secretary* means the Secretary of the Interior or an official authorized to act on the Secretary's behalf.

*Significant archaeological resource* means an archaeological resource that meets the criteria of significance for eligibility for listing in the National Register of Historic Places, as defined in 36 CFR 60.4 or its successor.

*Site assessment activities* mean those initial activities conducted to characterize a site on the OCS, such as resource assessment surveys (e.g., meteorological and oceanographic) or technology testing, involving the installation of bottom-founded facilities.

*You* and *your* refer to an applicant, lessee, the operator, a designated agent of the lessee(s) or designated operator, ROW grant holder, RUE grant holder, or Alternate Use RUE grant holder under this part, or the possessive of each, depending on the context.

*We*, *us*, and *our* refer to the Bureau of Ocean Energy Management of the Department of the Interior, or its possessive, depending on the context.

### § 585.113 How will data and information obtained by BOEM under this part be disclosed to the public?

(a) BOEM will make data and information available in accordance with the requirements and subject to the limitations of the Freedom of Information Act (FOIA) (5 U.S.C. 552), the regulations contained in 43 CFR part 2 (Records and Testimony).

(b) BOEM will not release such data and information that we have determined is exempt from disclosure under exemption 4 of FOIA. We will review such data and information and objections of the submitter by the following schedule to determine whether release at that time will result in substantial competitive harm or disclosure of trade secrets.

| If you have a . . . | Then BOEM will review data and information for possible release: |
|---|---|
| (1) Commercial lease | At the earlier of:<br>(i) 3 years after the initiation of commercial generation or<br>(ii) 3 years after the lease terminates. |
| (2) Limited lease | At 3 years after the lease terminates. |
| (3) ROW or RUE grant | At the earliest of:<br>(i) 10 years after the approval of the grant;<br>(ii) Grant termination; or<br>(iii) 3 years after the completion of construction activities. |

(c) After considering any objections from the submitter, if we determine that release of such data and information will result in:

(1) No substantial competitive harm or disclosure of trade secrets, then the data and information will be released.

(2) Substantial competitive harm or disclosure of trade secrets, then the data and information will not be released at that time but will be subject to further review every 3 years thereafter.

### § 585.114 Paperwork Reduction Act statements—information collection.

(a) The Office of Management and Budget (OMB) has approved the information collection requirements in 30 CFR part 585 under 44 U.S.C. 3501, *et seq.*, and assigned OMB Control Number 1010–0176. The table in paragraph (e) of this section lists the subpart in the rule requiring the information and its title, summarizes the reasons for collecting the information, and summarizes how BOEM uses the information.

(b) Respondents are primarily renewable energy applicants, lessees, ROW grant holders, RUE grant holders, Alternate Use RUE grant holders, and operators. The requirement to respond to the information collection in this part is mandated under subsection 8(p) of the OCS Lands Act. Some responses are also required to obtain or retain a benefit, or may be voluntary.

(c) The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) requires us to inform the public that an agency 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.

(d) Comments regarding any aspect of the collections of information under this part, including suggestions for reducing the burden should be sent to the Information Collection Clearance Officer, Bureau of Ocean Energy Management, 381 Elden Street, Herndon, VA 20170.

(e) BOEM is collecting this information for the reasons given in the following table:

| 30 CFR 585 subpart, title, and/or BOEM Form (OMB Control No.) | Reasons for collecting information and how used |
|---|---|
| (1) Subpart A—General Provisions | To inform BOEM of actions taken to comply with general operational requirements on the OCS. To ensure that operations on the OCS meet statutory and regulatory requirements, are safe and protect the environment, and result in diligent development on OCS leases. |
| (2) Subpart B—Issuance of OCS Renewable Energy Leases | To provide BOEM with information needed to determine when to use a competitive process for issuing a renewable energy lease, to identify auction formats and bidding systems and variables that we may use when that determination is affirmative, and to determine the terms under which we will issue renewable energy leases. |
| (3) Subpart C—ROW Grants and RUE Grants for Renewable Energy Activities. | To issue ROW grants and RUE grants for OCS renewable energy activities that are not associated with a BOEM-issued renewable energy lease. |
| (4) Subpart D—Lease and Grant Administration | To ensure compliance with regulations pertaining to a lease or grant; assignment and designation of operator; and suspension, renewal, termination, relinquishment, and cancellation of leases and grants. |
| (5) Subpart E—Payments and Financial Assurance Requirements. | To ensure that payments and financial assurance payments for renewable energy leases comply with subpart E. |
| (6) Subpart F—Plans and Information Requirements | To enable BOEM to comply with the National Environmental Policy Act (NEPA), the Coastal Zone Management Act (CZMA), and other Federal laws and to ensure the safety of the environment on the OCS. |
| (7) Subpart G—Facility Design, Fabrication, and Installation | To enable BOEM to review the final design, fabrication, and installation of facilities on a lease or grant to ensure that these facilities are designed, fabricated, and installed according to appropriate standards in compliance with BOEM regulations, and where applicable, the approved plan. |
| (8) Subpart H—Environmental and Safety Management, Inspections, and Facility Assessments. | To ensure that lease and grant operations are conducted in a manner that is safe and protects the environment. To ensure compliance with other Federal laws, these regulations, the lease or grant, and approved plans. |
| (9) Subpart I—Decommissioning | To determine that decommissioning activities comply with regulatory requirements and approvals. To ensure that site clearance and platform or pipeline removal are properly performed to protect marine life and the environment and do not conflict with other users of the OCS. |

| 30 CFR 585 subpart, title, and/or BOEM Form (OMB Control No.) | Reasons for collecting information and how used |
|---|---|
| (10) Subpart J—RUEs for Energy and Marine-Related Activities Using Existing OCS Facilities. | To enable BOEM to review information regarding the design, installation, and operation of RUEs on the OCS, to ensure that RUE operations are safe and protect the human, marine, and coastal environment. To ensure compliance with other Federal laws, these regulations, the RUE grant, and, where applicable, the approved plan. |

**§ 585.115 Documents incorporated by reference.**

(a) BOEM is incorporating by reference the documents listed in the table in paragraph (e) of this section. The Director of the Federal Register has approved this incorporation by reference according to 5 U.S.C. 552(a) and 1 CFR part 51.

(1) BOEM will publish, as a rule, any changes in the documents incorporated by reference in the FEDERAL REGISTER.

(2) BOEM may amend by rule the list of industry standards incorporated by reference of the document effective without prior opportunity for public comment when BOEM determines that the revisions to a document result in safety improvements or represent new industry standard technology and do not impose undue costs on the affected parties; and

(3) BOEM may make a rule, effective immediately, amending the list of industry standards incorporated by reference if it determines good cause exists for doing so under 5 U.S.C. 553.

(b) BOEM is incorporating each document or specific portion by reference in the sections noted. The entire document is incorporated by reference, unless the text of the corresponding sections in this part calls for compliance with specific portions of the listed documents. In each instance, the applicable document is the specific edition, or specific edition and supplement, or specific addition and addendum cited in this section.

(c) You may comply with a later edition of a specific document incorporated by reference, only if:

(1) You show that complying with the later edition provides a degree of protection, safety, or performance equal to or better than what would be achieved by compliance with the listed edition; and

(2) You obtain the prior written approval for alternative compliance from the authorized BOEM official.

(d) You may inspect these documents at the Bureau of Ocean Energy Management, 381 Elden Street, Room 3313, Herndon, Virginia, 703–787–1605; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*. You may obtain the documents from the publishing organizations at the addresses given in the following table:

| For . . . | Write to . . . |
|---|---|
| API Recommended Practices ..... | American Petroleum Institute, 1220 L Street, NW., Washington, DC 20005–4070. *http://www.api.org/publications/* |

(e) This paragraph lists documents incorporated by reference. To easily reference text of the corresponding sections with the list of documents incorporated by reference, the list is in alphanumerical order by organization and document.

| Title of documents | Incorporated by reference at . . . |
|---|---|
| API RP 2A–WSD, Recommended Practice for Planning, Designing and Constructing Fixed Offshore Platforms—Working Stress Design; Twenty-first Edition, December 2000; Errata and Supplement 1, December 2002; Errata and Supplement 2, September 2005; Errata and Supplement 3, October 2007; Product No. G2AWSD. | 30 CFR 585.825 |

### § 585.116 Requests for information on the state of the offshore renewable energy industry.

(a) The Director may, from time to time, and at his discretion, solicit information from industry and other relevant stakeholders (including State and local agencies), as necessary, to evaluate the state of the offshore renewable energy industry, including the identification of potential challenges or obstacles to its continued development. Such requests for information may relate to the identification of environmental, technical, regulatory, or economic matters that promote or detract from continued development of renewable energy technologies on the OCS. From the information received, the Director may evaluate potential refinements to the OCS Alternative Energy Program that promote development of the industry in a safe and environmentally responsible manner, and that ensure fair value for use of the Nation's OCS.

(b) BOEM may make such requests for information on a regional basis, and may tailor the requests to specific types of renewable energy technologies.

(c) BOEM will publish such requests for information by the Director in the FEDERAL REGISTER.

### § 585.117 [Reserved]

### § 585.118 What are my appeal rights?

(a) Any party adversely affected by a BOEM official's final decision or order issued under the regulations of this part may appeal that decision or order to the Interior Board of Land Appeals. The appeal must conform with the procedures found in 30 CFR part 590 and 43 CFR part 4, subpart E. Appeal of a final decision for bid acceptance is covered under paragraph (c) of this section.

(b) A decision will remain in full force and effect during the period in which an appeal may be filed and during an appeal, unless a stay is granted pursuant to 43 CFR part 4.

(c) Our decision on a bid is the final action of the Department, except that an unsuccessful bidder may apply for reconsideration by the Director.

(1) A bidder whose bid we reject may file a written request for reconsideration with the Director within 15 days of the date of the receipt of the notice of rejection, accompanied by a statement of reasons, with one copy to us. The Director will respond in writing either affirming or reversing the decision.

(2) The delegation of review authority given to the Office of Hearings and Appeals does not apply to decisions on high bids for leases or grants under this part.

## Subpart B—Issuance of OCS Renewable Energy Leases

GENERAL LEASE INFORMATION

### § 585.200 What rights are granted with a lease issued under this part?

(a) A lease issued under this part grants the lessee the right, subject to obtaining the necessary approvals, including but not limited to those required under the FERC hydrokinetic licensing process, and complying with all provisions of this part, to occupy, and install and operate facilities on, a designated portion of the OCS for the purpose of conducting:

(1) Commercial activities; or

(2) Other limited activities that support, result from, or relate to the production of energy from a renewable energy source.

(b) A lease issued under this part confers on the lessee the right to one or more project easements without further competition for the purpose of installing gathering, transmission, and distribution cables; pipelines; and appurtenances on the OCS as necessary for the full enjoyment of the lease.

(1) You must apply for the project easement as part of your COP or GAP, as provided under subpart F of this part; and

(2) BOEM will incorporate your approved project easement in your lease as an addendum.

(c) A commercial lease issued under this part may be developed in phases, with BOEM approval as provided in § 585.629.

### § 585.201 How will BOEM issue leases?

BOEM will issue leases on a competitive basis, as provided under §§ 585.210 through 585.225. However, if we determine after public notice of a proposed lease that there is no competitive interest, we will issue leases noncompetitively, as provided under §§ 585.230 and 585.232. We will issue leases on forms approved by BOEM and will include terms, conditions, and stipulations identified and developed through the process set forth in §§ 585.211 and 585.231.

### § 585.202 What types of leases will BOEM issue?

BOEM may issue leases on the OCS for the assessment and production of renewable energy and may authorize a combination of specific activities. We may issue commercial leases or limited leases.

### § 585.203 With whom will BOEM consult before issuance of a lease?

For leases issued under this part, through either the competitive or noncompetitive process, BOEM prior to issuing the lease, will coordinate and consult with relevant Federal agencies (including, in particular, those agencies involved in planning activities that are undertaken to avoid conflicts among users and maximize the economic and ecological benefits of the OCS, including multifaceted spatial planning efforts), the Governor of any affected State, the executive of any affected local government, and any affected Indian Tribe, as directed by subsections 8(p)(4) and (7) of the OCS Lands Act or other relevant Federal laws. Federal statutes that require us to consult with or respond to findings include the Endangered Species Act (ESA), and the Magnuson-Stevens Fishery Conservation and Management Act (MSA).

### § 585.204 What areas are available for leasing consideration?

BOEM may offer any appropriately platted area of the OCS, as provided in § 585.205, for a renewable energy lease, except any area within the exterior boundaries of any unit of the National Park System, National Wildlife Refuge System, National Marine Sanctuary System, or any National Monument.

### § 585.205 How will leases be mapped?

BOEM will prepare leasing maps and official protraction diagrams of areas of the OCS. The areas included in each lease will be in accordance with the appropriate leasing map or official protraction diagram.

### § 585.206 What is the lease size?

(a) BOEM will determine the size for each lease based on the area required to accommodate the anticipated activities. The processes leading to both competitive and noncompetitive issuance of leases will provide public notice of the lease size adopted. We will delineate leases by using mapped OCS blocks or portions, or aggregations of blocks.

(b) The lease size includes the minimum area that will allow the lessee sufficient space to develop the project and manage activities in a manner that is consistent with the provisions of this part. The lease may include whole lease blocks or portions of a lease block.

### §§ 585.207–585.209 [Reserved]

COMPETITIVE LEASE PROCESS

### § 585.210 How does BOEM initiate the competitive leasing process?

BOEM may publish in the FEDERAL REGISTER a public notice of Request for Interest to assess interest in leasing all or part of the OCS for activities authorized in this part. BOEM will consider information received in response to a Request for Interest to determine whether there is competitive interest for scheduling sales and issuing leases. We may prepare and issue a national, regional, or more specific schedule of

lease sales pertaining to one or more types of renewable energy.

### § 585.211 What is the process for competitive issuance of leases?

BOEM will use auctions to award leases on a competitive basis. We will publish details of the process to be employed for each lease sale auction in the FEDERAL REGISTER. For each lease sale, we will publish a Proposed Sale Notice and a Final Sale Notice. Individual lease sales will include steps such as:

(a) *Call for Information and Nominations (Call).* BOEM will publish in the FEDERAL REGISTER Calls for Information and Nominations for leasing in specified areas. The comment period following issuance of a Call will be 45 days. In this document, we may:

(1) Request comments on areas which should receive special consideration and analysis;

(2) Request comments concerning geological conditions (including bottom hazards); archaeological sites on the seabed or nearshore; multiple uses of the proposed leasing area (including navigation, recreation, and fisheries); and other socioeconomic, biological, and environmental information; and

(3) Suggest areas to be considered by the respondents for leasing.

(b) *Area Identification.* BOEM will identify areas for environmental analysis and consideration for leasing. We will do this in consultation with appropriate Federal agencies, States, local governments, affected Indian Tribes, and other interested parties.

(1) We may consider for lease those areas nominated in response to the Call for Information and Nominations, together with other areas that BOEM determines are appropriate for leasing.

(2) We will evaluate the potential effect of leasing on the human, marine, and coastal environments, and develop measures to mitigate adverse impacts, including lease stipulations.

(3) We will consult to develop measures, including lease stipulations and conditions, to mitigate adverse impacts on the environment; and

(4) We may hold public hearings on the environmental analysis after appropriate notice.

(c) *Proposed Sale Notice.* BOEM will publish the Proposed Sale Notice in the FEDERAL REGISTER and send it to the Governor of any affected State and the executive of any local government that might be affected. The comment period following issuance of a Proposed Sale Notice will be 60 days.

(d) *Final Sale Notice.* BOEM will publish the Final Sale Notice in the FEDERAL REGISTER at least 30 days before the date of the sale.

### § 585.212 What is the process BOEM will follow if there is reason to believe that competitors have withdrawn before the Final Sale Notice is issued?

BOEM may decide to end the competitive process before the Final Sale Notice if we have reason to believe that competitors have withdrawn and competition no longer exists. We will issue a second public notice of Request for Interest and consider comments received to confirm that there is no competitive interest.

(a) If, after reviewing comments in response to the notice of Request for Interest, BOEM determines that there is no competitive interest in the lease area, and one party wishes to acquire a lease, we will discontinue the competitive process and will proceed with the noncompetitive process set forth in § 585.231(d) through (i). Under the noncompetitive process, the acquisition fee specified in § 585.502(a) must be submitted with the Site Assessment Plan (SAP) or General Activities Plan (GAP).

(b) If, after reviewing comments in response to the notice of Request for Interest, BOEM determines that competitive interest in the lease area continues to exist, we will continue with the competitive process set forth in §§ 585.211 through 585.225.

### § 585.213 What must I submit in response to a Request for Interest or a Call for Information and Nominations?

If you are a potential lessee, when you respond to a Request for Interest or a Call, your response must include the following items:

(a) The area of interest for a possible lease.

(b) A general description of your objectives and the facilities that you would use to achieve those objectives.

(c) A general schedule of proposed activities, including those leading to commercial operations.

(d) Available and pertinent data and information concerning renewable energy and environmental conditions in the area of interest, including energy and resource data and information used to evaluate the area of interest. BOEM will withhold trade secrets and commercial or financial information that is privileged or confidential from public disclosure under exemption 4 of the FOIA and as provided in § 585.113.

(e) Documentation showing that you are qualified to hold a lease, as specified in § 585.107.

(f) Any other information requested by BOEM in the FEDERAL REGISTER notice.

### § 585.214 What will BOEM do with information from the Requests for Information or Calls for Information and Nominations?

BOEM will use the information received in response to the Requests or Calls to:

(a) Identify the lease area;

(b) Develop options for the environmental analysis and leasing provisions (stipulations, payments, terms, and conditions); and

(c) Prepare appropriate documentation to satisfy applicable Federal requirements, such as NEPA, CZMA, the ESA, and the MMPA.

### § 585.215 What areas will BOEM offer in a lease sale?

BOEM will offer the areas for leasing determined through the process set forth in § 585.211 of this part. We will not accept nominations after the Call for Information and Nominations closes.

### § 585.216 What information will BOEM publish in the Proposed Sale Notice and Final Sale Notice?

For each competitive lease sale, BOEM will publish a Proposed Sale Notice and a Final Sale Notice in the FEDERAL REGISTER. In the Proposed Sale Notice, we will request public comment on the items listed in this section. We will consider all public comments received in developing the final lease sale terms and conditions. We will publish the final terms and conditions in the Final Sale Notice. The Proposed Sale Notice and Final Sale Notice will include, or describe the availability of, information pertaining to:

(a) The area available for leasing.

(b) Proposed and final lease provisions and conditions, including, but not limited to:

(1) Lease size;

(2) Lease term;

(3) Payment requirements;

(4) Performance requirements; and

(5) Site-specific lease stipulations.

(c) Auction details, including:

(1) Bidding procedures and systems;

(2) Minimum bid;

(3) Deposit amount;

(4) The place and time for filing bids and the place, date, and hour for opening bids;

(5) Lease award method; and

(6) Bidding or application instructions.

(d) The official BOEM lease form to be used or a reference to that form.

(e) Criteria BOEM will use to evaluate competing bids or applications and how the criteria will be used in decision-making for awarding a lease.

(f) Award procedures, including how and when BOEM will award leases and how BOEM will handle unsuccessful bids or applications.

(g) Procedures for appealing the lease issuance decision.

(h) Execution of the lease instrument.

### §§ 585.217–585.219 [Reserved]

COMPETITIVE LEASE AWARD PROCESS

### § 585.220 What auction format may BOEM use in a lease sale?

(a) Except as provided in § 585.231, we will hold competitive auctions to award renewable energy leases and will use one of the following auction formats, as determined through the lease sale process and specified in the Proposed Sale Notice and in the Final Sale Notice:

| Type of auction | Bid variable | Bidding process |
|---|---|---|
| (1) Sealed bidding | A cash bonus or an operating fee rate | One sealed bid per company per lease or packaged bidding unit. |
| (2) Ascending bidding | A cash bonus or an operating fee rate | Continuous bidding per lease. |
| (3) Two-stage bidding (combination of ascending and sealed bidding). | An operating fee rate in one, both, or neither stage and a cash bonus in one, both, or neither stage. | Ascending or sealed bidding until:<br>(i) Only two bidders remain, or<br>(ii) More than one bidder offers to pay the maximum bid amount.<br>Stage-two sealed or ascending bidding commences at some predetermined time after the end of stage-one bidding. |
| (4) Multiple-factor bidding | Factors may include, but are not limited to: technical merit, timeliness, financing and economics, environmental considerations, public benefits, compatibility with State and local needs, cash bonus, rental rate, and an operating fee rate. | One proposal per company per lease or packaged bidding unit. |

(b) You must submit your bid and a deposit as specified in §§ 585.500 and 585.501 to cover the bid for each lease area, according to the terms specified in the Final Sale Notice.

## § 585.221 What bidding systems may BOEM use for commercial leases and limited leases?

(a) For commercial leases, we will specify minimum bids in the Final Sale Notice and use one of the following bidding systems, as specified in the Proposed Sale Notice and in the Final Sale Notice:

| Bid system | Bid variable |
|---|---|
| (1) Cash bonus with a constant fee rate (decimal) | Cash bonus. |
| (2) Constant operating fee rate with fixed cash bonus | A fee rate used in the formula found in § 585.506 to set the operating fee per year during the operations term of your lease. |
| (3) Sliding operating fee rate with a fixed cash bonus | A fee rate used in the formula in § 585.506 to set the operating fee for the first year of the operations term of your lease. The fee rate for subsequent years changes by a mathematical function we specify in the Final Sale Notice. |
| (4) Cash bonus *and* constant operating fee rate | Cash bonus and operating fee rate as stated in paragraph (2) of this section (two-stage auction format only). |
| (5) Cash bonus *and* sliding operating fee rate | Cash bonus and operating fee rate as stated in paragraph (3) of this section (two-stage auction format only). |
| (6) Multiple-factor combination of nonmonetary and monetary factors. | BOEM will identify bidding variables in the Final Sale Notice.<br>Variables may include:<br>(i) Nonmonetary (e.g., technical merit) factors and<br>(ii) Monetary (e.g., cash bonus, rental rate, fee rate) factors. |

(b) For limited leases, the bid variable will be a cash bonus, with a minimum bid as we specify in the Final Sale Notice.

## § 585.222 What does BOEM do with my bid?

(a) If sealed bidding is used:

(1) We open the sealed bids at the place, date, and hour specified in the Final Sale Notice for the sole purpose of publicly announcing and recording the bids. We do not accept or reject any bids at that time.

(2) We reserve the right to reject any and all high bids, including a bid for any proposal submitted under the multiple-factor bidding format, regardless of the amount offered or bidding system used. The reasons for the rejection of a winning bid may include, but are not necessarily limited to, insufficiency, illegality, anti-competitive behavior, administrative error, and the presence of unusual bidding patterns.

We intend to accept or reject all high bids within 90 days, but we may extend that time if necessary.

(b) If we use ascending bidding, we may, in the Final Sale Notice, reserve the right to accept the winning bid solely based on its being the highest bid submitted by a qualified bidder (qualified to be an OCS lessee under § 585.107).

(c) If we use two-stage bidding and the auction concludes with

(i) An ascending bidding stage, the winning bid will be determined as stated in paragraph (b) of this section; or

(ii) A sealed bidding stage, the winning bid will be determined as stated in paragraph (a) of this section.

(d) If we use multiple-factor bidding, determination of the winning bid for any proposal submitted will be made by a panel composed of members selected by BOEM. The details of the process will be described in the Final Sale Notice.

(e) We will send a written notice of our decision to accept or reject bids to all bidders whose deposits we hold.

### § 585.223 What does BOEM do if there is a tie for the highest bid?

(a) Unless otherwise specified in the Final Sale Notice, except in the first stage of a two-stage bidding auction, if more than one bidder on a lease submits the same high bid amount, the winning bidder will be determined by a further round or stage of bidding as described in the Final Sale Notice.

(b) The winning bidder will be subject to final confirmation following determination of bid adequacy.

### § 585.224 What happens if BOEM accepts my bid?

If we accept your bid, we will send you a notice with three copies of the lease form.

(a) Within 10 business days after you receive the lease copies, you must:

(1) Execute the lease;

(2) File financial assurance as required under §§ 585.515 through 585.537; and

(3) Pay the balance of the bonus bid as specified in the lease sale notice.

(b) Within 45 days after you receive the lease copies, you must pay the first 6 months rent as required in § 585.503.

(c) When you execute three copies of the lease and return the copies to us, we will execute the lease on behalf of the United States and send you one fully executed copy.

(d) You will forfeit your deposit if you do not execute and return the lease within 10 business days of receipt, or otherwise fail to comply with applicable regulations or terms of the Final Sale Notice.

(e) We may extend the 10 business day time period for executing and returning the lease if we determine the delay to be caused by events beyond your control.

(f) We reserve the right to withdraw an OCS area in which we have held a lease sale before you and BOEM execute the lease in that area. If we exercise this right, we will refund your bid deposit, without interest.

(g) If the awarded lease is executed by an agent acting on behalf of the bidder, the bidder must submit, along with the executed lease, written evidence that the agent is authorized to act on behalf of the bidder.

(h) BOEM will consider the highest submitted qualified bid to be the winning bid when bidding occurs under the systems described in § 585.221(a)(1) through (5). We will determine the winning bid for proposals submitted under the multiple-factor bidding format on the basis of selection by the panel as specified in § 585.222(d) when the bidding system under § 585.221(a)(6) is used. We will refund the deposit on all other bids.

### § 585.225 What happens if my bid is rejected, and what are my appeal rights?

(a) If we reject your bid, we will provide a written statement of the reasons and refund any money deposited with your bid, without interest.

(b) You may ask the BOEM Director for reconsideration, in writing, within 15 business days of bid rejection, under § 585.118(c)(1). We will send you a written response either affirming or reversing the rejection.

**§§ 585.226–585.229 [Reserved]**

NONCOMPETITIVE LEASE AWARD PROCESS

**§ 585.230 May I request a lease if there is no Call?**

You may submit an unsolicited request for a commercial lease or a limited lease under this part. Your unsolicited request must contain the following information:

(a) The area you are requesting for lease.

(b) A general description of your objectives and the facilities that you would use to achieve those objectives.

(c) A general schedule of proposed activities including those leading to commercial operations.

(d) Available and pertinent data and information concerning renewable energy and environmental conditions in the area of interest, including energy and resource data and information used to evaluate the area of interest. BOEM will withhold trade secrets and commercial or financial information that is privileged or confidential from public disclosure under exemption 4 of the FOIA and as provided in § 585.113.

(e) If available from the appropriate State or local government authority, a statement that the proposed activity conforms with State and local energy planning requirements, initiatives, or guidance.

(f) Documentation showing that you meet the qualifications to become a lessee, as specified in § 585.107.

(g) An acquisition fee, as specified in § 585.502(a).

**§ 585.231 How will BOEM process my unsolicited request for a noncompetitive lease?**

(a) BOEM will consider unsolicited requests for a lease on a case-by-case basis and may issue a lease noncompetitively in accordance with this part. We will not consider an unsolicited request for a lease under this part that is proposed in an area of the OCS that is scheduled for a lease sale under this part.

(b) BOEM will issue a public notice of a request for interest relating to your proposal and consider comments received to determine if competitive interest exists.

(c) If BOEM determines that competitive interest exists in the lease area:

(1) BOEM will proceed with the competitive process set forth in §§ 585.210 through 585.225;

(2) If you submit a bid for the lease area in a competitive lease sale, your acquisition fee will be applied to the deposit for your bonus bid; and

(3) If you do not submit a bid for the lease area in a competitive lease sale, BOEM will not refund your acquisition fee.

(d) If BOEM determines that there is no competitive interest in a lease:

(1) A notice that BOEM has made a determination that there is no competitive interest will be published in the FEDERAL REGISTER; and

(2) You must submit within 60 days of the date of the notice to BOEM:

(i) For a commercial lease, a SAP, as described in §§ 585.605 through 585.613; or

(ii) For a limited lease, a GAP, as described in §§ 585.640 through 585.648.

(e) BOEM will coordinate and consult with affected Federal agencies, State, and local governments, and affected Indian Tribes in the review of noncompetitive lease requests and associated plans.

(f) If we approve or approve with conditions your SAP or GAP, we may offer you a noncompetitive lease.

(g) If you accept the terms and conditions of the lease, then we will issue the lease, and you must comply with all terms and conditions of your lease and all applicable provisions of this part. If we issue you a lease, we will send you a notice with 3 copies of the lease form.

(1) Within 10 business days after you receive the lease copies you must:

(i) Execute the lease;

(ii) File financial assurance as required under §§ 585.515 through 585.537; and

(2) Within 45 days after you receive the lease copies, you must pay the first 6 months rent, as required in § 585.503.

(h) BOEM will publish in the FEDERAL REGISTER a notice announcing the issuance of your lease.

(i) If you do not accept the terms and conditions, BOEM will not issue a

lease, and we will not refund your acquisition fee.

[76 FR 64623, Oct. 18, 2011, as amended at 77 FR 1019, Jan. 9, 2012]

### § 585.232 May I acquire a lease noncompetitively after responding to a Request for Interest or Call for Information and Nominations?

(a) If you submit an area of interest for a possible lease and BOEM receives no competing submissions in response to the RFI or Call, we may inform you that there does not appear to be competitive interest, and ask if you wish to proceed with acquiring a lease.

(b) If you wish to proceed with acquiring a lease, you must submit your acquisition fee as specified in § 585.502(a).

(c) After receiving the acquisition fee, BOEM will follow the process outlined in § 585.231(d) through (i).

[76 FR 64623, Oct. 18, 2011, as amended at 77 FR 1019, Jan. 9, 2012]

### §§ 585.233–585.234 [Reserved]

## COMMERCIAL AND LIMITED LEASE TERMS

### § 585.235 If I have a commercial lease, how long will my lease remain in effect?

(a) For commercial leases, the lease terms and applicable automatic extensions are as shown in the following table:

| Lease term | Automatic extensions | Requirements |
|---|---|---|
| (1) Each commercial lease issued competitively will have a preliminary term of 6 months to submit:<br>(i) a SAP; or .....<br>(ii) a combined SAP and COP. The preliminary term begins on the effective date of the lease. A commercial lease issued noncompetitively does not have a preliminary term.. | If we receive a SAP that satisfies the requirements of §§ 585.605 through 585.613 or a SAP/COP that satisfies the requirements of §§ 585.605 through 585.613 and §§ 585.620 through 585.629, the preliminary term will be extended for the time necessary for us to conduct technical and environmental reviews of the SAP or SAP/COP. | The SAP must meet the requirements of §§ 585.605 through 585.613. The SAP/COP must meet the requirements of §§ 585.605 through 585.613 and §§ 585.620 through 585.629. |
| (2) A commercial lease will have a site assessment term of 5 years to conduct site assessment activities and to submit a COP, if a SAP/COP has not been submitted. Your site assessment term begins when BOEM approves your SAP or SAP/COP. | If we receive a COP that satisfies the requirements of §§ 585.620 through 585.629, the site assessment term will be automatically extended for the period of time necessary for us to conduct technical and environmental reviews of the COP. | The COP must meet the requirements of §§ 585.620 through 585.629 of this part. |
| (3) A commercial lease will have an operations term of 25 years, unless a longer term is negotiated by applicable parties.<br>A request for lease renewal must be submitted 2 years before the end of the operations term.<br>If you submit a COP, your operations term begins on the date that we approve the COP. If you submit a SAP/COP, your operations term begins 5 years after the date we approve the SAP/COP, or when fabrication and installation commence, whichever is earlier. | ..... | The lease renewal request must meet the requirements, as provided in §§ 585.425 through 585.429. |
| (4) A commercial lease may have additional time added to the operations term through a lease renewal. The term of the lease renewal will not exceed the original term of the lease, unless a longer term is negotiated by applicable parties. The lease renewal term begins upon expiration of the original operations term. | ..... | We may order or grant a suspension of the operations term, as provided in §§ 585.415 through 585.421. |

(b) If you do not timely submit a SAP, COP, or SAP/COP, as appropriate, you may request additional time to extend the preliminary or site assessment term of your commercial lease

that includes a revised schedule for submission of the plan, as appropriate.

### § 585.236 If I have a limited lease, how long will my lease remain in effect?

(a) For limited leases, the lease terms are as shown in the following table:

| Lease term | Extension or suspension | Requirements |
|---|---|---|
| (1) Each limited lease issued competitively has a preliminary term of 6 months to submit a GAP. The preliminary term begins on the effective date of the lease. | If we receive a GAP that satisfies the requirements of §§ 585.640 through 585.648 of this part, the preliminary term will be automatically extended for the period of time necessary for us to conduct a technical and environmental review of the plans. | The GAP must meet the requirements of §§ 585.640 through 585.648. |
| (2) The operations term begins when BOEM approves your GAP and issues your lease. A limited lease issued noncompetitively does not have a preliminary term. | ..... | You must submit and BOEM must approve your GAP before we will issue a lease. The GAP must meet the requirements of §§ 585.640 through 585.648. |
| (3) Each limited lease has an operations term of 5 years for conducting site assessment, technology testing, or other activities. The operations term begins on the date that we approve your GAP. | We may order or grant a suspension of the operations term as provided in §§ 585.415 through 585.421. | |

(b) If you do not timely submit a GAP, you may request additional time to extend the preliminary term of your limited lease that includes a revised schedule for submission of a GAP.

### § 585.237 What is the effective date of a lease?

(a) A lease issued under this part must be dated and becomes effective as of the first day of the month following the date a lease is signed by the lessor.

(b) If the lessee submits a written request and BOEM approves, a lease may be dated and become effective the first day of the month in which it is signed by the lessor.

### § 585.238 Are there any other renewable energy research activities that will be allowed on the OCS?

(a) The Director may issue OCS leases, ROW grants, and RUE grants to a Federal agency or a State for renewable energy research activities that support the future production, transportation, or transmission of renewable energy.

(b) In issuing leases, ROW grants, and RUE grants to a Federal agency or a State on the OCS for renewable energy research activities under this provision, BOEM will coordinate and consult with other relevant Federal agencies, any other affected State(s), affected local government executives, and affected Indian Tribes.

(c) BOEM may issue leases, RUEs, and ROWs for research activities managed by a Federal agency or a State only in areas for which the Director has determined, after public notice and opportunity to comment, that no competitive interest exists.

(d) The Director and the head of the Federal agency or the Governor of a requesting State, or their authorized representatives, will negotiate the terms and conditions of such renewable energy leases, RUEs, or ROWs under this provision on a case-by-case basis. The framework for such negotiations, and standard terms and conditions of such leases, RUEs, or ROWs may be set forth in a memorandum of agreement (MOA) or other agreement between BOEM and a Federal agency or a State. The MOA must include the agreement of the head of the Federal agency or the Governor to assure that all subcontractors comply with these regulations, other applicable laws, and terms and conditions of such leases or grants.

(e) Any lease, RUE, or ROW that BOEM issues to a Federal agency or to a State that authorizes access to an area of the OCS for research activities managed by a Federal agency or a State must include:

(1) Requirements to comply with all applicable Federal laws; and

(2) Requirements to comply with these regulations, except as otherwise provided in the lease or grant.

(f) BOEM will issue a public notice of any lease, RUE, ROW issued to a Federal agency or to a State, or an approved MOA for such research activities.

(g) BOEM will not charge any fees for the purpose of ensuring a fair return for the use of such research areas on the OCS.

## Subpart C—Rights-of-Way Grants and Rights-of-Use and Easement Grants for Renewable Energy Activities

ROW GRANTS AND RUE GRANTS

### § 585.300 What types of activities are authorized by ROW grants and RUE grants issued under this part?

(a) An ROW grant authorizes the holder to install on the OCS cables, pipelines, and associated facilities that involve the transportation or transmission of electricity or other energy product from renewable energy projects.

(b) An RUE grant authorizes the holder to construct and maintain facilities or other installations on the OCS that support the production, transportation, or transmission of electricity or other energy product from any renewable energy resource.

(c) You do not need an ROW grant or RUE grant for a project easement authorized under § 585.200(b) to serve your lease.

### § 585.301 What do ROW grants and RUE grants include?

(a) An ROW grant:

(1) Includes the full length of the corridor on which a cable, pipeline, or associated facility is located;

(2) Is 200 feet (61 meters) in width, centered on the cable or pipeline, unless safety and environmental factors during construction and maintenance of the associated cable or pipeline require a greater width; and

(3) For the associated facility, is limited to the area reasonably necessary for a power or pumping station or other accessory facility.

(b) An RUE grant includes the site on which a facility or other structure is located and the areal extent of anchors, chains, and other equipment associated with a facility or other structure. The specific boundaries of an RUE will be determined by BOEM on a case-by-case basis and set forth in each RUE grant.

### § 585.302 What are the general requirements for ROW grant and RUE grant holders?

(a) To acquire an ROW grant or RUE grant you must provide evidence that you meet the qualifications as required in § 585.107.

(b) An ROW grant or RUE grant is subject to the following conditions:

(1) The rights granted will not prevent the granting of other rights by the United States, either before or after the granting of the ROW or RUE, provided that any subsequent authorization issued by BOEM in the area of a previously issued ROW grant or RUE grant may not unreasonably interfere with activities approved or impede existing operations under such a grant; and

(2) The holder agrees that the United States, its lessees, or other ROW grant or RUE grant holders may use or occupy any part of the ROW grant or RUE grant not actually occupied or necessarily incident to its use for any necessary activities.

### § 585.303 How long will my ROW grant or RUE grant remain in effect?

Your ROW grant or RUE grant will remain in effect for as long as the associated activities are properly maintained and used for the purpose for which the grant was made, unless otherwise expressly stated in the grant.

### § 585.304 [Reserved]

OBTAINING ROW GRANTS AND RUE GRANTS

### § 585.305 How do I request an ROW grant or RUE grant?

You must submit to BOEM one paper copy and one electronic copy of a request for a new or modified ROW grant or RUE grant. You must submit a separate request for each ROW grant or

RUE grant you are requesting. The request must contain the following information:

(a) The area you are requesting for a ROW grant or RUE grant.

(b) A general description of your objectives and the facilities that you would use to achieve those objectives.

(c) A general schedule of proposed activities.

(d) Pertinent information concerning environmental conditions in the area of interest.

### § 585.306 What action will BOEM take on my request?

BOEM will consider requests for ROW grants and RUE grants on a case-by-case basis and may issue a grant competitively, as provided in § 585.308, or noncompetitively if we determine after public notice that there is no competitive interest. BOEM will coordinate and consult with relevant Federal agencies, with the Governor of any affected State, and the executive of any affected local government.

(a) In response to an unsolicited request for a ROW grant or RUE grant, the BOEM will first determine if there is competitive interest, as provided in § 585.307.

(b) If BOEM determines that there is no competitive interest in a ROW grant or RUE grant, we will:

(1) In consultation with you, establish the terms and conditions for the grant;

(2) Require you to submit a GAP, as described in §§ 585.640 through 585.648, within 60 days of the determination of no competitive interest; and

(3) Evaluate your request for a noncompetitive grant and GAP simultaneously.

(c) If we award your ROW grant or RUE grant competitively, you must submit and receive BOEM approval of your GAP, as provided in §§ 585.640 through 585.648.

### § 585.307 How will BOEM determine whether competitive interest exists for ROW grants and RUE grants?

To determine whether or not there is competitive interest:

(a) We will publish a public notice, describing the parameters of the project, to give affected and interested parties an opportunity to comment on the proposed ROW grant or RUE grant area.

(b) We will evaluate any comments received on the notice and make a determination of the level of competitive interest.

### § 585.308 How will BOEM conduct an auction for ROW grants and RUE grants?

(a) If BOEM determines that there is competitive interest, we will:

(1) Publish a notice of each grant auction in the FEDERAL REGISTER describing auction procedures, allowing interested persons 30 days to comment; and

(2) Conduct a competitive auction for issuing the ROW grant or RUE grant. The auction process for ROW grants and RUE grants will be conducted following the same process for leases set forth in §§ 585.211 through 585.225.

(b) If you are the successful bidder in an auction, you must pay the first year's rent, as provided in § 585.316.

### § 585.309 When will BOEM issue a noncompetitive ROW grant or RUE grant?

If we approve or approve with conditions your GAP, we may offer you a noncompetitive grant.

(a) If you accept the terms and conditions of the grant, then we will issue the grant, and you must comply with all terms and conditions of your grant and all applicable provisions of this part.

(b) If you do not accept the terms and conditions, BOEM will not issue a grant.

### § 585.310 What is the effective date of an ROW grant or RUE grant?

Your ROW grant or RUE grant becomes effective on the date established by BOEM on the ROW grant or RUE grant instrument.

### §§ 585.311–585.314 [Reserved]

FINANCIAL REQUIREMENTS FOR ROW GRANTS AND RUE GRANTS

### § 585.315 What deposits are required for a competitive ROW grant or RUE grant?

(a) You must make a deposit, as required in § 585.501(a), regardless of whether the auction is a sealed-bid, oral, electronic, or other auction format. BOEM will specify in the sale notice the official to whom you must submit the payment, the time by which the official must receive the payment, and the forms of acceptable payment.

(b) If your high bid is rejected, we will provide a written statement of reasons.

(c) For all rejected bids, we will refund, without interest, any money deposited with your bid.

### § 585.316 What payments are required for ROW grants or RUE grants?

Before we issue the ROW grant or RUE grant, you must pay:

(a) Any balance on accepted high bids to BOEM, as provided in the sale notice.

(b) An annual rent for the first year of the grant, as specified in § 585.508.

## Subpart D—Lease and Grant Administration

NONCOMPLIANCE AND CESSATION ORDERS

### § 585.400 What happens if I fail to comply with this part?

(a) BOEM may take appropriate corrective action under this part if you fail to comply with applicable provisions of Federal law, the regulations in this part, other applicable regulations, any order of the Director, the provisions of a lease or grant issued under this part, or the requirements of an approved plan or other approval under this part.

(b) BOEM may issue to you a notice of noncompliance if we determine that there has been a violation of the regulations in this part, any order of the Director, or any provision of your lease, grant or other approval issued under this part. When issuing a notice of noncompliance, BOEM will serve you at your last known address.

(c) A notice of noncompliance will tell you how you failed to comply with this part, any order of the Director, and/or the provisions of your lease, grant or other approval, and will specify what you must do to correct the noncompliance and the time limits within which you must act.

(d) Failure of a lessee, operator, or grant holder under this part to take the actions specified in a notice of noncompliance within the time limit specified provides the basis for BOEM to issue a cessation order as provided in § 585.401, and/or a cancellation of the lease or grant as provided in § 585.437.

(e) If BOEM determines that any incident of noncompliance poses an imminent threat of serious or irreparable damage to natural resources; life (including human and wildlife); property; the marine, coastal, or human environment; or sites, structures, or objects of historical or archaeological significance, BOEM may include with its notice of noncompliance an order directing you to take immediate remedial action to alleviate threats and to abate the violation and, when appropriate, a cessation order.

(f) The BOEM may assess civil penalties, as authorized by section 24 of the OCS Lands Act, if you fail to comply with any provision of this part or any term of a lease, grant, or order issued under the authority of this part, after notice of such failure and expiration of any reasonable period allowed for corrective action. Civil penalties will be determined and assessed in accordance with the procedures set forth in 30 CFR part 550, subpart N.

(g) You may be subject to criminal penalties as authorized by section 24 of the OCS Lands Act.

### § 585.401 When may BOEM issue a cessation order?

(a) BOEM may issue a cessation order during the term of your lease or grant when you fail to comply with an applicable law; regulation; order; or provision of a lease, grant, plan, or other BOEM approval under this part. Except as provided in § 585.400(e), BOEM will allow you a period of time to correct

any noncompliance before issuing an order to cease activities.

(b) A cessation order will set forth what measures you are required to take, including reports you are required to prepare and submit to BOEM, to receive approval to resume activities on your lease or grant.

### § 585.402 What is the effect of a cessation order?

(a) Upon receiving a cessation order, you must cease all activities on your lease or grant, as specified in the order. BOEM may authorize certain activities during the period of the cessation order.

(b) A cessation order will last for the period specified in the order or as otherwise specified by BOEM. If BOEM determines that the circumstances giving rise to the cessation order cannot be resolved within a reasonable time period, the Secretary may initiate cancellation of your lease or grant, as provided in § 585.437.

(c) A cessation order does not extend the term of your lease or grant for the period you are prohibited from conducting activities.

(d) You must continue to make all required payments on your lease or grant during the period a cessation order is in effect.

### §§ 585.403–585.404 [Reserved]

DESIGNATION OF OPERATOR

### § 585.405 How do I designate an operator?

(a) If you intend to designate an operator who is not the lessee or grant holder, you must identify the proposed operator in your SAP (under § 585.610(a)(3)), COP (under § 585.626(b)(2)), or GAP (under § 585.645(b)(3)), as applicable. If no operator is designated in a SAP, COP, or GAP, BOEM will deem the lessee or grant holder to be the operator.

(b) An operator must be designated in any SAP, COP, or GAP if there is more than one lessee or grant holder for any individual lease or grant.

(c) Once approved in your plan, the designated operator is authorized to act on your behalf and required to perform activities necessary to comply with the OCS Lands Act, the lease or grant, and the regulations in this part.

(d) You, or your designated operator, must immediately provide BOEM with a written notification of change of address of the lessee or operator.

(e) If there is a change in the designated operator, you must provide written notice to BOEM and identify the new designated operator within 72 hours on a form approved by BOEM. The lessee(s) or grantee(s) is the operator and responsible for compliance until BOEM approves designation of the new operator.

(f) Designation of an operator under any lease or grant issued under this part does not relieve the lessee or grant holder of its obligations under this part or its lease or grant.

(g) A designated operator performing activities on the lease must comply with all regulations governing those activities and may be held liable or penalized for any noncompliance during the time it was operator, notwithstanding its subsequent resignation.

### § 585.406 Who is responsible for fulfilling lease and grant obligations?

(a) When you are not the sole lessee or grantee, you and your co-lessee(s) or co-grantee(s) are jointly and severally responsible for fulfilling your obligations under the lease or grant and the provisions of this part, unless otherwise provided in these regulations.

(b) If your designated operator fails to fulfill any of your obligations under the lease or grant and this part, BOEM may require you or any or all of your co-lessees or co-grantees to fulfill those obligations or other operational obligations under the OCS Lands Act, the lease, grant, or the regulations.

(c) Whenever the regulations in this part require the lessee or grantee to conduct an activity in a prescribed manner, the lessee or grantee and operator (if one has been designated) are jointly and severally responsible for complying with the regulations.

### § 585.407 [Reserved]

LEASE OR GRANT ASSIGNMENT

### § 585.408 May I assign my lease or grant interest?

(a) You may assign all or part of your lease or grant interest, including record title, subject to BOEM approval under this subpart. Each instrument that creates or transfers an interest must describe the entire tract or describe by officially designated subdivisions the interest you propose to create or transfer.

(b) You may assign a lease or grant interest by submitting one paper copy and one electronic copy of an assignment application to BOEM. The assignment application must include:

(1) BOEM-assigned lease or grant number;

(2) A description of the geographic area or undivided interest you are assigning;

(3) The names of both the assignor and the assignee, if applicable;

(4) The names and telephone numbers of the contacts for both the assignor and the assignee;

(5) The names, titles, and signatures of the authorizing officials for both the assignor and the assignee;

(6) A statement that the assignee agrees to comply with and to be bound by the terms and conditions of the lease or grant;

(7) The qualifications of the assignee to hold a lease or grant under § 585.107; and

(8) A statement on how the assignee will comply with the financial assurance requirements of §§ 585.515 through 585.537. No assignment will be approved until the assignee provides the required financial assurance.

(c) If you submit an application to assign a lease or grant, you will continue to be responsible for payments that are or become due on the lease or grant until the date BOEM approves the assignment.

(d) The assignment takes effect on the date BOEM approves your application.

(e) You do not need to request an assignment for mergers, name changes, or changes of business form. You must notify BOEM of these events under § 585.109.

### § 585.409 How do I request approval of a lease or grant assignment?

(a) You must request approval of each assignment on a form approved by BOEM, and submit originals of each instrument that creates or transfers ownership of record title or certified copies thereof within 90 days after the last party executes the transfer agreement.

(b) Any assignee will be subject to all the terms and conditions of your original lease or grant, including the requirement to furnish financial assurance in the amount required in §§ 585.515 through 585.537.

(c) The assignee must submit proof of eligibility and other qualifications specified in § 585.107.

(d) Persons executing on behalf of the assignor and assignee must furnish evidence of authority to execute the assignment.

### § 585.410 How does an assignment affect the assignor's liability?

As assignor, you are liable for all obligations, monetary and nonmonetary, that accrued under your lease or grant before BOEM approves your assignment. Our approval of the assignment does not relieve you of these accrued obligations. BOEM may require you to bring the lease or grant into compliance to the extent the obligation accrued before the effective date of your assignment if your assignee or subsequent assignees fail to perform any obligation under the lease or grant.

### § 585.411 How does an assignment affect the assignee's liability?

(a) As assignee, you are liable for all lease or grant obligations that accrue after BOEM approves the assignment. As assignee, you must comply with all the terms and conditions of the lease or grant and all applicable regulations, remedy all existing environmental and operational problems on the lease or grant, and comply with all decommissioning requirements under subpart I of this part.

(b) Assignees are bound to comply with each term or condition of the lease or grant and the regulations in

this subchapter. You are jointly and severally liable for the performance of all obligations under the lease or grant and under the regulations in this part with each prior and subsequent lessee who held an interest from the time the obligation accrued until it is satisfied, unless this part provides otherwise.

### §§ 585.412–585.414 [Reserved]

LEASE OR GRANT SUSPENSION

### § 585.415 What is a lease or grant suspension?

(a) A suspension is an interruption of the term of your lease or grant that may occur:

(1) As approved by BOEM at your request, as provided in § 585.416; or

(2) As ordered by BOEM, as provided in § 585.417.

(b) A suspension extends the term of your lease or grant for the length of time the suspension is in effect.

(c) Activities may not be conducted on your lease or grant during the period of a suspension except as expressly authorized by BOEM under the terms of the suspension.

### § 585.416 How do I request a lease or grant suspension?

You must submit a written request to BOEM that includes the following information no later than 90 days prior to the expiration of your appropriate lease or grant term:

(a) The reasons you are requesting suspension of your lease or grant term, and the length of additional time requested.

(b) An explanation of why the suspension is necessary in order to ensure full enjoyment of your lease or grant and why it is in the lessor's or grantor's interest to approve the suspension.

(c) If you do not timely submit a SAP, COP, or GAP, as required, you may request a suspension to extend the preliminary or site assessment term of your lease or grant that includes a revised schedule for submission of a SAP, COP, or GAP, as appropriate.

(d) Any other information BOEM may require.

### § 585.417 When may BOEM order a suspension?

(a) BOEM may order a suspension under the following circumstances:

(1) When necessary to comply with judicial decrees prohibiting some or all activities under your lease;

(2) When continued activities pose an imminent threat of serious or irreparable harm or damage to natural resources; life (including human and wildlife); property; the marine, coastal, or human environment; or sites, structures, or objects of historical or archaeological significance; or

(3) When the suspension is necessary for reasons of National security or defense.

(b) If BOEM orders a suspension under paragraph (a)(2) of this section, and if you wish to resume activities, we may require you to conduct a site-specific study that evaluates the cause of the harm, the potential damage, and the available mitigation measures. Other requirements and actions may occur:

(1) You may be required to pay for the study;

(2) You must furnish one paper copy and one electronic copy of the study and results to us;

(3) We will make the results available to other interested parties and to the public; and

(4) We will use the results of the study and any other information that become available:

(i) To decide if the suspension order can be lifted; and

(ii) To determine any actions that you must take to mitigate or avoid any damage to natural resources; life (including human and wildlife); property; the marine, coastal, or human environment; or sites, structures, or objects of historical or archaeological significance.

### § 585.418 How will BOEM issue a suspension?

(a) BOEM will issue a suspension order orally or in writing.

(b) BOEM will send you a written suspension order as soon as practicable after issuing an oral suspension order.

(c) The written order will explain the reasons for its issuance and describe the effect of the suspension order on

your lease or grant and any associated activities. BOEM may authorize certain activities during the period of the suspension, as set forth in the suspension order.

### § 585.419 What are my immediate responsibilities if I receive a suspension order?

You must comply with the terms of a suspension order upon receipt and take any action prescribed within the time set forth therein.

### § 585.420 What effect does a suspension order have on my payments?

(a) While BOEM evaluates your request for a suspension under § 585.416, you must continue to fulfill your payment obligation until the end of the original term of your lease or grant. If our evaluation goes beyond the end of the original term of your lease or grant, the term of your lease or grant will be extended for the period of time necessary for BOEM to complete its evaluation of your request, but you will not be required to make payments during the time of the extension.

(b) If BOEM approves your request for a suspension, as provided in § 585.416, we may suspend your payment obligation, as appropriate for the term that is suspended, depending on the reasons for the requested suspension.

(c) If BOEM orders a suspension, as provided in § 585.417, your payments, as appropriate for the term that is suspended, will be waived during the suspension period.

### § 585.421 How long will a suspension be in effect?

A suspension will be in effect for the period specified by BOEM.

(a) BOEM will not approve a suspension request pursuant to § 585.416 for a period longer than 2 years.

(b) If BOEM determines that the circumstances giving rise to a suspension ordered under § 585.417 cannot be resolved within 5 years, the Secretary may initiate cancellation of the lease or grant, as provided in § 585.437.

### §§ 585.422–585.424 [Reserved]

## LEASE OR GRANT RENEWAL

### § 585.425 May I obtain a renewal of my lease or grant before it terminates?

You may request renewal of the operations term of your lease or the original authorized term of your grant. BOEM, at its discretion, may approve a renewal request to conduct substantially similar activities as were originally authorized under the lease or grant. BOEM will not approve a renewal request that involves development of a type of renewable energy not originally authorized in the lease or grant. BOEM may revise or adjust payment terms of the original lease, as a condition of lease renewal.

### § 585.426 When must I submit my request for renewal?

(a) You must request a renewal from BOEM:

(1) No later than 180 days before the termination date of your limited lease or grant.

(2) No later than 2 years before the termination date of the operations term of your commercial lease.

(b) You must submit to BOEM all information we request pertaining to your lease or grant and your renewal request.

### § 585.427 How long is a renewal?

BOEM will set the term of a renewal at the time of renewal on a case-by-case basis.

(a) For commercial leases, a renewal term will not exceed the original operations term unless a longer term is negotiated by the applicable parties.

(b) For limited leases, a renewal term will not exceed the original operations term.

(c) For RUE and ROW grants, a renewal will continue for as long as the associated activities are conducted and facilities properly maintained and used for the purpose for which the grant was made, unless otherwise expressly stated.

### § 585.428 What effect does applying for a renewal have on my activities and payments?

If you timely request a renewal:

(a) You may continue to conduct activities approved under your lease or grant under the original terms and conditions for as long as your request is pending decision by BOEM.

(b) You may request a suspension of your lease or grant, as provided in § 585.416, while we consider your request.

(c) For the period BOEM considers your request for renewal, you must continue to make all payments in accordance with the original terms and conditions of your lease or grant.

### § 585.429 What criteria will BOEM consider in deciding whether to renew a lease or grant?

BOEM will consider the following criteria in deciding whether to renew a lease or grant:

(a) Design life of existing technology.

(b) Availability and feasibility of new technology.

(c) Environmental and safety record of the lessee or grantee.

(d) Operational and financial compliance record of the lessee or grantee.

(e) Competitive interest and fair return considerations.

(f) Effects of the lease or grant on generation capacity and reliability within the regional electrical distribution and transmission system.

### §§ 585.430–585.431 [Reserved]

LEASE OR GRANT TERMINATION

### § 585.432 When does my lease or grant terminate?

Your lease or grant terminates on whichever of the following dates occurs first:

(a) The expiration of the applicable term of your lease or grant, unless your term is automatically extended under §§ 585.235 or 585.236, a request for renewal of your lease or grant is pending a decision by BOEM, or your lease or grant is suspended or renewed as provided in this subpart;

(b) A cancellation, as set forth in § 585.437; or

(c) Relinquishment, as set forth in § 585.435.

### § 585.433 What must I do after my lease or grant terminates?

(a) After your lease or grant terminates, you must:

(1) Make all payments due, including any accrued rentals and deferred bonuses; and

(2) Perform any other outstanding obligations under the lease or grant within 6 months.

(b) Within 2 years following termination of a lease or grant, you must remove or dispose of all facilities, installations, and other devices permanently or temporarily attached to the seabed on the OCS in accordance with a plan or application approved by BOEM under subpart I of this part.

(c) If you fail to comply with your approved decommissioning plan or application:

(1) BOEM may call for the forfeiture of your financial assurance; and

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

### § 585.434 [Reserved]

LEASE OR GRANT RELINQUISHMENT

### § 585.435 How can I relinquish a lease or a grant or parts of a lease or grant?

(a) You may surrender the lease or grant, or an officially designated subdivision thereof, by filing one paper copy and one electronic copy of a relinquishment application with BOEM. A relinquishment takes effect on the date we approve your application, subject to the continued obligation of the lessee and the surety to:

(1) Make all payments due on the lease or grant, including any accrued rent and deferred bonuses;

(2) Decommission all facilities on the lease or grant to be relinquished to the satisfaction of BOEM; and

(3) Perform any other outstanding obligations under the lease or grant.

(b) Your relinquishment application must include:

(1) Name;

(2) Contact name;

(3) Telephone number;

(4) Fax number;

(5) E-mail address;

(6) BOEM-assigned lease or grant number, and, if applicable, the name of any facility;

(7) A description of the geographic area you are relinquishing;

(8) The name, title, and signature of your authorizing official (the name, title, and signature must match exactly the name, title, and signature in BOEM qualification records); and

(9) A statement that you will adhere to the requirements of subpart I of this part.

(c) If you have submitted an application to relinquish a lease or grant, you will be billed for any outstanding payments that are due before the relinquishment takes effect, as provided in paragraph (a) of this section.

LEASE OR GRANT CONTRACTION

### § 585.436 Can BOEM require lease or grant contraction?

At an interval no more frequent than every 5 years, the BOEM may review your lease or grant area to determine whether the lease or grant area is larger than needed to develop the project and manage activities in a manner that is consistent with the provisions of this part. BOEM will notify you of our proposal to contract the lease or grant area.

(a) BOEM will give you the opportunity to present orally or in writing information demonstrating that you need the area in question to manage lease or grant activities consistent with these regulations.

(b) Prior to taking action to contract the lease or grant area, BOEM will issue a decision addressing your contentions that the area is needed.

(c) You may appeal this decision under § 585.118 of this part.

LEASE OR GRANT CANCELLATION

### § 585.437 When can my lease or grant be canceled?

(a) The Secretary will cancel any lease or grant issued under this part upon proof that it was obtained by fraud or misrepresentation, and after notice and opportunity to be heard has been afforded to the lessee or grant holder.

(b) The Secretary may cancel any lease or grant issued under this part when:

(1) The Secretary determines after notice and opportunity for a hearing that, with respect to the lease or grant that would be canceled, the lessee or grantee has failed to comply with any applicable provision of the OCS Lands Act or these regulations; any order of the Director; or any term, condition or stipulation contained in the lease or grant, and that the failure to comply continued 30 days (or other period BOEM specifies) after you receive notice from BOEM. The Secretary will mail a notice by registered or certified letter to the lessee or grantee at its record post office address;

(2) The Secretary determines after notice and opportunity for a hearing that you have terminated commercial operations under your COP, as provided in § 585.635, or other approved activities under your GAP, as provided in § 585.656;

(3) Required by National security or defense; or

(4) The Secretary determines after notice and opportunity for a hearing that continued activity under the lease or grant:

(i) Would cause serious harm or damage to natural resources; life (including human and wildlife); property; the marine, coastal, or human environment; or sites, structures, or objects of historical or archaeological significance; and

(ii) That the threat of harm or damage would not disappear or decrease to an acceptable extent within a reasonable period of time; and

(iii) The advantages of cancellation outweigh the advantages of continuing the lease or grant in force.

## Subpart E—Payments and Financial Assurance Requirements

PAYMENTS

### § 585.500 How do I make payments under this part?

(a) For acquisition fees or the initial 6-months rent paid for the preliminary term of your lease, you must make credit card or automated clearing house payments through the *Pay.gov*

Web site, and you must include one copy of the *Pay.gov* confirmation receipt page with your unsolicited request or signed lease instrument. You may access the *Pay.gov* Web site through links on the BOEM Offshore Web site at: *http://www.boem.gov/offshore* or directly through *Pay.gov* at: *https://www.pay.gov/paygov/*.

(b) For rent during the preliminary term, subsequent to the first 6-months rent, or the site assessment term; or operating fees during the operations term, you must make your payments as required in 30 CFR 1218.51 of this chapter.

(c) This table summarizes payments you must make for leases and grants, unless otherwise specified in the Final Sale Notice:

| | Payment | Amount | Due date | Payment mechanism | Section reference |
|---|---|---|---|---|---|
| **Initial payments for leases** | | | | | |
| (1) If your lease is issued competitively, | Bid Deposit | As set in Final Sale Notice/depends on bid. | With bid | Pay.Gov | § 585.501. |
| | Bonus Balance | | Lease issuance | 30 CFR 1218.51. | |
| (2) If your lease is issued non-competitively. | Acquisition Fee | $0.25 per acre, unless otherwise set by the Director. | With application | Pay.gov | § 585.502. |
| (3) All leases | Initial Rent | $3 per acre per year. | 45 days after lease issuance. | Pay.gov | § 585.503. |
| **Subsequent payments for leases and project easements** | | | | | |
| (4) All leases | Subsequent Rent | $3 per acre per year. | Annually | 30 CFR 1218.51 | §§ 585.503 and 585.504. |
| (5) If you have a project easement. | Rent | Greater of $5 per acre per year or $450 per year. | When operations term for associated lease starts, then annually. | 30 CFR 1218.51 | § 585.507. |
| (7) If your commercial lease is producing, | Operating Fee | Determined by the formula in § 585.506. | Annually | 30 CFR 1218.51 | § 585.506. |
| **Payments for ROW grants and RUE grants*** | | | | | |
| (8) All ROW grants and RUE grants. | Initial Rent | $70 per statute mile, and the greater of $5 per acre per year or $450 per year. | Grant Issuance | Pay.gov | § 585.508. |
| | Subsequent Rent | | Annually or in 5-year batches. | 30 CFR 1218.51. | |

*There is no acquisition fee for ROW grants or RUE grants.

## § 585.501 What deposits must I submit for a competitively issued lease, ROW grant, or RUE grant?

(a) For a competitive lease or grant that we offer through sealed bidding, you must submit a deposit of 20 percent of the total bid amount, unless some other amount is specified in the Final Sale Notice.

(b) For a competitive lease that we offer through ascending bidding, you must submit a deposit as established in the Final Sale Notice.

(c) You must pay any balances on accepted high bids in accordance with the Final Sale Notice, this part, and your lease or grant instrument.

(d) The deposit will be forfeited for any successful bidder who fails to execute the lease within the prescribed time, or otherwise does not comply with the regulations concerning acquisition of a lease or grant or stipulations in the Final Sale Notice.

### § 585.502 What initial payment requirements must I meet to obtain a noncompetitive lease, ROW grant, or RUE grant?

When requesting a noncompetitive lease, you must meet the initial payment (acquisition fee) requirements of this section, unless specified otherwise in your lease instrument. No initial payment is required when requesting noncompetitive ROW grants and RUE grants.

(a) If you request a noncompetitive lease, you must submit an acquisition fee of $0.25 per acre, unless otherwise set by the Director, as provided in § 585.500.

(b) If BOEM determines there is no competitive interest, we will then:

(1) Retain your acquisition fee if we issue you a lease; or

(2) Refund your acquisition fee, without interest, if we do not issue your requested lease.

(c) If we determine that there is a competitive interest in an area you requested, then we will proceed with a competitive lease sale process provided for in subpart B of this part, and we will:

(1) Apply your acquisition fee to the required deposit for your bid amount if you submit a bid;

(2) Apply your acquisition fee to your bonus bid if you acquire the lease; or

(3) Retain your acquisition fee if you do not bid for or acquire the lease.

### § 585.503 What are the rent and operating fee requirements for a commercial lease?

(a) The rent for a commercial lease is $3 per acre per year, unless otherwise established in the Final Sale Notice or lease.

(1) You must pay ONRR, under the regulations at 30 CFR part 1218, the first 6-months rent, as provided in § 585.500, 45 days after we issue your lease.

(2) You must pay ONRR, under the regulations at 30 CFR part 1218, rent at the beginning of each subsequent 1-year period in accordance with the regulations at 30 CFR 1218.51 for the entire lease area until the facility begins to generate commercially, as specified in § 585.506 or as otherwise specified in the Final Sale Notice or lease instrument:

(i) For leases issued competitively, the BOEM will specify in the Final Sale Notice and lease any adjustment to the rent fee to take effect during the operations term and prior to the commercial generation.

(ii) For leases issued noncompetitively, the BOEM will specify in the lease any adjustment to the rent fee to take effect during the operations term and prior to the commercial generation.

(3) You must pay ONRR, under the regulations at 30 CFR part 1218, the rent for a project easement in addition to the lease rent, as provided in § 585.507. You must commence rent payments for your project easement upon our approval of your COP or GAP.

(b) After your lease begins commercial generation of electricity or on the date specified by BOEM, you must pay operating fees in the amount specified in § 585.506:

(1) For leases issued competitively, BOEM will specify in the Final Sale Notice and lease the date when operating fees commence; and

(2) For leases issued noncompetitively, BOEM will specify in the lease the date when operating fee commences.

### § 585.504 How are my payments affected if I develop my lease in phases?

If you develop your commercial lease in phases, as approved by us in your COP under § 585.629, you must pay ONRR, under the regulations at 30 CFR part 1218:

(a) Rent on the portion of the lease that is not authorized for commercial operations.

(b) Operating fees on the portion of the lease that is authorized for commercial operations, in the amount specified in § 585.506 and as described in § 585.503(b).

(c) Rent for a project easement in addition to lease rent, as provided in § 585.507. You must commence rent payments for your project easement upon our approval of your COP.

### § 585.505 What are the rent and operating fee requirements for a limited lease?

(a) The rent for a limited lease is $3 per acre per year, unless otherwise established in the Final Sale Notice and your lease instrument.

(b) You must pay ONRR, under the regulations at 30 CFR part 1218, the first 6-months rent when BOEM issues your limited lease, as provided in § 585.500.

(c) You must pay ONRR, under the regulations at 30 CFR part 1218, rent at the beginning of each subsequent 1-year period on the entire lease area for the duration of your operations term in accordance with the regulations at 30 CFR 1218.51.

(d) BOEM will not charge an operating fee for the authorized sale of power from a limited lease.

### § 585.506 What operating fees must I pay on a commercial lease?

If you are generating electricity, you must pay ONRR, under the regulations at 30 CFR part 1218, operating fees on your commercial lease when you begin commercial generation, as described in § 585.503.

(a) BOEM will determine the annual operating fee for activities relating to the generation of electricity on your lease based on the following formula,

$$F = M * H * c * P * r,$$

Where:

(1) F is the dollar amount of the annual operating fee;

(2) M is the nameplate capacity expressed in megawatts;

(3) H is the number of hours in a year, equal to 8,760, used to calculate an annual payment;

(4) c is the ''capacity factor'' representing the anticipated efficiency of the facility's operation expressed as a decimal between zero and one;

(5) P is a measure of the annual average wholesale electric power price expressed in dollars per megawatt hour, as provided in paragraph (c)(2) of this section; and

(6) r is the operating fee rate expressed as a decimal between zero and one.

(b) The annual operating fee formula relating to the value of annual electricity generation is restated as:

| F (annual operating fee) | = | M (nameplate capacity) | * | H (hours per year) | * | c (capacity factor) | * | P (power price) | * | r (operating fee rate) |
|---|---|---|---|---|---|---|---|---|---|---|

(c) BOEM will specify operating fee parameters in the Final Sale Notice for commercial leases issued competitively and in the lease for those issued noncompetitively.

(1) Unless BOEM specifies otherwise, in the operating fee rate, ''r'' is 0.02 for each year the operating fee applies when you begin commercial generation of electricity. We may apply a different fee rate for new projects (*i.e.*, a new generation based on new technology) after considering factors such as program objectives, state of the industry, project type, and project potential. Also, we may agree to reduce or waive the fee rate under § 585.510.

(2) The power price ''P,'' for each year when the operating fee applies, will be determined annually. The process by which the power price will be determined will be specified in the Final Sale Notice and/or in the lease. BOEM:

(i) Will use the most recent annual average wholesale power price in the State in which a project's transmission cables make landfall, as published by the DOE, Energy Information Administration (EIA), or other publicly available wholesale power price indices; and

(ii) May adjust the published average wholesale power price to reflect documented variations by State or within a region and recent market conditions.

(3) BOEM will select the capacity factor ''c'' based upon applicable analogs drawn from present and future domestic and foreign projects that operate in comparable conditions and on comparable scales.

(i) Upon the completion of the first year of commercial operations on the lease, BOEM may adjust the capacity factor as necessary (to accurately represent a comparison of actual production over a given period of time with

the amount of power a facility would have produced if it had run at full capacity) in a subsequent year.

(ii) After the first adjustment, BOEM may adjust the capacity factor (to accurately represent a comparison of actual generation over a given period of time with the amount of power a facility would have generated if it had run at full capacity) no earlier than in 5-year intervals from the most recent year that BOEM adjusts the capacity factor.

(iii) The process by which BOEM will adjust the capacity factor, including any calculations (incorporating an average capacity factor reflecting actual operating experience), will be specified in the lease. The operator or lessee may request review and adjustment of the capacity factor under § 585.510.

(4) Ten days after the anniversary date of when you began to commercially generate electricity, you must submit to BOEM documentation of the gross annual generation of electricity produced by the generating facility on the lease. You must use the same information collection form as authorized by the EIA for this information.

(5) For the nameplate capacity ''M,'' BOEM will use the total installed capacity of the equipment you install, as specified in your approved COP.

(d) You must submit all operating fee payments to BOEM in accordance with the provisions under 30 CFR 1218.51.

(e) BOEM will establish the operating fee in the Final Sale Notice or in the lease on a case-by-case basis for:

(1) Activities that do not relate to the generation of electricity (e.g., hydrogen production), and

(2) Leases issued for hydrokinetic activities requiring a FERC license.

### § 585.507 What rent payments must I pay on a project easement?

(a) You must pay ONRR, under the regulations at 30 CFR part 1218, a rent fee for your project easement of $5 per acre, subject to a minimum of $450 per year, unless specified otherwise in the Final Sale Notice or lease:

(1) The size of the project easement area for a cable or a pipeline is the full length of the corridor and a width of 200 feet (61 meters), centered on the cable or pipeline; and

(2) The size of a project easement area for an accessory platform is limited to the aerial extent of anchor chains and other facilities and devices associated with the accessory.

(b) You must commence rent payments for your project easement upon our approval of your COP or GAP:

(1) You must make the first rent payment when the operations term begins, as provided in § 585.500;

(2) You must submit all subsequent rent payments in accordance with the regulations at 30 CFR 1218.51; and

(3) You must continue to pay annual rent for your project easement until your lease is terminated.

### § 585.508 What rent payments must I pay on ROW grants or RUE grants associated with renewable energy projects?

(a) For each ROW grant BOEM approves under subpart C of this part, you must pay ONRR, under the regulations at 30 CFR part 1218, an annual rent as follows, unless specified otherwise in the Final Sale Notice:

(1) A fee of $70 for each nautical mile or part of a nautical mile of the OCS that your ROW crosses; and

(2) An additional $5 per acre, subject to a minimum of $450 for use of the entire affected area, if you hold a ROW grant that includes a site outside the corridor of a 200-foot width (61 meters), centered on the cable or pipeline. The affected area includes the areal extent of anchor chains, risers, and other devices associated with a site outside the corridor.

(b) For each RUE grant BOEM approves under subpart C of this part, you must pay ONRR, under the regulations at 30 CFR part 1218, a rent of:

(1) $5 per acre per year; or

(2) A minimum of $450 per year.

(c) You must make the rent payments required by paragraphs (a) and (b) of this section on:

(1) An annual basis;

(2) For a 5-year period; or

(3) For multiples of 5 years.

(d) You must make the first annual rent payment upon approval of your ROW grant or RUE grant request, as provided in § 585.500, and all subsequent rent payments to ONRR in accordance with the regulations at 30 CFR 1218.51.

### § 585.509 Who is responsible for submitting lease or grant payments to BOEM?

(a) For each lease, ROW grant, or RUE grant issued under this part, you must identify one person who is responsible for all payments due and payable under the provisions of the lease or grant. The responsible person identified is designated as the payor, and you must document acceptance of such responsibilities, as provided in 30 CFR 1218.52.

(b) All payors must submit payments and maintain auditable records in accordance with guidance we issue or any applicable regulations in subchapter A of this chapter. In addition, the lessee or grant holder must also maintain such auditable records.

### § 585.510 May BOEM reduce or waive my lease or grant payments?

(a) BOEM Director may reduce or waive the rent or operating fee or components of the operating fee, such as the fee rate or capacity factor, when the Director determines that it is necessary to encourage continued or additional activities.

(b) When requesting a reduction or waiver, you must submit an application to us that includes all of the following:

(1) The number of the lease, ROW grant, or RUE grant involved;

(2) Name of each lessee or grant holder of record;

(3) Name of each operator;

(4) A demonstration that:

(i) Continued activities would be uneconomic without the requested reduction or waiver, or

(ii) A reduction or waiver is necessary to encourage additional activities; and

(5) Any other information required by the Director.

(c) No more than 6 years of your operations term will be subject to a full waiver of the operating fee.

### § 585.511–585.514 [Reserved]

## FINANCIAL ASSURANCE REQUIREMENTS FOR COMMERCIAL LEASES

### § 585.515 What financial assurance must I provide when I obtain my commercial lease?

(a) Before BOEM will issue your commercial lease or approve an assignment of an existing commercial lease, you (or, for an assignment, the proposed assignee) must guarantee compliance with all terms and conditions of the lease by providing either:

(1) A $100,000 minimum, lease-specific bond; or

(2) Another approved financial assurance instrument guaranteeing performance up to $100,000, as specified in §§ 585.526 through 585.529.

(b) You meet the financial assurance requirements under this subpart if your designated lease operator provides a $100,000 minimum, lease-specific bond or other approved financial assurance that guarantees compliance with all terms and conditions of the lease.

(1) The dollar amount of the minimum, lease-specific financial assurance in paragraphs (a)(1) and (b) of this section will be adjusted to reflect changes in the Consumer Price Index-All Urban Consumers (CPI–U) or a substantially equivalent index if the CPI–U is discontinued; and

(2) The first CPI–U-based adjustment can be made no earlier than the 5-year anniversary of the adoption of this rule. Subsequent CPI–U-based adjustments may be made every 5 years thereafter.

### § 585.516 What are the financial assurance requirements for each stage of my commercial lease?

(a) The basic financial assurance requirements for each stage of your commercial lease are as follows:

| Before BOEM will . . . | You must provide . . . |
|---|---|
| (1) Issue a commercial lease or approve an assignment of an existing commercial lease. | A $100,000 minimum, lease-specific financial assurance. |

| Before BOEM will . . . | You must provide . . . |
|---|---|
| (2) Approve your SAP | A supplemental bond or other financial assurance, in an amount determined by BOEM, if upon reviewing your SAP, BOEM determines that a supplemental bond is required in addition to your minimum lease-specific bond, due to the complexity, number, and location of any facilities involved in your site assessment activities. |
| (3) Approve your COP | A supplemental bond or other financial assurance, in an amount determined by BOEM based on the complexity, number, and location of all facilities involved in your planned activities and commercial operation. The supplemental financial assurance requirement is in addition to your lease-specific bond and, if applicable, the previous supplement associated with SAP approval. |
| (4) Allow you to install facilities approved in your COP | A decommissioning bond or other financial assurance, in an amount determined by BOEM based on anticipated decommissioning costs. BOEM will allow you to provide your financial assurance for decommissioning in accordance with the number of facilities installed or being installed. BOEM must approve the schedule for providing the appropriate financial assurance coverage. |

(b) Each bond or other financial assurance must guarantee compliance with all terms and conditions of the lease. You may provide a new bond or increase the amount of your existing bond, to satisfy any additional financial assurance requirements.

(c) For hydrokinetic commercial leases, supplemental financial assurance may be required in an amount determined by BOEM before FERC issues a license.

### § 585.517 How will BOEM determine the amounts of the supplemental and decommissioning financial assurance requirements associated with commercial leases?

(a) BOEM will base the determination for the amounts of the SAP, COP, and decommissioning financial assurance requirements on estimates of the cost to meet all accrued lease obligations.

(b) We determine the amount of the supplemental and decommissioning financial assurance requirements on a case-by-case basis. The amount of the financial assurance must be no less than the amount required to meet all lease obligations, including:

(1) The projected amount of rent and other payments due the Government over the next 12 months;

(2) Any past due rent and other payments;

(3) Other monetary obligations; and

(4) The estimated cost of facility decommissioning, as required by subpart I of this part.

(c) If your cumulative potential obligations and liabilities increase or decrease, we may adjust the amount of supplemental or the decommissioning financial assurance.

(1) If we propose adjusting your financial assurance amount, we will notify you of the proposed adjustment and give you an opportunity to comment; and

(2) We may approve a reduced financial assurance amount if you request it and if the reduced amount that you request continues to be greater than the sum of:

(i) The projected amount of rent and other payments due the Government over the next 12 months;

(ii) Any past due rent and other payments;

(iii) Other monetary obligations; and

(iv) The estimated cost of facility decommissioning.

### §§ 585.518–585.519 [Reserved]

## FINANCIAL ASSURANCE FOR LIMITED LEASES, ROW GRANTS, AND RUE GRANTS

### § 585.520 What financial assurance must I provide when I obtain my limited lease, ROW grant, or RUE grant?

(a) Before BOEM will issue your limited lease, ROW grant, or RUE grant, you or a proposed assignee must guarantee compliance with all terms and conditions of the lease or grant by providing either:

(1) A $300,000 minimum, lease- or grant-specific bond; or

(2) Another approved financial assurance instrument of such minimum level as specified in §§ 585.526 through 585.529.

(b) You meet the financial assurance requirements under this subpart if your designated lease or grant operator provides a minimum limited lease-specific or grant-specific bond in an amount sufficient to guarantee compliance with all terms and conditions of the limited lease or grant.

(1) The dollar amount of the minimum, lease- or grant-specific financial assurance in paragraph (a)(1) of this section will be adjusted to reflect changes in the CPI–U or a substantially equivalent index if the CPI–U is discontinued; and

(2) The first CPI–U-based adjustment can be made no earlier than the 5-year anniversary of the adoption of this rule. Subsequent CPI–U-based adjustments may be made every 5 years thereafter.

### § 585.521 Do my financial assurance requirements change as activities progress on my limited lease or grant?

(a) BOEM may require you to increase the level of your financial assurance as activities progress on your limited lease or grant. We will base the determination for the amount of financial assurance requirements on our estimate of the cost to meet all accrued lease or grant obligations, including:

(1) The projected amount of rent and other payments due the Government over the next 12 months;

(2) Any past due rent and other payments;

(3) Other monetary obligations; and

(4) The estimated cost of facility decommissioning.

(b) You may satisfy the requirement for increased financial assurance levels for the limited lease or grant by increasing the amount of your existing bond or replacing your existing bond.

(c) BOEM will authorize you to establish a separate decommissioning bond or other financial assurance for your limited lease or grant.

(1) The separate decommissioning bond or other financial assurance instrument must meet the requirements specified in §§ 585.525 through 585.529.

(2) BOEM will allow you to provide your financial assurance for decommissioning in accordance with the number of facilities installed or being installed. BOEM must approve the schedule for providing the appropriate financial assurance coverage.

### §§ 585.522–585.524 [Reserved]

## Requirements for Financial Assurance Instruments

### § 585.525 What general requirements must a financial assurance instrument meet?

(a) Any bond or other acceptable financial assurance instrument that you provide must:

(1) Be payable to BOEM upon demand; and

(2) Guarantee compliance of all lessees, grant holders, operators, and payors with all terms and conditions of the lease or grant, any subsequent approvals and authorizations, and all applicable regulations.

(b) All bonds and other forms of financial assurance must be on or in a form approved by BOEM. You may submit this on an approved form that you have reproduced or generated by use of a computer. If the document you submit omits any terms and conditions that are included on the BOEM-approved form, your bond is deemed to contain the omitted terms and conditions.

(c) Surety bonds must be issued by an approved surety listed in the current Treasury Circular 570, as required by 31 CFR 223.16. You may obtain a copy of Circular 570 from the Treasury Web site at *http://www.fms.treas.gov/c570/*.

(d) Your surety bond cannot exceed the underwriting limit listed in the current Treasury Circular 570, except as permitted therein.

(e) You and a qualified surety must execute your bond. When the surety is a corporation, an authorized corporate officer must sign the bond and attest to it over the corporate seal.

(f) You may not terminate the period of liability of your bond or cancel your bond, except as provided in this subpart. Bonds must continue in full force

and effect even though an event has occurred that could diminish or terminate a surety's obligation under State law.

(g) Your surety must notify you and BOEM within 5 business days after:

(1) It initiates any judicial or administrative proceeding alleging its insolvency or bankruptcy; or

(2) The Treasury decertifies the surety.

### § 585.526 What instruments other than a surety bond may I use to meet the financial assurance requirement?

(a) You may use other types of security instruments, if BOEM determines that such security protects BOEM to the same extent as the surety bond. BOEM will consider pledges of the following:

(1) U.S. Department of Treasury securities identified in 31 CFR part 225;

(2) Cash in an amount equal to the required dollar amount of the financial assurance, to be deposited and maintained in a Federal depository account of the U.S. Treasury by BOEM;

(3) Certificates of deposit or savings accounts in a bank or financial institution organized or authorized to transact business in the United States with:

(i) Minimum net assets of $500,000,000; and

(ii) Minimum Bankrate.com Safe & Sound rating of 3 Stars, and Capitalization, Assets, Equity and Liquidity (CAEL) rating of 3 or less;

(4) Negotiable U.S. Government, State, and municipal securities or bonds having a market value of not less than the required dollar amount of the financial assurance and maintained in a Securities Investors Protection Corporation insured trust account by a licensed securities brokerage firm for the benefit of the BOEM;

(5) Investment-grade rated securities having a Standard and Poor's rating of AAA or an equivalent rating from a nationally recognized securities rating service having a market value of not less than the required dollar amount of the financial assurance and maintained in a Securities Investors Protection Corporation insured trust account by a licensed securities brokerage firm for the benefit of BOEM; and

(6) Insurance, if its form and function is such that the funding or enforceable pledges of funding are used to guarantee performance of regulatory obligations in the event of default on such obligations by the lessee. Insurance must have an A.M. Best rating of ''superior'' or an equivalent rating from a nationally recognized insurance rating service.

(b) If you use a Treasury security:

(1) You must post 115 percent of your financial assurance amount;

(2) You must monitor the collateral value of your security. If the collateral value of your security as determined in accordance with the 31 CFR part 203 Collateral Margins Table (which can be found at *http://www.treasurydirect.gov*) falls below the required level of coverage, you must pledge additional security to provide 115 percent of the required amount; and

(3) You must include with your pledge authority for us to sell the security and use the proceeds if we determine that you have failed to comply with any of the terms and conditions of your lease or grant, any subsequent approval or authorization, or applicable regulations.

(c) If you use the instruments described in paragraphs (a)(4) or (a)(5) of this section, you must provide BOEM by the end of each calendar year a certified statement describing the nature and market value of the instruments maintained in that account, and including any current statements or reports furnished by the brokerage firm to the lessee concerning the asset value of the account.

### § 585.527 May I demonstrate financial strength and reliability to meet the financial assurance requirement for lease or grant activities?

BOEM may allow you to use your financial strength and reliability to meet financial assurance requirements. We will make this determination based on audited financial statements, business stability, reliability, and compliance with regulations.

(a) You must provide the following information if you want to demonstrate financial strength and reliability to meet your financial assurance requirements:

(1) Audited financial statements (including auditor's certificate, balance sheet, and profit and loss sheet) that show you have financial capacity substantially in excess of existing and anticipated lease and other obligations;

(2) Evidence that shows business stability based on 5 years of continuous operation and generation of renewable energy on the OCS or onshore;

(3) Evidence that shows reliability in meeting obligations based on credit ratings or trade references, including names and addresses of other lessees, contractors, and suppliers with whom you have dealt; and

(4) Evidence that shows a record of compliance with laws, regulations, and lease, ROW, or RUE terms.

(b) If we approve your request to use your financial strength and reliability to meet your financial assurance requirements, you must submit annual updates to the information required by paragraph (a) of this section. You must submit this information no later than March 31 of each year.

(c) If the annual updates to the information required by paragraph (a) of this section do not continue to demonstrate financial strength and reliability or BOEM has reason to believe that you are unable to meet the financial assurance requirements of this section, after notice and opportunity for a hearing, BOEM will terminate your ability to use financial strength and reliability for financial assurance and require you to provide another type of financial assurance. You must provide this new financial assurance instrument within 90 days after we terminate your use of financial strength and reliability.

### § 585.528 May I use a third-party guaranty to meet the financial assurance requirement for lease or grant activities?

(a) You may use a third-party guaranty if the guarantor meets the criteria prescribed in paragraph (b) of this section and submits an agreement meeting the criteria prescribed in paragraph (c) of this section. The agreement must guarantee compliance with the obligations of all lessees and operators and grant holders.

(b) BOEM will consider the following factors in deciding whether to accept an agreement:

(1) The length of time that your guarantor has been in continuous operation as a business entity. You may exclude periods of interruption that are beyond the guarantor's control by demonstrating, to the satisfaction of the Director, that the interruptions do not affect the likelihood of your guarantor remaining in business during the SAP, COP, and decommissioning stages of activities covered by the indemnity agreement.

(2) Financial information available in the public record or submitted by your guarantor in sufficient detail to show us that your guarantor meets the criterion stated in paragraph (b)(4) of this section. Such detail includes:

(i) The current rating for your guarantor's most recent bond issuance by a generally recognized bond rating service such as Moody's Investor Service or Standard and Poor's Corporation;

(ii) Your guarantor's net worth, taking into account liabilities for compliance with all terms and conditions of your lease, regulations, and other guarantees;

(iii) Your guarantor's ratio of current assets to current liabilities, taking into account liabilities for compliance with all terms and conditions of your lease, regulations, and other guarantees; and

(iv) Your guarantor's unencumbered domestic fixed assets.

(3) If the information in paragraph (b)(2) of this section is not publicly available, your guarantor must submit the information in the following table, to be updated annually within 90 days of the end of the fiscal year (FY) or as otherwise prescribed.

| Your guarantor must submit . . . | That . . . |
|---|---|
| (i) Financial statements for the most recently completed FY ..... | Include a report by an independent certified public accountant containing the accountant's audit or review opinion of the statements. The report must be prepared in conformance with generally accepted accounting principles and contain no adverse opinion. |
| (ii) Financial statement for completed quarter in the current FY | Your guarantor's financial officer certifies to be correct. |

| Your guarantor must submit . . . | That . . . |
|---|---|
| (iii) Additional information related to bonds, if requested by the Director. | Your guarantor's financial officer certifies to be correct. |

(4) Your guarantor's total outstanding and proposed guarantees must not exceed 25 percent of its unencumbered domestic net worth.

(c) Your guarantor must submit an agreement executed by the guarantor and all parties bound by the agreement. All parties are bound jointly and severally and must meet the qualifications set forth in § 585.107.

(1) When any party is a corporation, two corporate officers authorized to execute the guaranty agreement on behalf of the corporation must sign the agreement.

(2) When any party is a partnership, joint venture, or syndicate, the guaranty agreement must bind each party who has a beneficial interest in your guarantor and provide that, upon BOEM demand under your guaranty, each party is jointly and severally liable for compliance with all terms and conditions of your lease(s) or grant(s) covered by the agreement.

(3) When forfeiture of the guaranty is called for, the agreement must provide that your guarantor will either bring your lease(s) or grant(s) into compliance or provide, within 7 days, sufficient funds to permit BOEM to complete corrective action.

(4) The guaranty agreement must contain a confession of judgment, providing that, if we determine that you are, or your operator or operating rights owner is, in default, the guarantor must not challenge the determination and must remedy the default.

(5) If you fail, or your operator or operating rights owner fails, to comply with any law, term, or regulation, your guarantor must either take corrective action or provide, within 7 days or other agreed upon time period, sufficient funds for BOEM to complete corrective action. Such compliance must not reduce your guarantor's liability.

(6) If your guarantor wants to terminate the period of liability, your guarantor must notify you and us at least 90 days before the proposed termination date, obtain our approval for termination of all or a specified portion of the guarantee for liabilities arising after that date, and remain liable for all your work performed during the period the agreement is in effect.

(7) Each guaranty submitted pursuant to this section is deemed to contain all the above terms, even if they are not actually in the agreement.

(d) Before the termination of your guaranty, you must provide an acceptable replacement in the form of a bond or other security.

### § 585.529 Can I use a lease- or grant-specific decommissioning account to meet the financial assurance requirements related to decommissioning?

(a) In lieu of a surety bond, BOEM may authorize you to establish a lease-, ROW grant-, or RUE grant-specific decommissioning account in a federally-insured institution. The funds may not be withdrawn from the account without our written approval.

(1) The funds must be payable to BOEM and pledged to meet your lease or grant decommissioning and site clearance obligations; and

(2) You must fully fund the account within the time BOEM prescribes to cover all costs of decommissioning including site clearance. BOEM will estimate the cost of decommissioning, including site clearance.

(b) Any interest paid on the account will be treated as account funds unless we authorize in writing that any interest be paid to the depositor.

(c) We may allow you to pledge Treasury securities, payable to BOEM on demand, to satisfy your obligation to make payments into the account. Acceptable Treasury securities and their collateral value are determined in accordance with 31 CFR part 203, Collateral Margins Table (which can be found at *http://www.treasurydirect.gov*).

(d) We may require you to commit a specified stream of revenues as payment into the account so that the account will be fully funded, as prescribed in paragraph (a)(2) of this section. The commitment may include revenue from other operations.

CHANGES IN FINANCIAL ASSURANCE

### § 585.530 What must I do if my financial assurance lapses?

(a) If your surety is decertified by the Treasury, becomes bankrupt or insolvent, or if your surety's charter or license is suspended or revoked, or if any other approved financial assurance expires for any reason, you must:

(1) Inform BOEM within 3 business days about the financial assurance lapse; and

(2) Provide new financial assurance in the amount set by BOEM, as provided in this subpart.

(b) You must notify BOEM within 3 business days after you learn of any action filed alleging that you, your surety, or third-party guarantor, is insolvent or bankrupt.

### § 585.531 What happens if the value of my financial assurance is reduced?

If the value of your financial assurance is reduced below the required financial assurance amount because of a default or any other reason, you must provide additional financial assurance sufficient to meet the requirements of this subpart within 45 days or within a different period as specified by BOEM.

### § 585.532 What happens if my surety wants to terminate the period of liability of my bond?

(a) Terminating the period of liability of a bond ends the period during which surety liability continues to accrue. The surety continues to be responsible for obligations and liabilities that accrued during the period of liability and before the date on which BOEM terminates the period of liability under paragraph (b) of this section. The liabilities that accrue during a period of liability include:

(1) Obligations that started to accrue before the beginning of the period of liability and have not been met; and

(2) Obligations that began accruing during the period of liability.

(b) Your surety must submit to BOEM its request to terminate the period of liability under its bond and notify you of that request. If you intend to continue activities, or have not met all obligations of your lease or grant, you must provide a replacement bond or alternative form of financial assurance of equivalent or greater value. BOEM will terminate that period of liability within 90 days after BOEM receives the request.

### § 585.533 How does my surety obtain cancellation of my bond?

(a) BOEM will release a bond or allow a surety to cancel a bond, and will relieve the surety from accrued obligations only if:

(1) BOEM determines that there are no outstanding obligations covered by the bond; or

(2) The following occurs:

(i) BOEM accepts a replacement bond or an alternative form of financial assurance in an amount equal to or greater than the bond to be cancelled to cover the terminated period of liability;

(ii) The surety issuing the new bond has expressly agreed to assume all outstanding liabilities under the original bond that accrued during the period of liability that was terminated; and

(iii) The surety issuing the new bond has agreed to assume that portion of the outstanding liabilities that accrued during the terminated period of liability that exceeds the coverage of the bond prescribed under §§ 585.515, 585.516, 585.520, or 585.521, and of which you were notified.

(b) When your lease or grant ends, your surety(ies) remain(s) responsible, and BOEM will retain any financial assurance as follows:

(1) The period of liability ends when you cease all operations and activities under the lease or grant, including decommissioning and site clearance;

(2) Your surety or collateral financial assurance will not be released until 7 years after the lease ends, or a longer period as necessary to complete any appeals or judicial litigation related to your bonded obligation, or for BOEM to determine that all of your obligations under the lease or grant have been satisfied; and

(3) BOEM will reduce the amount of your bond or return a portion of your financial assurance if we determine that we need less than the full amount of the bond or financial assurance to meet any possible future obligations.

### § 585.534 When may BOEM cancel my bond?

When your lease or grant ends, your surety(ies) remain(s) responsible, and BOEM will retain any pledged security as shown in the following table:

| Bond | The period of liability ends . . . | Your bond will not be released until . . . |
|---|---|---|
| (a) Bonds for commercial leases submitted under § 585.515. | When BOEM determines that you have met all of your obligations under the lease. | Seven years after the lease ends, or a longer period as necessary to complete any appeals or judicial litigation related to your bond obligation. BOEM will reduce the amount of your bond or return a portion of your security if BOEM determines that you need less than the full amount of the bond to meet any possible future obligations. |
| (b) Supplemental or decommissioning bonds submitted under § 585.516. | When BOEM determines that you have met all your decommissioning, site clearance, and other obligations. | (1) Seven years after the lease ends, or a longer period as necessary to complete any appeals or judicial litigation related to your bond obligation. BOEM will reduce the amount of your bond or return a portion of your security if BOEM determines that you need less than the full amount of the bond to meet any possible future obligations; and<br>(2) BOEM determines that the potential liability resulting from any undetected noncompliance is not greater than the amount of the lease base bond. |
| (c) Bonds submitted under §§ 585.520 and 585.521 for limited leases, ROW grants, or RUE grants. | When BOEM determines that you have met all of your obligations under the limited lease or grant. | Seven years after the limited lease, ROW, or RUE grant or a longer period as necessary to complete any appeals or judicial litigation related to your bond obligation. BOEM will reduce the amount of your bond or return a portion of your security if BOEM determines that you need less than the full amount of the bond to meet any possible future obligations. |

### § 585.535 Why might BOEM call for forfeiture of my bond?

(a) BOEM may call for forfeiture of all or part of the bond, pledged security, or other form of guaranty if:

(1) After notice and demand for performance by BOEM, you refuse or fail, within the timeframe we prescribe, to comply with any term or condition of your lease or grant, other authorization or approval, or applicable regulations; or

(2) You default on one of the conditions under which we accepted your bond.

(b) We may pursue forfeiture without first making demands for performance against any co-lessee or holder of an interest in your ROW or RUE, or other person approved to perform obligations under your lease or grant.

### § 585.536 How will I be notified of a call for forfeiture?

(a) BOEM will notify you and your surety, including any provider of financial assurance, in writing of the call for forfeiture and provide the reasons for the forfeiture and the amount to be forfeited. We will base the amount upon an estimate of the total cost of corrective action to bring your lease or grant into compliance.

(b) We will advise you and your surety that you may avoid forfeiture if, within 10 business days:

(1) You agree to and demonstrate in writing to BOEM that you will bring your lease or grant into compliance within the timeframe we prescribe, and you do so; or

(2) Your surety agrees to and demonstrates that it will bring your lease or grant into compliance within the

timeframe we prescribe, even if the cost of compliance exceeds the face amount of the bond.

### § 585.537 How will BOEM proceed once my bond or other security is forfeited?

(a) If BOEM determines that your bond or other security is forfeited, we will collect the forfeited amount and use the funds to bring your lease or grant(s) into compliance and correct any default.

(b) If the amount collected under your bond or other security is insufficient to pay the full cost of corrective action, BOEM may take or direct action to obtain full compliance and recover all costs in excess of the forfeited bond from you or any co-lessee or co-grantee.

(c) If the amount collected under your bond or other security exceeds the full cost of corrective action to bring your lease or grant(s) into compliance, we will return the excess funds to the party from whom the excess was collected.

### §§ 585.538–585.539 [Reserved]

REVENUE SHARING WITH STATES

### § 585.540 How will BOEM equitably distribute revenues to States?

(a) BOEM will distribute among the eligible coastal States 27 percent of the following revenues derived from qualified projects, where a qualified project and qualified project area is determined in § 585.541 and an eligible State is determined in § 585.542, with each term defined in § 585.112. Revenues subject to distribution to eligible States include all bonuses, acquisition fees, rentals, and operating fees derived from the entire qualified project area and associated project easements not limited to revenues attributable to the portion of the project area within 3 miles of the seaward boundary of a coastal State. The revenues to be shared do not include administrative fees such as service fees and those assessed for civil penalties and forfeiture of bond or other surety obligations.

(b) The project area is the area included within a single lease or grant. For each qualified project, BOEM will determine and announce the project area and its geographic center at the time it grants or issues a lease, easement, or right-of-way on the OCS. If a qualified project lease or grant's boundaries change significantly due to actions pursuant to §§ 585.435 or 585.436, BOEM will re-evaluate the project area to determine whether the geographic center has changed. If it has, BOEM will re-determine State eligibility and shares accordingly.

(c) To determine each eligible State's share of the 27 percent of the revenues for a qualified project, BOEM will use the inverse distance formula, which apportions shares according to the relative proximity of the nearest point on the coastline of each eligible State to the geographic center of the qualified project area. If $S_i$ is equal to the nearest distance from the geographic center of the project area to the i = 1, 2, * * * nth eligible State's coastline, then eligible State i would be entitled to the fraction $F_i$ of the 27-percent aggregate revenue share due to all the eligible States according to the formula:

$F_i = (1/S_i) \div (\Sigma_{i=}1 * * *_n(1/S_i))$.

### § 585.541 What is a qualified project for revenue sharing purposes?

A qualified project for the purpose of revenue sharing with eligible coastal States is one authorized under subsection 8(p) of the OCS Lands Act, which includes acreage within the area extending 3 nautical miles seaward of State submerged lands. A qualified project is subject to revenue sharing with those States that are eligible for revenue sharing under § 585.542. The entire area within a lease or grant for the qualified project, excluding project easements, is considered the qualified project area.

### § 585.542 What makes a State eligible for payment of revenues?

A State is eligible for payment of revenues if any part of the State's coastline is located within 15 miles of the announced geographic center of the project area of a qualified project. A State is not eligible for revenue sharing if all parts of that State's coastline are more than 15 miles from the announced geographic center of the qualified project area. This is the case even if the qualified project area is located

wholly or partially within an area extending 3 nautical miles seaward of the submerged lands of that State or if there are no States with a coastline less than 15 miles from the announced geographic center of the qualified project area.

### § 585.543 Example of how the inverse distance formula works.

(a) Assume that the geographic center of the project area lies 12 miles from the closest coastline point of State A and 4 miles from the closest coastline point of State B. BOEM will round dollar shares to the nearest whole dollar. The proportional share due each State would be calculated as follows:

(1) State A's share = $[(1/12) \div (1/12+1/4)] = 1/4$.

(2) State B's share = $[(1/4) \div (1/12+1/4)] = 3/4$.

(b) Therefore, State B would receive a share of revenues that is three times as large as that awarded to State A, based on the finding that State B's nearest coastline is one-third the distance to the geographic center of the qualified project area as compared to State A's nearest coastline. Eligible States share the 27 percent of the total revenues from the qualified project as mandated under the OCS Lands Act. Hence, if the qualified project generates $1,000,000 of Federal revenues in a given year, the Federal Government would distribute the States' 27-percent share as follows:

(1) State A's share = $270,000 × 1/4 = $67,500.

(2) State B's share = $270,000 × 3/4 = $202,500.

## Subpart F—Plans and Information Requirements

### § 585.600 What plans and information must I submit to BOEM before I conduct activities on my lease or grant?

You must submit a SAP, COP, or GAP and receive BOEM approval as set forth in the following table:

| Before you: | you must: |
|---|---|
| (a) conduct any site assessment activities on your commercial lease, | submit and obtain approval for your SAP according to §§ 585.605 through 585.613. |
| (b) conduct any activities pertaining to construction of facilities for commercial operations on your commercial lease, | submit and obtain approval for your COP, according to §§ 585.620 through 585.629. |
| (c) conduct any activities on your limited lease, ROW grant, or RUE grant in any OCS area, | submit and obtain approval for your GAP according to §§ 585.640 through 585.648. |

### § 585.601 When am I required to submit my plans to BOEM?

Your plan submission requirements depend on whether your lease or grant was issued competitively or noncompetitively under subpart B or subpart C of this part.

(a) If your lease or grant is issued competitively, you must submit your SAP or your GAP within 6 months of issuance.

(b) If you request that a lease or grant be issued noncompetitively, you must submit your SAP or your GAP within 60 days after the Director issues a determination that there is no competitive interest.

(c) If you intend to continue your commercial lease with an operations term, you must submit a COP, or a FERC license application, at least 6 months before the end of your site assessment term.

(d) You may submit your COP or FERC license application with your SAP.

(1) You must provide sufficient data and information with your COP for BOEM to complete the needed reviews and NEPA analysis; and

(2) BOEM may need to conduct additional reviews, including NEPA analysis, if significant new information becomes available after you complete your site assessment activities or you revise your COP. As a result of the additional reviews, we may require modification of your COP.

### § 585.602 What records must I maintain?

Until BOEM releases your financial assurance under § 585.534, you must

maintain and provide to BOEM, upon request, all data and information related to compliance with required terms and conditions of your SAP, COP, or GAP.

### §§ 585.603–585.604 [Reserved]

SITE ASSESSMENT PLAN AND INFORMATION REQUIREMENTS FOR COMMERCIAL LEASES

### § 585.605 What is a Site Assessment Plan (SAP)?

(a) A SAP describes the activities (e.g., installation of meteorological towers, meteorological buoys) you plan to perform for the characterization of your commercial lease, including your project easement, or to test technology devices.

(1) Your SAP must describe how you will conduct your resource assessment (e.g., meteorological and oceanographic data collection) or technology testing activities; and

(2) BOEM will withhold trade secrets and commercial or financial information that is privileged or confidential from public disclosure under exemption 4 of the FOIA and as provided in § 585.113.

(b) Your SAP must include data from:

(1) Physical characterization surveys (e.g., geological and geophysical surveys or hazards surveys); and

(2) Baseline environmental surveys (e.g., biological or archaeological surveys).

(c) You must receive BOEM approval of your SAP before you can begin any of the approved activities on your lease, as provided in § 585.613.

(d) If you propose to construct a facility or combination of facilities deemed by BOEM to be complex or significant, as provided in § 585.613(a)(1), you must also comply with the requirements of subpart G of this part and submit your Safety Management System as required by § 585.810.

### § 585.606 What must I demonstrate in my SAP?

(a) Your SAP must demonstrate that you have planned and are prepared to conduct the proposed site assessment activities in a manner that conforms to your responsibilities listed in § 585.105(a) and:

(1) Conforms to all applicable laws, regulations, and lease provisions of your commercial lease;

(2) Is safe;

(3) Does not unreasonably interfere with other uses of the OCS, including those involved with National security or defense;

(4) Does not cause undue harm or damage to natural resources; life (including human and wildlife); property; the marine, coastal, or human environment; or sites, structures, or objects of historical or archaeological significance;

(5) Uses best available and safest technology;

(6) Uses best management practices; and

(7) Uses properly trained personnel.

(b) You must also demonstrate that your site assessment activities will collect the necessary information and data required for your COP, as provided in § 585.626(a).

### § 585.607 How do I submit my SAP?

You must submit one paper copy and one electronic version of your SAP to BOEM at the address listed in § 585.110(a).

### §§ 585.608–585.609 [Reserved]

CONTENTS OF THE SITE ASSESSMENT PLAN

### § 585.610 What must I include in my SAP?

Your SAP must include the following information, as applicable.

(a) For all activities you propose to conduct under your SAP, you must provide the following information:

| Project information | Including |
|---|---|
| (1) Contact information | The name, address, e-mail address, and phone number of an authorized representative. |
| (2) The site assessment or technology testing concept | A discussion of the objectives; description of the proposed activities, including the technology you will use; and proposed schedule from start to completion. |
| (3) Designation of operator, if applicable | As provided in § 585.405. |

| Project information | Including |
|---|---|
| (4) Commercial lease stipulations and compliance | A description of the measures you took, or will take, to satisfy the conditions of any lease stipulations related to your proposed activities. |
| (5) A location plat | The surface location and water depth for all proposed and existing structures, facilities, and appurtenances located both offshore and onshore. |
| (6) General structural and project design, fabrication, and installation. | Information for each type of facility associated with your project. |
| (7) Deployment activities | A description of the safety, prevention, and environmental protection features or measures that you will use. |
| (8) Your proposed measures for avoiding, minimizing, reducing, eliminating, and monitoring environmental impacts. | A description of the measures you will use to avoid or minimize adverse effects and any potential incidental take, before you conduct activities on your lease, and how you will mitigate environmental impacts from your proposed activities, including a description of the measures you will use as required by subpart H of this part. |
| (9) CVA nomination, if required | CVA nominations for reports in subpart G of this part, as required by §585.706, or a request to waive the CVA requirement, as required by §585.705(c). |
| (10) Reference information | A list of any document or published source that you cite as part of your plan. You may reference information and data discussed in other plans you previously submitted or that are otherwise readily available to BOEM. |
| (11) Decommissioning and site clearance procedures | A discussion of methodologies. |
| (12) Air quality information | Information as described in §585.659 of this section. |
| (13) A listing of all Federal, State, and local authorizations or approvals required to conduct site assessment activities on your lease. | A statement indicating whether such authorization or approval has been applied for or obtained. |
| (14) A list of agencies and persons with whom you have communicated, or with whom you will communicate, regarding potential impacts associated with your proposed activities. | Contact information and issues discussed. |
| (15) Financial assurance information | Statements attesting that the activities and facilities proposed in your SAP are or will be covered by an appropriate bond or other approved security, as required in §§585.515 and 585.516. |
| (16) Other information | Additional information as requested by BOEM. |

(b) You must provide the results of geophysical and geological surveys, hazards surveys, archaeological surveys (if required), and baseline collection studies (e.g., biological) with the supporting data in your SAP:

| Information | Report contents | Including |
|---|---|---|
| (1) Geotechnical | The results from the geotechnical survey with supporting data. | A description of all relevant seabed and engineering data and information to allow for the design of the foundation for that facility. You must provide data and information to depths below which the underlying conditions will not influence the integrity or performance of the structure. This could include a series of sampling locations (borings and in situ tests) as well as laboratory testing of soil samples, but may consist of a minimum of one deep boring with samples. |
| (2) Shallow hazards | The results from the shallow hazards survey with supporting data. | A description of information sufficient to determine the presence of the following features and their likely effects on your proposed facility, including:<br>(i) Shallow faults;<br>(ii) Gas seeps or shallow gas;<br>(ii) Slump blocks or slump sediments;<br>(iv) Hydrates; and<br>(v) Ice scour of seabed sediments. |
| (3) Archaeological resources. | The results from the archaeological survey with supporting data, if required. | (i) A description of the results and data from the archaeological survey;<br>(ii) A description of the historic and prehistoric archaeological resources, as required by the National Historic Preservation Act (NHPA) of 1966, as amended. |

| Information | Report contents | Including |
|---|---|---|
| (4) Geological survey ..... | The results from the geological survey with supporting data. | A report that describes the results of a geological survey that includes descriptions of:<br>(i) Seismic activity at your proposed site;<br>(ii) Fault zones;<br>(iii) The possibility and effects of seabed subsidence; and<br>(iv) The extent and geometry of faulting attenuation effects of geologic conditions near your site. |
| (5) Biological survey ..... | The results from the biological survey with supporting data. | A description of the results of a biological survey, including descriptions of the presence of live bottoms; hard bottoms; topographic features; and surveys of other marine resources such as fish populations (including migratory populations), marine mammals, sea turtles, and sea birds. |

(c) If you submit your COP or FERC license application with your SAP then:

(1) You must provide sufficient data and information with your COP or FERC license application for BOEM and/or FERC to complete the needed reviews and NEPA analysis.

(2) You may need to revise your COP or FERC license application and BOEM and/or FERC may need to conduct additional reviews, including NEPA analysis, if new information becomes available after you complete your site assessment activities.

### § 585.611 What information must I submit with my SAP to assist BOEM in complying with NEPA and other relevant laws?

(a) You must submit with your SAP detailed information to assist BOEM in complying with NEPA and other relevant laws, as appropriate. For a noncompetitive commercial lease, you must submit a SAP that describes those resources, conditions, and activities listed in the following table that could be affected by your proposed activities, or that could affect the activities proposed in your SAP.

(b) For competitively issued commercial leases, BOEM will have prepared a NEPA document and consistency determination for the lease sale and site assessment activities. However, if you submit a SAP that shows changes in impacts from those identified in the NEPA document or consistency determination prepared for the lease, BOEM may determine that your SAP is subject to a new NEPA/CZMA and other relevant Federal reviews. In that case, BOEM will notify you of the determination, and you must submit a SAP that describes those resources, conditions, and activities listed in the following table that could be affected by your proposed activities, or that could affect the activities proposed in your SAP, including:

| Type of information | Including |
|---|---|
| (1) Hazard information ..... | Meteorology, oceanography, sediment transport, geology, and shallow geological or manmade hazards. |
| (2) Water quality ..... | Turbidity and total suspended solids from construction. |
| (3) Biological resources ..... | Benthic communities, marine mammals, sea turtles, coastal and marine birds, fish and shellfish, plankton, seagrasses, and plant life. |
| (4) Threatened or endangered species ..... | As required by the Endangered Species Act (ESA) of 1973 (16 U.S.C. 1531 *et seq.*). |
| (5) Sensitive biological resources or habitats ..... | Essential fish habitat, refuges, preserves, special management areas identified in coastal management programs, sanctuaries, rookeries, hard bottom habitat, chemosynthetic communities, and calving grounds; barrier islands, beaches, dunes, and wetlands. |
| (6) Archaeological resources ..... | As required by the NHPA (16 U.S.C. 470 *et seq.*), as amended. |

| Type of information | Including |
|---|---|
| (7) Social and economic resources | Employment, existing offshore and coastal infrastructure (including major sources of supplies, services, energy, and water), land use, subsistence resources and harvest practices, recreation, recreational and commercial fishing (including typical fishing seasons, location, and type), minority and lower income groups, coastal zone management programs, and viewshed. |
| (8) Coastal and marine uses | Military activities, vessel traffic, and energy and nonenergy mineral exploration or development. |
| (9) Consistency Certification | As required by CZMA, as appropriate:<br>(i) 15 CFR part 930, subpart D, for noncompetitive leases;<br>(ii) 15 CFR part 930, subpart E, for competitive leases. |
| (10) Other resources, conditions, and activities | As identified by BOEM. |

### § 585.612 How will my SAP be processed for Federal consistency under the Coastal Zone Management Act?

Your SAP will be processed based on how your commercial lease was issued:

| If your commercial lease was issued . . . | Your SAP will be handled as follows: |
|---|---|
| (a) Competitively | BOEM will prepare a consistency determination that will cover the lease sale and site assessment activities. However, if you submit a SAP that shows changes in impacts from those identified in the lease sale consistency determination, you may be subject to a new consistency review. In that case, BOEM will notify you of the determination and we will forward to the State CZM agency 1 copy and 1 electronic copy of your SAP, consistency certification, and necessary data and information required under 15 CFR part 930, subpart E, after BOEM has determined that all information requirements for the SAP are met and BOEM prepares its NEPA compliance document. |
| (b) Noncompetitively | You will furnish a copy of your SAP, consistency certification, and necessary data and information pursuant to 15 CFR part 930, subpart D, to the State's CZM agency and BOEM at the same time. |

### § 585.613 How will BOEM process my SAP?

(a) BOEM will review your submitted SAP, and additional information provided pursuant to § 585.611, to determine if it contains the information necessary to conduct our technical and environmental reviews.

(1) We will notify you if we deem your proposed facility or combination of facilities to be complex or significant;

(2) We will notify you if your submitted SAP lacks any necessary information;

(b) BOEM will prepare NEPA analysis, as appropriate.

(c) As appropriate, we will coordinate and consult with relevant Federal and State agencies, executives of relevant local governments, and affected Indian Tribes and will provide to other Federal, State, and local agencies and affected Indian Tribes relevant nonproprietary data and information pertaining to your proposed activities.

(d) 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. If you fail to provide the requested information, BOEM may disapprove your SAP.

(e) Upon completion of our technical and environmental reviews and other reviews required by Federal laws (e.g., CZMA), BOEM may approve, disapprove, or approve with modifications your SAP.

(1) If we approve your SAP, we will specify terms and conditions to be incorporated into your SAP. You must certify compliance with those terms and conditions required under § 585.615(c); and

(2) If we disapprove your SAP, we will inform you of the reasons and allow you an opportunity to submit a

revised plan making the necessary corrections, and may suspend the term of your lease, as appropriate, to allow this to occur.

ACTIVITIES UNDER AN APPROVED SAP

### § 585.614 When may I begin conducting activities under my approved SAP?

(a) You may begin conducting the activities approved in your SAP following BOEM approval of your SAP.

(b) If you are installing a facility or a combination of facilities deemed by BOEM to be complex or significant, as provided in § 585.613(a)(1), you must comply with the requirements of subpart G of this part and submit your Safety Management System required by § 585.810 before construction may begin.

### § 585.615 What other reports or notices must I submit to BOEM under my approved SAP?

(a) You must notify BOEM in writing within 30 days of completing installation activities approved in your SAP.

(b) You must prepare and submit to BOEM a report annually on November 1 of each year that summarizes your site assessment activities and the results of those activities. BOEM will withhold trade secrets and commercial or financial information that is privileged or confidential from public disclosure under exemption 4 of the FOIA and as provided in § 585.113.

(c) You must submit a certification of compliance annually (or other frequency as determined by BOEM) with certain terms and conditions of your SAP that BOEM identifies under § 585.613(e)(1). Together with your certification, you must submit:

(1) Summary reports that show compliance with the terms and conditions which require certification; and

(2) A statement identifying and describing any mitigation measures and monitoring methods and their effectiveness. If you identified measures that were not effective, you must include your recommendations for new mitigation measures or monitoring methods.

### § 585.616 [Reserved]

### § 585.617 What activities require a revision to my SAP, and when will BOEM approve the revision?

(a) You must notify BOEM in writing before conducting any activities not described in your approved SAP, describing in detail the type of activities you propose to conduct. We will determine whether the activities you propose are authorized by your existing SAP or require a revision to your SAP. We may request additional information from you, if necessary, to make this determination.

(b) BOEM will periodically review the activities conducted under an approved SAP. The frequency and extent of the review will be based on the significance of any changes in available information and on onshore or offshore conditions affecting, or affected by, the activities conducted under your SAP. If the review indicates that the SAP should be revised to meet the requirements of this part, we will require you to submit the needed revisions.

(c) Activities for which a proposed revision to your SAP will likely be necessary include:

(1) Activities not described in your approved SAP;

(2) Modifications to the size or type of facility or equipment you will use;

(3) Changes in the surface location of a facility or structure;

(4) Addition of a facility or structure not contemplated in your approved SAP;

(5) Changes in the location of your onshore support base from one State to another, or to a new base requiring expansion;

(6) Changes in the location of bottom disturbances (anchors, chains, *etc.*) by 500 feet (152 meters) or greater from the approved locations. If a specific anchor pattern was approved as a mitigation measure to avoid contact with bottom features, any change in the proposed bottom disturbances would likely trigger the need for a revision;

(7) Structural failure of one or more facilities; or

(8) Changes to any other activity specified by BOEM.

(d) We may begin the appropriate NEPA analysis and other relevant consultations when we determine that a proposed revision could:

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

(2) Require any additional Federal authorizations; or

(3) Involve activities not previously identified and evaluated.

(e) When you propose a revision, we may approve the revision if we determine that the revision is:

(1) Designed not to cause undue harm or damage to natural resources; life (including human and wildlife); property; the marine, coastal, or human environment; or sites, structures, or objects of historical or archaeological significance; and

(2) Otherwise consistent with the provisions of subsection 8(p) of the OCS Lands Act.

### § 585.618 What must I do upon completion of approved site assessment activities?

(a) If, prior to the expiration of your site assessment term, you timely submit a COP meeting the requirements of this subpart, or a complete FERC license application, that describes the continued use of existing facilities approved in your SAP, you may keep such facilities in place on your lease during the time that BOEM reviews your COP for approval or FERC reviews your license application for approval.

(b) You are not required to initiate the decommissioning process for facilities that are authorized to remain in place under your approved COP or approved FERC license.

(c) If, following the technical and environmental review of your submitted COP, BOEM determines that such facilities may not remain in place, you must initiate the decommissioning process, as provided in subpart I of this part.

(d) If FERC determines that such facilities may not remain in place, you must initiate the decommissioning process as provided in subpart I of this part.

(e) You must initiate the decommissioning process, as set forth in subpart I of this part, upon the termination of your lease.

### § 585.619 [Reserved]

## Construction and Operations Plan for Commercial Leases

### § 585.620 What is a Construction and Operations Plan (COP)?

The COP describes your construction, operations, and conceptual decommissioning plans under your commercial lease, including your project easement. BOEM will withhold trade secrets and commercial or financial information that is privileged or confidential from public disclosure under exemption 4 of the FOIA and in accordance with the terms of § 585.113.

(a) Your COP must describe all planned facilities that you will construct and use for your project, including onshore and support facilities and all anticipated project easements.

(b) Your COP must describe all proposed activities including your proposed construction activities, commercial operations, and conceptual decommissioning plans for all planned facilities, including onshore and support facilities.

(c) You must receive BOEM approval of your COP before you can begin any of the approved activities on your lease.

### § 585.621 What must I demonstrate in my COP?

Your COP must demonstrate that you have planned and are prepared to conduct the proposed activities in a manner that conforms to your responsibilities listed in § 585.105(a) and:

(a) Conforms to all applicable laws, implementing regulations, lease provisions, and stipulations or conditions of your commercial lease;

(b) Is safe;

(c) Does not unreasonably interfere with other uses of the OCS, including those involved with National security or defense;

(d) Does not cause undue harm or damage to natural resources; life (including human and wildlife); property; the marine, coastal, or human environment; or sites, structures, or objects of historical or archaeological significance;

(e) Uses best available and safest technology;

(f) Uses best management practices; and

(g) Uses properly trained personnel.

### § 585.622 How do I submit my COP?

(a) You must submit one paper copy and one electronic version of your COP to BOEM at the address listed in § 585.110(a).

(b) You may submit information and a request for any project easement as part of your original COP submission or as a revision to your COP.

### §§ 585.623–585.625 [Reserved]

## CONTENTS OF THE CONSTRUCTION AND OPERATIONS PLAN

### § 585.626 What must I include in my COP?

(a) You must submit the results of the following surveys for the proposed site(s) of your facility(ies). Your COP must include the following information:

| Information: | Report contents: | Including: |
|---|---|---|
| (1) Shallow hazards ..... | The results of the shallow hazards survey with supporting data. | Information sufficient to determine the presence of the following features and their likely effects on your proposed facility, including:<br>(i) Shallow faults;<br>(ii) Gas seeps or shallow gas;<br>(iii) Slump blocks or slump sediments;<br>(iv) Hydrates; or<br>(v) Ice scour of seabed sediments. |
| (2) Geological survey relevant to the design and siting of your facility. | The results of the geological survey with supporting data. | Assessment of:<br>(i) Seismic activity at your proposed site;<br>(ii) Fault zones;<br>(iii) The possibility and effects of seabed subsidence; and<br>(iv) The extent and geometry of faulting attenuation effects of geologic conditions near your site. |
| (3) Biological ..... | The results of the biological survey with supporting data. | A description of the results of biological surveys used to determine the presence of live bottoms, hard bottoms, and topographic features, and surveys of other marine resources such as fish populations (including migratory populations), marine mammals, sea turtles, and sea birds. |
| (4) Geotechnical survey .. | The results of your sediment testing program with supporting data, the various field and laboratory test methods employed, and the applicability of these methods as they pertain to the quality of the samples, the type of sediment, and the anticipated design application. You must explain how the engineering properties of each sediment stratum affect the design of your facility. In your explanation, you must describe the uncertainties inherent in your overall testing program, and the reliability and applicability of each test method. | (i) The results of a testing program used to investigate the stratigraphic and engineering properties of the sediment that may affect the foundations or anchoring systems for your facility.<br>(ii) The results of adequate *in situ* testing, boring, and sampling at each foundation location, to examine all important sediment and rock strata to determine its strength classification, deformation properties, and dynamic characteristics.<br>(iii) The results of a minimum of one deep boring (with soil sampling and testing) at each edge of the project area and within the project area as needed to determine the vertical and lateral variation in seabed conditions and to provide the relevant geotechnical data required for design. |
| (5) Archaeological resources. | The results of the archaeological resource survey with supporting data. | A description of the historic and prehistoric archaeological resources, as required by the NHPA (16 U.S.C. 470 *et. seq.*), as amended. |
| (6) Overall site investigation. | An overall site investigation report for your facility that integrates the findings of your shallow hazards surveys and geologic surveys, and, if required, your subsurface surveys with supporting data. | An analysis of the potential for:<br>(i) Scouring of the seabed;<br>(ii) Hydraulic instability;<br>(iii) The occurrence of sand waves;<br>(iv) Instability of slopes at the facility location;<br>(v) Liquefaction, or possible reduction of sediment strength due to increased pore pressures;<br>(vi) Degradation of subsea permafrost layers; |

| Information: | Report contents: | Including: |
|---|---|---|
| | | (vii) Cyclic loading;<br>(viii) Lateral loading;<br>(ix) Dynamic loading;<br>(x) Settlements and displacements;<br>(xi) Plastic deformation and formation collapse mechanisms; and<br>(xii) Sediment reactions on the facility foundations or anchoring systems. |

(b) Your COP must include the following project-specific information, as applicable.

| Project information: | Including: |
|---|---|
| (1) Contact information | The name, address, e-mail address, and phone number of an authorized representative. |
| (2) Designation of operator, if applicable | As provided in § 585.405. |
| (3) The construction and operation concept | A discussion of the objectives, description of the proposed activities, tentative schedule from start to completion, and plans for phased development, as provided in § 585.629. |
| (4) Commercial lease stipulations and compliance | A description of the measures you took, or will take, to satisfy the conditions of any lease stipulations related to your proposed activities. |
| (5) A location plat | The surface location and water depth for all proposed and existing structures, facilities, and appurtenances located both offshore and onshore, including all anchor/mooring data. |
| (6) General structural and project design, fabrication, and installation. | Information for each type of structure associated with your project and, unless BOEM provides otherwise, how you will use a CVA to review and verify each stage of the project. |
| (7) All cables and pipelines, including cables on project easements. | Location, design and installation methods, testing, maintenance, repair, safety devices, exterior corrosion protection, inspections, and decommissioning. |
| (8) A description of the deployment activities | Safety, prevention, and environmental protection features or measures that you will use. |
| (9) A list of solid and liquid wastes generated | Disposal methods and locations. |
| (10) A listing of chemical products used (if stored volume exceeds Environmental Protection Agency (EPA) Reportable Quantities). | A list of chemical products used; the volume stored on location; their treatment, discharge, or disposal methods used; and the name and location of the onshore waste receiving, treatment, and/or disposal facility. A description of how these products would be brought onsite, the number of transfers that may take place, and the quantity that that will be transferred each time. |
| (11) A description of any vessels, vehicles, and aircraft you will use to support your activities. | An estimate of the frequency and duration of vessel/vehicle/aircraft traffic. |
| (12) A general description of the operating procedures and systems. | (i) Under normal conditions.<br>(ii) In the case of accidents or emergencies, including those that are natural or manmade. |
| (13) Decommissioning and site clearance procedures | A discussion of general concepts and methodologies. |
| (14) A listing of all Federal, State, and local authorizations, approvals, or permits that are required to conduct the proposed activities, including commercial operations. | (i) The U.S. Coast Guard, U.S. Army Corps Of Engineers, and any other applicable authorizations, approvals, or permits, including any Federal, State or local authorizations pertaining to energy gathering, transmission or distribution (e.g., interconnection authorizations).<br>(ii) A statement indicating whether you have applied for or obtained such authorization, approval, or permit. |
| (15) Your proposed measures for avoiding, minimizing, reducing, eliminating, and monitoring environmental impacts. | A description of the measures you will use to avoid or minimize adverse effects and any potential incidental take before you conduct activities on your lease, and how you will mitigate environmental impacts from your proposed activities, including a description of the measures you will use as required by subpart H of this part. |
| (16) Information you incorporate by reference | A listing of the documents you referenced. |
| (17) A list of agencies and persons with whom you have communicated, or with whom you will communicate, regarding potential impacts associated with your proposed activities. | Contact information and issues discussed. |
| (18) Reference | A list of any document or published source that you cite as part of your plan. You may reference information and data discussed in other plans you previously submitted or that are otherwise readily available to BOEM. |

| Project information: | Including: |
|---|---|
| (19) Financial assurance | Statements attesting that the activities and facilities proposed in your COP are or will be covered by an appropriate bond or security, as required by §§ 585.515 and 585.516. |
| (20) CVA nominations for reports required in subpart G of this part. | CVA nominations for reports in subpart G of this part, as required by § 585.706, or a request for a waiver under § 585.705(c). |
| (21) Construction schedule | A reasonable schedule of construction activity showing significant milestones leading to the commencement of commercial operations. |
| (22) Air quality information | As described in § 585.659 of this section. |
| (23) Other information | Additional information as required by BOEM. |

### § 585.627 What information and certifications must I submit with my COP to assist the BOEM in complying with NEPA and other relevant laws?

(a) You must submit with your COP detailed information to assist BOEM in complying with NEPA and other relevant laws. Your COP must describe those resources, conditions, and activities listed in the following table that could be affected by your proposed activities, or that could affect the activities proposed in your COP, including:

| Type of information: | Including: |
|---|---|
| (1) Hazard information | Meteorology, oceanography, sediment transport, geology, and shallow geological or manmade hazards. |
| (2) Water quality | Turbidity and total suspended solids from construction. |
| (3) Biological resources | Benthic communities, marine mammals, sea turtles, coastal and marine birds, fish and shellfish, plankton, seagrasses, and plant life. |
| (4) Threatened or endangered species | As defined by the ESA (16 U.S.C. 1531 *et seq.*). |
| (5) Sensitive biological resources or habitats | Essential fish habitat, refuges, preserves, special management areas identified in coastal management programs, sanctuaries, rookeries, hard bottom habitat, chemosynthetic communities, and calving grounds; barrier islands, beaches, dunes, and wetlands. |
| (6) Archaeological resources | As required by the NHPA (16 U.S.C. 470 *et seq.*), as amended. |
| (7) Social and economic resources | Employment, existing offshore and coastal infrastructure (including major sources of supplies, services, energy, and water), land use, subsistence resources and harvest practices, recreation, recreational and commercial fishing (including typical fishing seasons, location, and type), minority and lower income groups, coastal zone management programs, and viewshed. |
| (8) Coastal and marine uses | Military activities, vessel traffic, and energy and nonenergy mineral exploration or development. |
| (9) Consistency Certification | As required by the CZMA:<br>(i) 15 CFR part 930, subpart D, for noncompetitive leases.<br>(ii) 15 CFR part 930, subpart E, for competitive leases. |
| (10) Other resources, conditions, and activities | As identified by BOEM. |

(b) You must submit one paper copy and one electronic copy of your consistency certification. Your consistency certification must include:

(1) One copy of your consistency certification under subsection 307(c)(3)(B) of the CZMA (16 U.S.C. 1456(c)(3)(B)) and 15 CFR 930.76 stating that the proposed activities described in detail in your plans comply with the State(s) approved coastal management program(s) and will be conducted in a manner that is consistent with such program(s); and

(2) ''Information,'' as required by 15 CFR 930.76(a) and 15 CFR 930.58(a)(2), and ''Analysis,'' as required by 15 CFR 930.58(a)(3).

(c) You must submit your oil spill response plan, as required by 30 CFR part 254.

(d) You must submit your Safety Management System as required by § 585.810.

### § 585.628 How will BOEM process my COP?

(a) BOEM will review your submitted COP, and the information provided pursuant to § 585.627, to determine if it contains all the required information necessary to conduct our technical and environmental reviews. We will notify you if your submitted COP lacks any necessary information.

(b) BOEM will prepare an appropriate NEPA analysis.

(c) BOEM will forward one copy of your COP, consistency certification, and associated data and information under the CZMA to the State's CZM agency after all information requirements for the COP are met.

(d) As appropriate, BOEM will coordinate and consult with relevant Federal, State, and local agencies and affected Indian Tribes, and provide to them relevant nonproprietary data and information pertaining to your proposed activities.

(e) 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. If you fail to provide the requested information, BOEM may disapprove your COP.

(f) Upon completion of our technical and environmental reviews and other reviews required by Federal law (e.g., CZMA), BOEM may approve, disapprove, or approve with modifications your COP.

(1) If we approve your COP, we will specify terms and conditions to be incorporated into your COP. You must certify compliance with certain of those terms and conditions, as required under § 585.633(b); and

(2) If we disapprove your COP, we will inform you of the reasons and allow you an opportunity to resubmit a revised plan addressing the concerns identified, and may suspend the term of your lease, as appropriate, to allow this to occur.

(g) If BOEM approves your project easement, BOEM will issue an addendum to your lease specifying the terms of the project easement. A project easement may include off-lease areas that:

(1) Contain the sites on which cable, pipeline, or associated facilities are located;

(2) Do not exceed 200 feet (61 meters) in width, unless safety and environmental factors during construction and maintenance of the associated cables or pipelines require a greater width; and

(3) For associated facilities, are limited to the area reasonably necessary for power or pumping stations or other accessory facilities.

### § 585.629 May I develop my lease in phases?

In your COP, you may request development of your commercial lease in phases. In support of your request, you must provide details as to what portions of the lease will be initially developed for commercial operations and what portions of the lease will be reserved for subsequent phased development.

### § 585.630 [Reserved]

ACTIVITIES UNDER AN APPROVED COP

### § 585.631 When must I initiate activities under an approved COP?

After your COP is approved, you must commence construction by the date given in the construction schedule required by § 585.626(b)(21), and included as a part of your approved COP, unless BOEM approves a deviation from your schedule.

### § 585.632 What documents must I submit before I may construct and install facilities under my approved COP?

(a) You must submit to BOEM the documents listed in the following table:

| Document: | Requirements are found in: |
|---|---|
| (1) Facility Design Report | § 585.701 |
| (2) Fabrication and Installation Report | § 585.702 |

(b) You must submit your Safety Management System, as required by § 585.810 of this part.

(c) These activities must fall within the scope of your approved COP. If they do not fall within the scope of your approved COP, you will be required to submit a revision to your COP, under § 585.634, for BOEM approval before commencing the activity.

### § 585.633 How do I comply with my COP?

(a) Based on BOEM's environmental and technical reviews, we will specify terms and conditions to be incorporated into your COP.

(b) You must submit a certification of compliance annually (or other frequency as determined by BOEM) with certain terms and conditions of your COP that BOEM identifies. Together with your certification, you must submit:

(1) Summary reports that show compliance with the terms and conditions which require certification; and

(2) A statement identifying and describing any mitigation measures and monitoring methods, and their effectiveness. If you identified measures that were not effective, then you must make recommendations for new mitigation measures or monitoring methods.

(c) As provided at § 585.105(i), BOEM may require you to submit any supporting data and information.

### § 585.634 What activities require a revision to my COP, and when will BOEM approve the revision?

(a) You must notify BOEM in writing before conducting any activities not described in your approved COP, describing in detail the type of activities you propose to conduct. We will determine whether the activities you propose are authorized by your existing COP or require a revision to your COP. We may request additional information from you, if necessary, to make this determination.

(b) BOEM will periodically review the activities conducted under an approved COP. The frequency and extent of the review will be based on the significance of any changes in available information, and on onshore or offshore conditions affecting, or affected by, the activities conducted under your COP. If the review indicates that the COP should be revised to meet the requirement of this part, we will require you to submit the needed revisions.

(c) Activities for which a proposed revision to your COP will likely be necessary include:

(1) Activities not described in your approved COP;

(2) Modifications to the size or type of facility or equipment you will use;

(3) Change in the surface location of a facility or structure;

(4) Addition of a facility or structure not described in your approved COP;

(5) Change in the location of your onshore support base from one State to another or to a new base requiring expansion;

(6) Changes in the location of bottom disturbances (anchors, chains, *etc.*) by 500 feet (152 meters) or greater from the approved locations (e.g., if a specific anchor pattern was approved as a mitigation measure to avoid contact with bottom features, any change in the proposed bottom disturbances would likely trigger the need for a revision);

(7) Structural failure of one or more facilities; or

(8) Change in any other activity specified by BOEM.

(d) We may begin the appropriate NEPA analysis and relevant consultations when we determine that a proposed revision could:

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

(2) Require any additional Federal authorizations; or

(3) Involve activities not previously identified and evaluated.

(e) When you propose a revision, we may approve the revision if we determine that the revision is:

(1) Designed not to cause undue harm or damage to natural resources; life (including human and wildlife); property; the marine, coastal, or human environment; or sites, structures, or objects of historical or archaeological significance; and

(2) Otherwise consistent with the provisions of subsection 8(p) of the OCS Lands Act.

### § 585.635 What must I do if I cease activities approved in my COP before the end of my commercial lease?

You must notify the BOEM, within 5 business days, any time you cease commercial operations, without an approved suspension, under your approved COP. If you cease commercial operations for an indefinite period which extends longer than 6 months, we may cancel your lease under

§ 585.437 and, you must initiate the decommissioning process as set forth in subpart I of this part.

### § 585.636 What notices must I provide BOEM following approval of my COP?

You must notify BOEM in writing of the following events, within the time periods provided:

(a) No later than 30 days after commencing activities associated with the placement of facilities on the lease area under a Fabrication and Installation Report.

(b) No later than 30 days after completion of construction and installation activities under a Fabrication and Installation Report.

(c) At least 7 days before commencing commercial operations.

### § 585.637 When may I commence commercial operations on my commercial lease?

If you are conducting activities on your lease that:

(a) Do not require a FERC license (*i.e.*, wind), then you may commence commercial operations 30 days after the CVA or project engineer has submitted to BOEM the final Fabrication and Installation Report for the fabrication and installation review, as provided in § 585.708.

(b) Require a FERC license or exemption, then you may commence commercial operations when permitted by the terms of your license or exemption.

### § 585.638 What must I do upon completion of my commercial operations as approved in my COP or FERC license?

(a) Upon completion of your approved activities under your COP, you must initiate the decommissioning process as set forth in subpart I of this part. You must submit your decommissioning application as provided in §§ 585.905 and 585.906.

(b) Upon completion of your approved activities under your FERC license, the terms of your FERC license will govern your decommissioning activities.

### § 585.639 [Reserved]

## General Activities Plan Requirements For Limited Leases, ROW Grants, and RUE Grants

### § 585.640 What is a General Activities Plan (GAP)?

(a) A GAP describes your proposed construction, activities, and conceptual decommissioning plans for all planned facilities, including testing of technology devices and onshore and support facilities that you will construct and use for your project, including any project easements for the assessment and development of your limited lease or grant.

(b) You must receive BOEM approval of your GAP before you can begin any of the approved activities on your lease or grant. For a ROW grant or RUE grant issued competitively, you must submit your GAP within 6 months of issuance.

### § 585.641 What must I demonstrate in my GAP?

Your GAP must demonstrate that you have planned and are prepared to conduct the proposed activities in a manner that:

(a) Conforms to all applicable laws, implementing regulations, lease provisions and stipulations;

(b) Is safe;

(c) Does not unreasonably interfere with other uses of the OCS, including those involved with National security or defense;

(d) Does not cause undue harm or damage to natural resources; life (including human and wildlife); property; the marine, coastal, or human environment; or sites, structures, or objects of historical or archaeological significance;

(e) Uses best available and safest technology;

(f) Uses best management practices; and

(g) Uses properly trained personnel.

### § 585.642 How do I submit my GAP?

(a) You must submit one paper copy and one electronic version of your GAP to BOEM at the address listed in § 585.110(a).

(b) If you have a limited lease, you may submit information on any project easement as part of your original GAP submission or as a revision to your GAP.

### §§ 585.643–585.644 [Reserved]

CONTENTS OF THE GENERAL ACTIVITIES PLAN

### § 585.645 What must I include in my GAP?

(a) You must provide the following results of geophysical and geological surveys, hazards surveys, archaeological surveys (if required), and baseline collection studies (e.g., biological) with the supporting data in your GAP:

| Information: | Report contents: | Including: |
|---|---|---|
| (1) Geotechnical | The results from the geotechnical survey with supporting data. | A description of all relevant seabed and engineering data and information to allow for the design of the foundation for that facility. You must provide data and information to depths below which the underlying conditions will not influence the integrity or performance of the structure. This could include a series of sampling locations (borings and in situ tests) as well as laboratory testing of soil samples, but may consist of a minimum of one deep boring with samples. |
| (2) Shallow hazards | The results from the shallow hazards survey with supporting data. | A description of information sufficient to determine the presence of the following features and their likely effects on your proposed facility, including:<br>(i) Shallow faults;<br>(ii) Gas seeps or shallow gas;<br>(iii) Slump blocks or slump sediments;<br>(iv) Hydrates; or<br>(v) Ice scour of seabed sediments. |
| (3) Archaeological resources. | The results from the archaeological survey with supporting data, if required. | (i) A description of the results and data from the archaeological survey;<br>(ii) A description of the historic and prehistoric archaeological resources, as required by NHPA (16 U.S.C. 470 *et seq.*), as amended. |
| (4) Geological survey | The results from the geological survey with supporting data. | A report that describes the results of a geological survey that includes descriptions of:<br>(i) Seismic activity at your proposed site;<br>(ii) Fault zones;<br>(iii) The possibility and effects of seabed subsidence; and<br>(iv) The extent and geometry of faulting attenuation effects of geologic conditions near your site. |
| (5) Biological survey | The results from the biological survey with supporting data. | A description of the results of a biological survey, including the presence of live bottoms, hard bottoms, and topographic features, and surveys of other marine resources such as fish populations (including migratory populations), marine mammals, sea turtles, and sea birds. |

(b) For all activities you propose to conduct under your GAP, you must provide the following information:

| Project information: | Including: |
|---|---|
| (1) Contact information | The name, address, e-mail address, and phone number of an authorized representative. |
| (2) The site assessment or technology testing concept | A discussion of the objectives; description of the proposed activities, including the technology you will use; and proposed schedule from start to completion. |

| Project information: | Including: |
|---|---|
| (3) Designation of operator, if applicable | As provided in § 585.405. |
| (4) ROW, RUE or limited lease grant stipulations, if known | A description of the measures you took, or will take, to satisfy the conditions of any lease stipulations related to your proposed activities. |
| (5) A location plat | The surface location and water depth for all proposed and existing structures, facilities, and appurtenances located both offshore and onshore. |
| (6) General structural and project design, fabrication, and installation. | Information for each type of facility associated with your project. |
| (7) Deployment activities | A description of the safety, prevention, and environmental protection features or measures that you will use. |
| (8) A list of solid and liquid wastes generated | Disposal methods and locations. |
| (9) A listing of chemical products used (only if stored volume exceeds USEPA Reportable Quantities). | A list of chemical products used; the volume stored on location; their treatment, discharge, or disposal methods used; and the name and location of the onshore waste receiving, treatment, and/or disposal facility. A description of how these products would be brought onsite, the number of transfers that may take place, and the quantity that will be transferred each time. |
| (10) Reference information | A list of any document or published source that you cite as part of your plan. You may reference information and data discussed in other plans you previously submitted or that are otherwise readily available to BOEM. |
| (11) Decommissioning and site clearance procedures | A discussion of methodologies. |
| (12) Air quality information | As described in § 585.659 of this section. |
| (13) A listing of all Federal, State, and local authorizations or approvals required to conduct site assessment activities on your lease. | A statement indicating whether such authorization or approval has been applied for or obtained. |
| (14) A list of agencies and persons with whom you have communicated, or with whom you will communicate, regarding potential impacts associated with your proposed activities. | Contact information and issues discussed. |
| (15) Financial assurance information | Statements attesting that the activities and facilities proposed in your GAP are or will be covered by an appropriate bond or other approved security, as required in §§ 585.520 and 585.521. |
| (16) Other information | Additional information as requested by BOEM. |

(c) If you are applying for a project easement or constructing a facility, or a combination of facilities deemed by BOEM to be complex or significant, you must provide the following information in addition to what is required in paragraphs (a) and (b) of this section and comply with the requirements of subpart G of this part:

| Project information: | Including: |
|---|---|
| (1) The construction and operation concept | A discussion of the objectives, description of the proposed activities, and tentative schedule from start to completion. |
| (2) All cables and pipelines, including cables on project easements. | The location, design, installation methods, testing, maintenance, repair, safety devices, exterior corrosion protection, inspections, and decommissioning. |
| (3) A description of the deployment activities | Safety, prevention, and environmental protection features or measures that you will use. |
| (4) A general description of the operating procedures and systems. | (i) Under normal conditions.<br>(ii) In the case of accidents or emergencies, including those that are natural or manmade. |
| (5) CVA nominations for reports required in subpart G of this part. | CVA nominations for reports in subpart G of this part, as required by § 585.706, or a request for a waiver under § 585.705(c). |
| (6) Construction schedule | A reasonable schedule of construction activity showing significant milestones leading to the commencement of activities. |
| (7) Other information | Additional information as required by the BOEM. |

(d) BOEM will withhold trade secrets and commercial or financial information that is privileged or confidential from public disclosure in accordance with the terms of § 585.113.

### § 585.646 What information and certifications must I submit with my GAP to assist BOEM in complying with NEPA and other relevant laws?

You must submit with your GAP detailed information to assist BOEM in complying with NEPA and other relevant laws. Your GAP must describe those resources, conditions, and activities listed in the following table that could be affected by your proposed activities, or that could affect the activities proposed in your GAP, including:

| Type of information: | Including: |
|---|---|
| (a) Hazard information | Meteorology, oceanography, sediment transport, geology, and shallow geological or manmade hazards. |
| (b) Water quality | Turbidity and total suspended solids from construction. |
| (c) Biological resources | Benthic communities, marine mammals, sea turtles, coastal and marine birds, fish and shellfish, plankton, seagrasses, and plant life. |
| (d) Threatened or endangered species | As required by the ESA (16 U.S.C. 1531 *et seq.*). |
| (e) Sensitive biological resources or habitats | Essential fish habitat, refuges, preserves, special management areas identified in coastal management programs, sanctuaries, rookeries, hard bottom habitat, chemosynthetic communities, and calving grounds; barrier islands, beaches, dunes, and wetlands. |
| (f) Archaeological resources | As required by NHPA (16 U.S.C. 470 *et seq.*), as amended. |
| (g) Social and economic resources | Employment, existing offshore and coastal infrastructure (including major sources of supplies, services, energy, and water), land use, subsistence resources and harvest practices, recreation, recreational and commercial fishing (including typical fishing seasons, location, and type), minority and lower income groups, coastal zone management programs, and viewshed. |
| (h) Coastal and marine uses | Military activities, vessel traffic, and energy and nonenergy mineral exploration or development. |
| (i) Consistency Certification | As required by CZMA:<br>(1) 15 CFR part 930, subpart D, for noncompetitive leases;<br>(2) 15 CFR part 930, subpart E, for competitive leases. |
| (j) Other resources, conditions, and activities | As required by BOEM. |

### § 585.647 How will my GAP be processed for Federal consistency under the Coastal Zone Management Act?

Your GAP will be processed based on how your limited lease, ROW grant, or RUE grant was issued:

| If your limited lease, ROW, or RUE grant was issued: | Your GAP will be processed as follows: |
|---|---|
| (a) Competitively, | BOEM will forward one paper copy and one electronic copy of your GAP, consistency certification, and necessary data and information required under 15 CFR part 930, subpart E, after BOEM has determined that all information requirements for the GAP are met and BOEM prepares its NEPA compliance document. |
| (b) Noncompetitively, | You will furnish a copy of your GAP, consistency certification, and necessary data and information pursuant to 15 CFR part 930, subpart D, to the State's CZM agency and BOEM at the same time. |

### § 585.648 How will BOEM process my GAP?

(a) BOEM will review your submitted GAP, along with the information and certifications provided pursuant to § 585.646, to determine if it contains all the required information necessary to conduct our technical and environmental reviews.

(1) We will notify you if we deem your proposed facility or combination of facilities to be complex or significant; and

(2) We will notify you if your submitted GAP lacks any necessary information.

(b) BOEM will prepare appropriate NEPA analysis.

(c) When appropriate, we will coordinate and consult with relevant State and Federal agencies and affected Indian Tribes and provide to other local, State, and Federal agencies and affected Indian Tribes relevant nonproprietary data and information pertaining to your proposed activities.

(d) 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. If you fail to provide the requested information, BOEM may disapprove your GAP.

(e) Upon completion of our technical and environmental reviews and other reviews required by Federal law (e.g., CZMA), BOEM may approve, disapprove, or approve with modifications your GAP.

(1) If we approve your GAP, we will specify terms and conditions to be incorporated into your GAP. You must certify compliance with certain of those terms and conditions, as required under § 585.653(c); and

(2) If we disapprove your GAP, we will inform you of the reasons and allow you an opportunity to resubmit a revised plan making the necessary corrections, and may suspend the term of your lease or grant, as appropriate, to allow this to occur.

### § 585.649 [Reserved]

ACTIVITIES UNDER AN APPROVED GAP

### § 585.650 When may I begin conducting activities under my GAP?

After BOEM approves your GAP, you may begin conducting the approved activities that do not involve a project easement or the construction of facilities on the OCS that BOEM has deemed to be complex or significant.

### § 585.651 When may I construct complex or significant OCS facilities on my limited lease or any facilities on my project easement proposed under my GAP?

If you are applying for a project easement, or installing a facility or a combination of facilities on your limited lease deemed by BOEM to be complex or significant, as provided in § 585.648(a)(1), you also must comply with the requirements of subpart G of this part and submit your Safety Management System description required by § 585.810 before construction may begin.

### § 585.652 How long do I have to conduct activities under an approved GAP?

After BOEM approves your GAP, you have:

(a) For a limited lease, 5 years to conduct your approved activities, unless we renew the term under §§ 585.425 through 585.429.

(b) For a ROW grant or RUE grant, the time provided in the terms of the grant.

### § 585.653 What other reports or notices must I submit to BOEM under my approved GAP?

(a) You must notify BOEM in writing within 30 days after completing installation activities approved in your GAP.

(b) You must prepare and submit to BOEM annually a report that summarizes the findings from any activities you conduct under your approved GAP and the results of those activities. We will protect the information from public disclosure as provided in § 585.113.

(c) You must annually (or other frequency as determined by BOEM) submit a certification of compliance with those terms and conditions of your GAP that BOEM identifies under § 585.648(e)(1). Together with your certification, you must submit:

(1) Summary reports that show compliance with the terms and conditions which require certification; and

(2) A statement identifying and describing any mitigation measures and monitoring methods and their effectiveness. If you identified measures that were not effective, you must include your recommendations for new mitigation measures or monitoring methods.

**§ 585.654 [Reserved]**

**§ 585.655 What activities require a revision to my GAP, and when will BOEM approve the revision?**

(a) You must notify BOEM in writing before conducting any activities not described in your approved GAP, describing in detail the type of activities you propose to conduct. We will determine whether the activities you propose are authorized by your existing GAP or require a revision to your GAP. We may request additional information from you, if necessary, to make this determination.

(b) BOEM will periodically review the activities conducted under an approved GAP. The frequency and extent of the review will be based on the significance of any changes in available information and on onshore or offshore conditions affecting, or affected by, the activities conducted under your GAP. If the review indicates that the GAP should be revised to meet the requirement of this part, we will require you to submit the needed revisions.

(c) Activities for which a proposed revision to your GAP will likely be necessary include:

(1) Activities not described in your approved GAP;

(2) Modifications to the size or type of facility or equipment you will use;

(3) Change in the surface location of a facility or structure;

(4) Addition of a facility or structure not contemplated in your approved GAP;

(5) Change in the location of your onshore support base from one State to another or to a new base requiring expansion;

(6) Changes in the locations of bottom disturbances (anchors, chains, *etc.*) by 500 feet (152 meters) or greater from the approved locations. If a specific anchor pattern was approved as a mitigation measure to avoid contact with bottom features, any change in the proposed bottom disturbances would likely trigger the need for a revision;

(7) Structural failure of one or more facilities; or

(8) Change to any other activity specified by BOEM.

(d) We may begin the appropriate NEPA analysis and any relevant consultations when we determine that a proposed revision could:

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

(2) Require any additional Federal authorizations; or

(3) Involve activities not previously identified and evaluated.

(e) When you propose a revision, we may approve the revision if we determine that the revision is:

(1) Designed not to cause undue harm or damage to natural resources; life (including human and wildlife); property; the marine, coastal, or human environment; or sites, structures, or objects of historical or archaeological significance; and

(2) Otherwise consistent with the provisions of subsection 8(p) of the OCS Lands Act.

**§ 585.656 What must I do if I cease activities approved in my GAP before the end of my term?**

You must notify the BOEM any time you cease activities under your approved GAP without an approved suspension. If you cease activities for an indefinite period that exceeds 6 months, BOEM may cancel your lease or grant under § 585.437, as applicable, and you must initiate the decommissioning process, as set forth in subpart I of this part.

**§ 585.657 What must I do upon completion of approved activities under my GAP?**

Upon completion of your approved activities under your GAP, you must initiate the decommissioning process as set forth in subpart I of this part. You must submit your decommissioning application as provided in §§ 585.905 and 585.906.

CABLE AND PIPELINE DEVIATIONS

**§ 585.658 Can my cable or pipeline construction deviate from my approved COP or GAP?**

(a) You must make every effort to ensure that all cables and pipelines are constructed in a manner that minimizes deviations from the approved plan under your lease or grant.

(b) If BOEM determines that a significant change in conditions has occurred that would necessitate an adjustment to your ROW, RUE or lease before the commencement of construction of the cable or pipeline on the grant or lease, BOEM will consider modifications to your ROW grant, RUE grant, or your lease addendum for a project easement in connection with your COP or GAP.

(c) If, after construction, it is determined that a deviation from the approved plan has occurred, you must:

(1) Notify the operators of all leases (including mineral leases issued under this subchapter) and holders of all ROW grants or RUE grants (including all grants issued under this subchapter) which include the area where a deviation has occurred and provide BOEM with evidence of such notification;

(2) Relinquish any unused portion of your lease or grant; and

(3) Submit a revised plan for BOEM approval as necessary.

(d) Construction of a cable or pipeline that substantially deviates from the approved plan may be grounds for cancellation of the lease or grant.

### § 585.659 What requirements must I include in my SAP, COP, or GAP regarding air quality?

(a) You must comply with the Clean Air Act (42 U.S.C. 7409) and its implementing regulations, according to the following table.

| If your project is located . . . | you must . . . |
|---|---|
| (1) in the Gulf of Mexico west of 87.5° west longitude (western Gulf of Mexico). | include in your plan any information required for BOEM to make the appropriate air quality determinations for your project. |
| (2) anywhere else on the OCS | follow the appropriate implementing regulations as promulgated by the EPA under 40 CFR part 55. |

(b) For air quality modeling that you perform in support of the activities proposed in your plan, you should contact the appropriate regulatory agency to establish a modeling protocol to ensure that the agency's needs are met and that the meteorological files used are acceptable before initiating the modeling work. In the western Gulf of Mexico (west of 87.5° west longitude), you must submit to BOEM three copies of the modeling report and three sets of digital files as supporting information. The digital files must contain the formatted meteorological files used in the modeling runs, the model input file, and the model output file.

## Subpart G—Facility Design, Fabrication, and Installation

REPORTS

### § 585.700 What reports must I submit to BOEM before installing facilities described in my approved SAP, COP, or GAP?

(a) You must submit the following reports to BOEM before installing facilities described in your approved COP (§ 585.632(a)) and, when required by this part, your SAP (§ 585.614(b)) or GAP (§ 585.651):

(1) A Facility Design Report; and

(2) A Fabrication and Installation Report.

(b) You may begin to fabricate and install the approved facilities after BOEM notifies you that it has received your reports and has no objections. If BOEM receives the reports, but does not respond with objections within 60 days of receipt or 60 days after we approve your SAP, COP, or GAP, if you submitted your report with the plan, BOEM is deemed not to have objections to the reports, and you may commence fabrication and installation of your facility or facilities.

(c) If BOEM has any objections, we will notify you verbally or in writing within 60 days of receipt of the report. Following initial notification of objections, BOEM may follow up with written correspondence outlining its specific objections to the report and request that certain actions be undertaken. You cannot commence activities addressed in such report until you resolve all objections to BOEM's satisfaction.

### § 585.701 What must I include in my Facility Design Report?

(a) Your Facility Design Report provides specific details of the design of any facilities, including cables and pipelines that are outlined in your approved SAP, COP, or GAP. Your Facility Design Report must demonstrate that your design conforms to your responsibilities listed in § 585.105(a). You must include the following items in your Facility Design Report:

| Required documents | Required contents | Other requirements |
|---|---|---|
| (1) Cover letter | (i) Proposed facility designations;<br>(ii) Lease, ROW grant or RUE grant number;<br>(iii) Area; name and block numbers; and<br>(iv) The type of facility. | You must submit 1 paper copy and 1 electronic copy. |
| (2) Location plat | (i) Latitude and longitude coordinates, Universal Mercator grid-system coordinates, state plane coordinates in the Lambert or Transverse Mercator Projection System;<br>(ii) Distances in feet from the nearest block lines. These coordinates must be based on the NAD (North American Datum) 83 datum plane coordinate system; and<br>(iii) The location of any proposed project easement. | Your plat must be drawn to a scale of 1 inch equals 100 feet and include the coordinates of the lease, ROW grant, or RUE grant block boundary lines. You must submit 1 paper copy and 1 electronic copy. |
| (3) Front, Side, and Plan View drawings | (i) Facility dimensions and orientation;<br>(ii) Elevations relative to Mean Lower Low Water; and<br>(iii) Pile sizes and penetration. | Your drawing sizes must not exceed 11″ x 17″. You must submit 1 paper copy and 1 electronic copy. |
| (4) Complete set of structural drawings | The approved for construction fabrication drawings should be submitted including, e.g.,<br>(i) Cathodic protection systems;<br>(ii) Jacket design;<br>(iii) Pile foundations;<br>(iv) Mooring and tethering systems;<br>(v) Foundations and anchoring systems; and<br>(vi) Associated cable and pipeline designs. | Your drawing sizes must not exceed 11″ x 17″. You must submit 1 paper copy and 1 electronic copy. |
| (5) Summary of environmental data used for design. | A summary of the environmental data used in the design or analysis of the facility. Examples of relevant data include information on:<br>(i) Extreme weather;<br>(ii) Seafloor conditions; and<br>(iii) Waves, wind, current, tides, temperature, snow and ice effects, marine growth, and water depth.. | You must submit 1 paper copy and 1 electronic copy. If you submitted these data as part of your SAP, COP, or GAP, you may reference the plan. |
| (6) Summary of the engineering design data. | (i) Loading information (e.g., live, dead, environmental);<br>(ii) Structural information (e.g., design-life; material types; cathodic protection systems; design criteria; fatigue life; jacket design; deck design; production component design; foundation pilings and templates, and mooring or tethering systems; fabrication and installation guidelines); and<br>(iii) Location of foundation boreholes and foundation piles; and<br>(iv) Foundation information (e.g., soil stability, design criteria). | You must submit 1 paper copy and 1 electronic copy. |
| (7) A complete set of design calculations | Self-explanatory | You must submit 1 paper copy and 1 electronic copy. |
| (8) Project-specific studies used in the facility design or installation. | All studies pertinent to facility design or installation, e.g., oceanographic and soil reports including the results of the surveys required in §§ 585.610(b), 585.627(a), or 585.645(a). | You must submit 1 paper copy and 1 electronic copy. |

| Required documents | Required contents | Other requirements |
|---|---|---|
| (9) Description of the loads imposed on the facility. | (i) Loads imposed by jacket;<br>(ii) Decks;<br>(iii) Production components;<br>(iv) Foundations, foundation pilings and templates, and anchoring systems; and<br>(v) Mooring or tethering systems. | You must submit 1 paper copy and 1 electronic copy. |
| (10) Geotechnical Report | A list of all data from borings and recommended design parameters. | You must submit 1 paper copy and 1 electronic copy. |

(b) For any floating facility, your design must meet the requirements of the U.S. Coast Guard for structural integrity and stability (e.g., verification of center of gravity). The design must also consider:

(1) Foundations, foundation pilings and templates, and anchoring systems; and

(2) Mooring or tethering systems.

(c) You must provide the location of records, as required in § 585.714(c).

(d) If you are required to use a CVA, the Facility Design Report must include one paper copy of the following certification statement: ''The design of this structure has been certified by a BOEM approved CVA to be in accordance with accepted engineering practices and the approved SAP, GAP, or COP as appropriate. The certified design and as-built plans and specifications will be on file at (given location).''

(e) BOEM will withhold trade secrets and commercial or financial information that is privileged or confidential from public disclosure under exemption 4 of the FOIA and in accordance with the terms of § 585.113.

### § 585.702 What must I include in my Fabrication and Installation Report?

(a) Your Fabrication and Installation Report must describe how your facilities will be fabricated and installed in accordance with the design criteria identified in the Facility Design Report; your approved SAP, COP, or GAP; and generally accepted industry standards and practices. Your Fabrication and Installation Report must demonstrate how your facilities will be fabricated and installed in a manner that conforms to your responsibilities listed in § 585.105(a). You must include the following items in your Fabrication and Installation Report:

| Required documents | Required contents | Other requirements |
|---|---|---|
| (1) Cover letter | (i) Proposed facility designation, lease, ROW grant, or RUE grant number;<br>(ii) Area, name, and block number; and<br>(iii) The type of facility. | You must submit 1 paper copy and 1 electronic copy. |
| (2) Schedule | Fabrication and installation | You must submit 1 paper copy and 1 electronic copy. |
| (3) Fabrication information | The industry standards you will use to ensure the facilities are fabricated to the design criteria identified in your Facility Design Report. | You must submit 1 paper copy and 1 electronic copy. |
| (4) Installation process information | Details associated with the deployment activities, equipment, and materials, including onshore and offshore equipment and support, and anchoring and mooring patterns. | You must submit 1 paper copy and 1 electronic copy. |
| (5) Federal, State, and local permits (e.g., EPA, Army Corps of Engineers). | Either 1 copy of the permit or information on the status of the application. | You must submit 1 paper copy and 1 electronic copy. |
| (6) Environmental information | (i) Water discharge;<br>(ii) Waste disposal;<br>(iii) Vessel information; and<br>(iv) Onshore waste receiving treatment or disposal facilities. | You must submit 1 paper copy and 1 electronic copy. If you submitted these data as part of your SAP, COP, or GAP, you may reference the plan. |
| (7) Project easement | Design of any cables, pipelines, or facilities. Information on burial methods and vessels. | You must submit 1 paper copy and 1 electronic copy. |

(b) You must provide the location of records, as required in § 585.714(c).

(c) If you are required to use a CVA, the Fabrication and Installation Report must include one paper copy of the following certification statement: ''The fabrication and installation of this structure has been certified by a BOEM approved CVA to be in accordance with accepted engineering practices and the approved SAP, GAP, or COP as appropriate. The certified design and as-built plans and specifications will be on file at (given location).''

(d) BOEM will withhold trade secrets and commercial or financial information that is privileged or confidential from public disclosure under exemption 4 of the FOIA and in accordance with the terms of § 585.113.

### § 585.703 What reports must I submit for project modifications and repairs?

(a) You must verify and, in a report to us, certify that major repairs and major modifications to the project conform to accepted engineering practices.

(1) A major repair is a corrective action involving structural members affecting the structural integrity of a portion of or all the facility.

(2) A major modification is an alteration involving structural members affecting the structural integrity of a portion of or all the facility.

(b) The report must also identify the location of all records pertaining to the major repairs or major modifications, as required in § 585.714(c).

(c) BOEM may require you to use a CVA for project modifications and repairs.

### § 585.704 [Reserved]

CERTIFIED VERIFICATION AGENT

### § 585.705 When must I use a Certified Verification Agent (CVA)?

You must use a CVA to review and certify the Facility Design Report, the Fabrication and Installation Report, and the Project Modifications and Repairs Report.

(a) You must use a CVA to:

(1) Ensure that your facilities are designed, fabricated, and installed in conformance with accepted engineering practices and the Facility Design Report and Fabrication and Installation Report;

(2) Ensure that repairs and major modifications are completed in conformance with accepted engineering practices; and

(3) Provide BOEM immediate reports of all incidents that affect the design, fabrication, and installation of the project and its components.

(b) BOEM may waive the requirement that you use a CVA if you can demonstrate the following:

| If you demonstrate that . . . | Then BOEM may waive the requirement for a CVA for the following: |
|---|---|
| (1) The facility design conforms to a standard design that has been used successfully in a similar environment, and the installation design conforms to accepted engineering practices. | The design of your structure(s). |
| (2) The manufacturer has successfully manufactured similar facilities, and the facility will be fabricated in conformance with accepted engineering practices. | The fabrication of your structure(s). |
| (3) The installation company has successfully installed similar facilities in a similar offshore environment, and your structure(s) will be installed in conformance with accepted engineering practices. | The installation of your structure(s). |
| (4) Repairs and major modifications will be completed in conformance with accepted engineering practices. | The repair or major modification of your structure(s). |

(c) You must submit a request to waive the requirement to use a CVA to BOEM in writing, along with your SAP under § 585.610(a)(9), COP under § 585.626(b)(20), or GAP under § 585.645(c)(5).

(1) BOEM will review your request to waive the use of the CVA and notify you of our decision along with our decision on your SAP, COP, or GAP.

(2) If BOEM does not waive the requirement for a CVA, you may file an appeal under § 585.118.

(3) If BOEM waives the requirement that you use a CVA, your project engineer must perform the same duties and responsibilities as the CVA, except as otherwise provided.

### § 585.706 How do I nominate a CVA for BOEM approval?

(a) As part of your COP (as provided in § 585.626(b)(20) and, when required by this part, your SAP (§ 585.610(a)(9)) or GAP (§ 585.645(c)(5)), you must nominate a CVA for BOEM approval. You must specify whether the nomination is for the Facility Design Report, Fabrication and Installation Report, Modification and Repair Report, or for any combination of these.

(b) For each CVA that you nominate, you must submit to BOEM a list of documents used in your design that you will forward to the CVA and a qualification statement that includes the following:

(1) Previous experience in third-party verification or experience in the design, fabrication, installation, or major modification of offshore energy facilities;

(2) Technical capabilities of the individual or the primary staff for the specific project;

(3) Size and type of organization or corporation;

(4) In-house availability of, or access to, appropriate technology (including computer programs, hardware, and testing materials and equipment);

(5) Ability to perform the CVA functions for the specific project considering current commitments;

(6) Previous experience with BOEM requirements and procedures, if any; and

(7) The level of work to be performed by the CVA.

(c) Individuals or organizations acting as CVAs must not function in any capacity that will create a conflict of interest, or the appearance of a conflict of interest.

(d) The verification must be conducted by or under the direct supervision of registered professional engineers.

(e) BOEM will approve or disapprove your CVA as part of its review of the COP or, when required, of your SAP or GAP.

(f) You must nominate a new CVA for BOEM approval if the previously approved CVA:

(1) Is no longer able to serve in a CVA capacity for the project; or

(2) No longer meets the requirements for a CVA set forth in this subpart.

### § 585.707 What are the CVA's primary duties for facility design review?

If you are required to use a CVA:

(a) The CVA must use good engineering judgment and practices in conducting an independent assessment of the design of the facility. The CVA must certify in the Facility Design Report to BOEM that the facility is designed to withstand the environmental and functional load conditions appropriate for the intended service life at the proposed location.

(b) The CVA must conduct an independent assessment of all proposed:

(1) Planning criteria;

(2) Operational requirements;

(3) Environmental loading data;

(4) Load determinations;

(5) Stress analyses;

(6) Material designations;

(7) Soil and foundation conditions;

(8) Safety factors; and

(9) Other pertinent parameters of the proposed design.

(c) For any floating facility, the CVA must ensure that any requirements of the U.S. Coast Guard for structural integrity and stability (e.g., verification of center of gravity), have been met. The CVA must also consider:

(1) Foundations, foundation pilings and templates, and anchoring systems; and

(2) Mooring or tethering systems.

### § 585.708 What are the CVA's or project engineer's primary duties for fabrication and installation review?

(a) The CVA or project engineer must do all of the following:

(1) Use good engineering judgment and practice in conducting an independent assessment of the fabrication and installation activities;

(2) Monitor the fabrication and installation of the facility as required by paragraph (b) of this section;

(3) Make periodic onsite inspections while fabrication is in progress and verify the items required by § 585.709;

(4) Make periodic onsite inspections while installation is in progress and satisfy the requirements of § 585.710; and

(5) Certify in a report that project components are fabricated and installed in accordance with accepted engineering practices; your approved COP, SAP, or GAP (as applicable); and the Fabrication and Installation Report.

(i) The report must also identify the location of all records pertaining to fabrication and installation, as required in § 585.714(c); and

(ii) You may commence commercial operations or other approved activities 30 days after BOEM receives that certification report, unless BOEM notifies you within that time period of its objections to the certification report.

(b) To comply with paragraph (a)(5) of this section, the CVA or project engineer must monitor the fabrication and installation of the facility to ensure that it has been built and installed according to the Facility Design Report and Fabrication and Installation Report.

(1) If the CVA or project engineer finds that fabrication and installation procedures have been changed or design specifications have been modified, the CVA or project engineer must inform you; and

(2) If you accept the modifications, then you must also inform BOEM.

### § 585.709 When conducting onsite fabrication inspections, what must the CVA or project engineer verify?

(a) To comply with § 585.708(a)(3), the CVA or project engineer must make periodic onsite inspections while fabrication is in progress and must verify the following fabrication items, as appropriate:

(1) Quality control by lessee (or grant holder) and builder;

(2) Fabrication site facilities;

(3) Material quality and identification methods;

(4) Fabrication procedures specified in the Fabrication and Installation Report, and adherence to such procedures;

(5) Welder and welding procedure qualification and identification;

(6) Structural tolerances specified, and adherence to those tolerances;

(7) Nondestructive examination requirements and evaluation results of the specified examinations;

(8) Destructive testing requirements and results;

(9) Repair procedures;

(10) Installation of corrosion-protection systems and splash-zone protection;

(11) Erection procedures to ensure that overstressing of structural members does not occur;

(12) Alignment procedures;

(13) Dimensional check of the overall structure, including any turrets, turret-and-hull interfaces, any mooring line and chain and riser tensioning line segments; and

(14) Status of quality-control records at various stages of fabrication.

(b) For any floating facilities, the CVA or project engineer must ensure that any requirements of the U.S. Coast Guard for structural integrity and stability (e.g., verification of center of gravity) have been met. The CVA or project engineer must also consider:

(1) Foundations, foundation pilings and templates, and anchoring systems; and

(2) Mooring or tethering systems.

### § 585.710 When conducting onsite installation inspections, what must the CVA or project engineer do?

To comply with § 585.708(a)(4), the CVA or project engineer must make periodic onsite inspections while installation is in progress and must, as appropriate, verify, witness, survey, or check, the installation items required by this section.

(a) The CVA or project engineer must verify, as appropriate, all of the following:

(1) Loadout and initial flotation procedures;

(2) Towing operation procedures to the specified location, and review the towing records;

(3) Launching and uprighting activities;

(4) Submergence activities;

(5) Pile or anchor installations;

(6) Installation of mooring and tethering systems;

(7) Final deck and component installations; and

(8) Installation at the approved location according to the Facility Design Report and the Fabrication and Installation Report.

(b) For a fixed or floating facility, the CVA or project engineer must verify that proper procedures were used during the following:

(1) The loadout of the jacket, decks, piles, or structures from each fabrication site; and

(2) The actual installation of the facility or major modification and the related installation activities.

(c) For a floating facility, the CVA or project engineer must verify that proper procedures were used during the following:

(1) The loadout of the facility;

(2) The installation of foundation pilings and templates, and anchoring systems; and

(3) The installation of the mooring and tethering systems.

(d) The CVA or project engineer must conduct an onsite survey of the facility after transportation to the approved location.

(e) The CVA or project engineer must spot-check the equipment, procedures, and recordkeeping as necessary to determine compliance with the applicable documents incorporated by reference and the regulations under this part.

### § 585.711 [Reserved]

### § 585.712 What are the CVA's or project engineer's reporting requirements?

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

(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 BOEM. 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.

### § 585.713 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 BOEM within 10 business days after commencing commercial operations.

### § 585.714 What records relating to SAPs, COPs, and GAPs must I keep?

(a) Until BOEM releases your financial assurance under § 585.534, you must compile, retain, and make available to BOEM representatives, within the time specified by BOEM, 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 §§ 585.820 through 585.825; and

(5) Records of repairs not covered in the inspection report submitted under § 585.824(b)(3).

(b) You must record and retain the original material test results of all primary structural materials during all stages of construction until BOEM releases your financial assurance under § 585.534. 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 BOEM with the location of these records in the certification statement, as required in §§ 585.701(c), 585.703(b), and 585.708(a)(5)(i).

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

### § 585.800 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 § 585.105(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 §§ 585.615(c), 585.633(b), or 585.653(c).

### § 585.801 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 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 BOEM 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 BOEM 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 immitigable 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 BOEM 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.

### § 585.802 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 BOEM 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

(2) Impacts to the site or to the area of potential effect cannot be avoided.

(c) If investigations under paragraph (b) of this section indicate that the resource is potentially eligible for listing in the National Register of Historic Places, we will tell you how to protect the resource, or how to mitigate adverse effects to the site.

(d) If we incur costs in protecting the resource, under section 110(g) of the NHPA, we may charge you reasonable costs for carrying out preservation responsibilities under the OCS Lands Act.

### § 585.803 How must I conduct my approved activities to protect essential fish habitats identified and described under the Magnuson-Stevens Fishery Conservation and Management Act?

(a) If, during the conduct of your approved activities, BOEM finds that essential fish habitat or habitat areas of particular concern may be adversely affected by your activities, BOEM must consult with National Marine Fisheries Service.

(b) Any conservation recommendations adopted by BOEM to avoid or minimize adverse affects on Essential Fish Habitat will be incorporated as terms and conditions in the lease and must be adhered to by the applicant. BOEM may require additional surveys to define boundaries and avoidance distances.

(c) If required, BOEM will specify the survey methods and instrumentations for conducting the biological survey and will specify the contents of the biological report.

### §§ 585.804–585.809 [Reserved]

SAFETY MANAGEMENT SYSTEMS

### § 585.810 What must I include in my Safety Management System?

You must submit a description of the Safety Management System you will use with your COP (provided under § 585.627(d)) and, when required by this part, your SAP (as provided in § 585.614(b)) or GAP (as provided in § 585.651). You must describe:

(a) How you will ensure the safety of personnel or anyone on or near your facilities;

(b) Remote monitoring, control, and shut down capabilities;

(c) Emergency response procedures;

(d) Fire suppression equipment, if needed;

(e) How and when you will test your Safety Management System; and

(f) How you will ensure personnel who operate your facilities are properly trained.

### § 585.811 When must I follow my Safety Management System?

Your Safety Management System must be fully functional when you

begin activities described in your approved COP, SAP, or GAP. You must conduct all activities described in your approved COP, SAP, or GAP in accordance with the Safety Management System you described, as required by § 585.810.

**§ 585.812 [Reserved]**

MAINTENANCE AND SHUTDOWNS

**§ 585.813 When do I have to report removing equipment from service?**

(a) The removal of any equipment from service may result in BOEM applying remedies, as provided in this part, when such equipment is necessary for implementing your approved plan. Such remedies may include an order from BOEM requiring you to replace or remove such equipment or facilities.

(b)(1) You must report within 24 hours when equipment necessary for implementing your approved plan is removed from service for more than 12 hours. If you provide an oral notification, you must submit a written confirmation of this notice within 3 business days, as required by § 585.105(c);

(2) You do not have to report removing equipment necessary for implementing your plan if the removal is part of planned maintenance or repair activities; and

(3) You must notify BOEM when you return the equipment to service.

**§ 585.814 [Reserved]**

EQUIPMENT FAILURE AND ADVERSE ENVIRONMENTAL EFFECTS

**§ 585.815 What must I do if I have facility damage or an equipment failure?**

(a) If you have facility damage or the failure of a pipeline, cable, or other equipment necessary for you to implement your approved plan, you must make repairs as soon as practicable. If you have a major repair, you must submit a report of the repairs to BOEM, as required in § 585.711.

(b) If you are required to report any facility damage or failure under § 585.831, BOEM may require you to revise your SAP, COP, or GAP to describe how you will address the facility damage or failure as required by § 585.634 (COP), § 585.617 (SAP), § 585.655 (GAP). You must submit a report of the repairs to BOEM, as required in § 585.703.

(c) BOEM may require that you analyze cable, pipeline, or facility damage or failure to determine the cause. If requested by BOEM, you must submit a comprehensive written report of the failure or damage to BOEM as soon as available.

**§ 585.816 What must I do if environmental or other conditions adversely affect a cable, pipeline, or facility?**

If environmental or other conditions adversely affect a cable, pipeline, or facility so as to endanger the safety or the environment, you must:

(a) Submit a plan of corrective action to BOEM within 30 days of the discovery of the adverse effect.

(b) Take remedial action as described in your corrective action plan.

(c) Submit to the BOEM a report of the remedial action taken within 30 days after completion.

**§§ 585.817–585.819 [Reserved]**

INSPECTIONS AND ASSESSMENT

**§ 585.820 Will BOEM conduct inspections?**

BOEM will inspect OCS facilities and any vessels engaged in activities authorized under this part. We conduct these inspections:

(a) To verify that you are conducting activities in compliance with subsection 8(p) of the OCS Lands Act; the regulations in this part; the terms, conditions, and stipulations of your lease or grant; approved plans; and other applicable laws and regulations.

(b) To determine whether proper safety equipment has been installed and is operating properly according to your Safety Management System, as required in § 585.810.

**§ 585.821 Will BOEM conduct scheduled and unscheduled inspections?**

BOEM will conduct both scheduled and unscheduled inspections.

### § 585.822 What must I do when BOEM conducts an inspection?

(a) When BOEM conducts an inspection, you must:

(1) Provide access to all facilities on your lease (including your project easement) or grant; and

(2) Make the following available for BOEM to inspect:

(i) The area covered under a lease, ROW grant, or RUE grant;

(ii) All improvements, structures, and fixtures on these areas; and

(iii) All records of design, construction, operation, maintenance, repairs, or investigations on or related to the area.

(b) You must retain these records in paragraph (a)(2)(iii) of this section until BOEM releases your financial assurance under § 585.534 and provide them to BOEM upon request, within the time period specified by BOEM.

(c) You must demonstrate to the inspector how you are in compliance with your Safety Management System.

### § 585.823 Will BOEM reimburse me for my expenses related to inspections?

Upon request, BOEM will reimburse you for food, quarters, and transportation that you provide for our representatives while they inspect your lease or grant facilities and associated activities. You must send us your reimbursement request within 90 days of the inspection.

### § 585.824 How must I conduct self-inspections?

(a) You must develop a comprehensive annual self-inspection plan covering all of your facilities. You must keep this plan wherever you keep your records and make it available to BOEM inspectors upon request. Your plan must specify:

(1) The type, extent, and frequency of in-place inspections that you will conduct for both the above-water and the below-water structures of all facilities and pertinent components of the mooring systems for any floating facilities; and

(2) How you are monitoring the corrosion protection for both the above-water and below-water structures.

(b) You must submit a report annually to us no later than November 1 that must include:

(1) A list of facilities inspected in the preceding 12 months;

(2) The type of inspection employed, (*i.e.*, visual, magnetic particle, ultrasonic testing); and

(3) A summary of the inspection indicating what repairs, if any, were needed and the overall structural condition of the facility.

### § 585.825 When must I assess my facilities?

(a) You must perform an assessment of the structure, when needed, based on the platform assessment initiators listed in sections 17.2.1–17.2.5 of API RP 2A–WSD, Recommended Practice for Planning, Designing and Constructing Fixed Offshore Platforms—Working Stress Design (as incorporated by reference in § 585.115).

(b) You must initiate mitigation actions for structures that do not pass the assessment process of API RP 2A–WSD.

(c) You must perform other assessments as required by BOEM.

### §§ 585.826–585.829 [Reserved]

INCIDENT REPORTING AND INVESTIGATION

### § 585.830 What are my incident reporting requirements?

(a) You must report all incidents listed in § 585.831 to BOEM, according to the reporting requirements for these incidents in §§ 585.832 and 585.833.

(b) These reporting requirements apply to incidents that occur on the area covered by your lease or grant under this part and that are related to activities resulting from the exercise of your rights under your lease or grant under this part.

(c) Nothing in this subpart relieves you from providing notices and reports of incidents that may be required by other regulatory agencies.

(d) You must report all spills of oil or other liquid pollutants in accordance with 30 CFR 254.46.

### § 585.831 What incidents must I report, and when must I report them?

(a) You must report the following incidents to us immediately via oral

communication, and provide a written follow-up report (paper copy or electronically transmitted) within 15 business days after the incident:

(1) Fatalities;

(2) Incidents that require the evacuation of person(s) from the facility to shore or to another offshore facility;

(3) Fires and explosions;

(4) Collisions that result in property or equipment damage greater than $25,000 (Collision means the act of a moving vessel (including an aircraft) striking another vessel, or striking a stationary vessel or object. Property or equipment damage means the cost of labor and material to restore all affected items to their condition before the damage, including, but not limited to, the OCS facility, a vessel, a helicopter, or the equipment. It does not include the cost of salvage, cleaning, dry docking, or demurrage);

(5) Incidents involving structural damage to an OCS facility that is severe enough so that activities on the facility cannot continue until repairs are made;

(6) Incidents involving crane or personnel/material handling activities, if they result in a fatality, injury, structural damage, or significant environmental damage;

(7) Incidents that damage or disable safety systems or equipment (including firefighting systems);

(8) Other incidents resulting in property or equipment damage greater than $25,000; and

(9) Any other incidents involving significant environmental damage, or harm.

(b) You must provide a written report of the following incidents to us within 15 days after the incident:

(1) Any injuries that result in the injured person not being able to return to work or to all of their normal duties the day after the injury occurred; and

(2) All incidents that require personnel on the facility to muster for evacuation for reasons not related to weather or drills.

### § 585.832 How do I report incidents requiring immediate notification?

For an incident requiring immediate notification under § 585.831(a), you must notify BOEM verbally after aiding the injured and stabilizing the situation. Your verbal communication must provide the following information:

(a) Date and time of occurrence;

(b) Identification and contact information for the lessee, grant holder, or operator;

(c) Contractor, and contractor representative's name and telephone number (if a contractor is involved in the incident or injury/fatality);

(d) Lease number, OCS area, and block;

(e) Platform/facility name and number, or cable or pipeline segment number;

(f) Type of incident or injury/fatality;

(g) Activity at time of incident; and

(h) Description of the incident, damage, or injury/fatality.

### § 585.833 What are the reporting requirements for incidents requiring written notification?

(a) For any incident covered under § 585.831, you must submit a written report within 15 days after the incident to BOEM. The report must contain the following information:

(1) Date and time of occurrence;

(2) Identification and contact information for each lessee, grant holder, or operator;

(3) Name and telephone number of the contractor and the contractor's representative, if a contractor is involved in the incident or injury;

(4) Lease number, OCS area, and block;

(5) Platform/facility name and number, or cable or pipeline segment number;

(6) Type of incident or injury;

(7) Activity at time of incident;

(8) Description of incident, damage, or injury (including days away from work, restricted work, or job transfer), and any corrective action taken; and

(9) Property or equipment damage estimate (in U.S. dollars).

(b) You may submit a report or form prepared for another agency in lieu of the written report required by paragraph (a) of this section if the report or form contains all required information.

(c) BOEM may require you to submit additional information about an incident on a case-by-case basis.

## Subpart I—Decommissioning

DECOMMISSIONING OBLIGATIONS AND REQUIREMENTS

### § 585.900 Who must meet the decommissioning obligations in this subpart?

(a) Lessees are jointly and severally responsible for meeting decommissioning obligations for facilities on their leases, including all obstructions, as the obligations accrue and until each obligation is met.

(b) Grant holders are jointly and severally liable for meeting decommissioning obligations for facilities on their grant, including all obstructions, as the obligations accrue and until each obligation is met.

### § 585.901 When do I accrue decommissioning obligations?

You accrue decommissioning obligations when you are or become a lessee or grant holder, and you either install, construct, or acquire by a BOEM-approved assignment a facility, cable, or pipeline, or you create an obstruction to other uses of the OCS.

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

(a) Except as otherwise authorized by BOEM under § 585.909, 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 BOEM.

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

(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 § 585.908 to BOEM 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 BOEM with documentation of any coordination efforts you have made with the affected States, local, and Tribal governments.

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

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

(a) BOEM 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) BOEM may take enforcement action under § 585.400 of this part.

### § 585.904 Can I request a departure from the decommissioning requirements?

You may request a departure from the decommissioning requirements under § 585.103.

DECOMMISSIONING APPLICATIONS

### § 585.905 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.

### § 585.906 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.

(b) Identification and description of the facilities, cables, or pipelines you plan to remove or propose to leave in place, as provided in § 585.909.

(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 BOEM 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.

### § 585.907 How will BOEM process my decommissioning application?

(a) Based upon your inclusion of all the information required by § 585.906, BOEM 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 BOEM will begin the appropriate NEPA analysis and other regulatory reviews as required, if BOEM 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 BOEM disapproves your decommissioning application, you must resubmit your application to address the concerns identified by BOEM.

### § 585.908 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 §§ 585.905 through 585.907. 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 BOEM 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

(3) Propose activities not previously identified and evaluated.

## FACILITY REMOVAL

### § 585.909 When may BOEM authorize facilities to remain in place following termination of a lease or grant?

(a) In your decommissioning application, you may request that certain facilities authorized in your lease or grant remain in place for other activities authorized in this part, elsewhere in this subchapter, or by other applicable Federal laws.

(b) BOEM may approve such requests on a case-by-case basis considering the following:

(1) Potential impacts to the marine environment;

(2) Competing uses of the OCS;

(3) Impacts on marine safety and National defense;

(4) Maintenance of adequate financial assurance; and

(5) Other factors determined by the Director.

(c) Except as provided in paragraph (d) of this section, if BOEM authorizes facilities to remain in place, the former lessee or grantee under this part remains jointly and severally liable for decommissioning the facility unless satisfactory evidence is provided to BOEM showing that another party has assumed that responsibility and has secured adequate financial assurances.

(d) In your decommissioning application, you may request that certain facilities authorized in your lease or grant be converted to an artificial reef or otherwise toppled in place. BOEM will evaluate all such requests.

### § 585.910 What must I do when I remove my facility?

(a) You must remove all facilities to a depth of 15 feet below the mudline, unless otherwise authorized by BOEM.

(b) Within 60 days after you remove a facility, you must verify to BOEM that you have cleared the site.

### § 585.911 [Reserved]

## DECOMMISSIONING REPORT

### § 585.912 After I remove a facility, cable, or pipeline, what information must I submit?

Within 60 days after you remove a facility, cable, or pipeline, you must submit a written report to BOEM that includes the following:

(a) A summary of the removal activities, including the date they were completed;

(b) A description of any mitigation measures you took; and

(c) If you used explosives, a statement signed by your authorized representative that certifies that the types and amount of explosives you used in removing the facility were consistent with those in the approved decommissioning application.

## COMPLIANCE WITH AN APPROVED DECOMMISSIONING APPLICATION

### § 585.913 What happens if I fail to comply with my approved decommissioning application?

If you fail to comply with your approved decommissioning plan or application:

(a) BOEM 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) BOEM may take enforcement action under § 585.400.

## Subpart J—Rights of Use and Easement for Energy- and Marine-Related Activities Using Existing OCS Facilities

REGULATED ACTIVITIES

### § 585.1000 What activities does this subpart regulate?

(a) This subpart provides the general provisions for authorizing and regulating activities that use (or propose to use) an existing OCS facility for energy- or marine-related purposes, that are not otherwise authorized under any other part of this subchapter or any other applicable Federal statute. Activities authorized under any other part of this subchapter or under any other Federal law that use (or propose to use) an existing OCS facility are not subject to this subpart.

(b) BOEM will issue an Alternate Use RUE for activities authorized under this subpart.

(c) At the discretion of the Director, an Alternate Use RUE may:

(1) Permit alternate use activities to occur at an existing facility that is currently in use under an approved OCS lease; or

(2) Limit alternate use activities at the existing facility until after previously authorized activities at the facility have ceased and the OCS lease terminates.

### §§ 585.1001–585.1003 [Reserved]

REQUESTING AN ALTERNATE USE RUE

### § 585.1004 What must I do before I request an Alternate Use RUE?

If you are not the owner of the existing facility on the OCS and the lessee of the area in which the facility is located, you must contact the lessee and owner of the facility and reach a preliminary agreement as to the proposed activity for the use of the existing facility.

### § 585.1005 How do I request an Alternate Use RUE?

To request an Alternate Use RUE, you must submit to BOEM all of the following:

(a) The name, address, e-mail address, and phone number of an authorized representative.

(b) A summary of the proposed activities for the use of an existing OCS facility, including:

(1) The type of activities that would involve the use of the existing OCS facility;

(2) A description of the existing OCS facility, including a map providing its location on the lease block;

(3) The names of the owner of the existing OCS facility, the operator, the lessee, and any owner of operating rights on the lease at which the facility is located;

(4) A description of additional structures or equipment that will be required to be located on or in the vicinity of the existing OCS facility in connection with the proposed activities;

(5) A statement indicating whether any of the proposed activities are intended to occur before existing activities on the OCS facility have ceased; and

(6) A statement describing how existing activities at the OCS facility will be affected if proposed activities are to occur at the same time as existing activities at the OCS facility.

(c) A statement affirming that the proposed activities sought to be approved under this subpart are not otherwise authorized by other provisions in this subchapter or any other Federal law.

(d) Evidence that you meet the requirements of § 585.106, as required by § 585.107.

(e) The signatures of the applicant, the owner of the existing OCS facility, and the lessee of the area in which the existing facility is located.

### § 585.1006 How will BOEM decide whether to issue an Alternate Use RUE?

(a) We will consider requests for an Alternate Use RUE on a case-by-case

basis. In considering such requests, we will consult with relevant Federal agencies and evaluate whether the proposed activities involving the use of an existing OCS facility can be conducted in a manner that:

(1) Ensures safety and minimizes adverse effects to the coastal and marine environments, including their physical, atmospheric, and biological components, to the extent practicable;

(2) Does not inhibit or restrain orderly development of OCS mineral or energy resources; and

(3) Avoids serious harm or damage to, or waste of, any natural resource (including OCS mineral deposits and oil, gas, and sulphur resources in areas leased or not leased), any life (including fish and other aquatic life), or property (including sites, structures, or objects of historical or archaeological significance);

(4) Is otherwise consistent with subsection 8(p) of the OCS Lands Act; and

(5) BOEM can effectively regulate.

(b) Based on the evaluation that we perform under paragraph (a) of this section, the BOEM may authorize or reject, or authorize with modifications or stipulations, the proposed activity.

### § 585.1007 What process will BOEM use for competitively offering an Alternate Use RUE?

(a) An Alternate Use RUE must be issued on a competitive basis unless BOEM determines, after public notice of the proposed Alternate Use RUE, that there is no competitive interest.

(b) We will issue a public notice in the FEDERAL REGISTER to determine if there is competitive interest in using the proposed facility for alternate use activities. BOEM will specify a time period for members of the public to express competitive interest.

(c) If we receive indications of competitive interest within the published timeframe, we will proceed with a competitive offering. As part of such competitive offering, each competing applicant must submit a description of the types of activities proposed for the existing facility, as well as satisfactory evidence that the competing applicant qualifies to hold a lease or grant on the OCS, as required in §§ 585.106 and 585.107, by a date we specify. We may request additional information from competing applicants, as necessary, to adequately evaluate the competing proposals.

(d) We will evaluate all competing proposals to determine whether:

(1) The proposed activities are compatible with existing activities at the facility; and

(2) We have the expertise and resources available to regulate the activities effectively.

(e) We will evaluate all proposals under the requirements of NEPA, CZMA, and other applicable laws.

(f) Following our evaluation, we will select one or more acceptable proposals for activities involving the alternate use of an existing OCS facility, notify the competing applicants, and submit each acceptable proposal to the lessee and owner of the existing OCS facility. If the lessee and owner of the facility agree to accept a proposal, we will proceed to issue an Alternate Use RUE. If the lessee and owner of the facility are unwilling to accept any of the proposals that we deem acceptable, we will not issue an Alternate Use RUE.

### §§ 585.1008–585.1009 [Reserved]

ALTERNATE USE RUE ADMINISTRATION

### § 585.1010 How long may I conduct activities under an Alternate Use RUE?

(a) We will establish on a case-by-case basis, and set forth in the Alternate Use RUE, the length of time for which you are authorized to conduct activities approved in your Alternate Use RUE instrument.

(b) In establishing this term, BOEM will consider the size and scale of the proposed alternate use activities, the type of alternate use activities, and any other relevant considerations.

(c) BOEM may authorize renewal of Alternate Use RUEs at its discretion.

### § 585.1011 What payments are required for an Alternate Use RUE?

We will establish rental or other payments for an Alternate Use RUE on a case-by-case basis, as set forth in the Alternate Use RUE grant, depending on our assessment of the following factors:

(a) The effect on the original OCS Lands Act approved activity;

(b) The size and scale of the proposed alternate use activities;

(c) The income, if any, expected to be generated from the proposed alternate use activities; and

(d) The type of alternate use activities.

### § 585.1012 What financial assurance is required for an Alternate Use RUE?

(a) The holder of an Alternate Use RUE will be required to secure financial assurances in an amount determined by BOEM that is sufficient to cover all obligations under the Alternate Use RUE, including decommissioning obligations, and must retain such financial assurance amounts until all obligations have been fulfilled, as determined by BOEM.

(b) We may revise financial assurance amounts, as necessary, to ensure that there is sufficient financial assurance to secure all obligations under the Alternate Use RUE.

(c) We may reduce the amount of the financial assurance that you must retain if it is not necessary to cover existing obligations under the Alternate Use RUE.

### § 585.1013 Is an Alternate Use RUE assignable?

(a) BOEM may authorize assignment of an Alternate Use RUE.

(b) To request assignment of an Alternate Use RUE, you must submit a written request for assignment that includes the following information:

(1) BOEM-assigned Alternate Use RUE number;

(2) The names of both the assignor and the assignee, if applicable;

(3) The names and telephone numbers of the contacts for both the assignor and the assignee;

(4) The names, titles, and signatures of the authorizing officials for both the assignor and the assignee;

(5) A statement affirming that the owner of the existing OCS facility and lessee of the lease in which the facility is located approve of the proposed assignment and assignee;

(6) A statement that the assignee agrees to comply with and to be bound by the terms and conditions of the Alternate Use RUE;

(7) Evidence required by § 585.107 that the assignee satisfies the requirements of § 585.106; and

(8) A statement on how the assignee will comply with the financial assurance requirements set forth in the Alternate Use RUE.

(c) The assignment takes effect on the date we approve your request.

(d) The assignor is liable for all obligations that accrue under an Alternate Use RUE before the date we approve your assignment request. An assignment approval by BOEM does not relieve the assignor of liability for accrued obligations that the assignee, or a subsequent assignee, fails to perform.

(e) The assignee and each subsequent assignee are liable for all obligations that accrue under an Alternate Use RUE after the date we approve the assignment request.

### § 585.1014 When will BOEM suspend an Alternate Use RUE?

(a) BOEM may suspend an Alternate Use RUE if:

(1) Necessary to comply with judicial decrees;

(2) Continued activities pursuant to the Alternate Use RUE pose an imminent threat of serious or irreparable harm or damage to natural resources; life (including human and wildlife); property; the marine, coastal, or human environment; or sites, structures, or objects of historical or archaeological significance;

(3) The suspension is necessary for reasons of National security or defense; or

(4) We have suspended or temporarily prohibited operation of the existing OCS facility that is subject to the Alternate Use RUE, and have determined that continued activities under the Alternate Use RUE are unsafe or cause undue interference with the operation of the original OCS Lands Act approved activity.

(b) A suspension will extend the term of your Alternate Use RUE grant for the period of the suspension.

### § 585.1015 How do I relinquish an Alternate Use RUE?

(a) You may voluntarily surrender an Alternate Use RUE by submitting a written request to us that includes the following:

(1) The name, address, e-mail address, and phone number of an authorized representative;

(2) The reason you are requesting relinquishment of the Alternate Use RUE;

(3) BOEM-assigned Alternate Use RUE number;

(4) The name of the associated OCS facility, its owner, and the lessee for the lease in which the OCS facility is located;

(5) The name, title, and signature of your authorizing official (which must match exactly the name, title, and signature in the BOEM qualification records); and

(6) A statement that you will adhere to the decommissioning requirements in the Alternate Use RUE.

(b) We will not approve your relinquishment request until you have paid all outstanding rentals (or other payments) and fines.

(c) The relinquishment takes effect on the date we approve your request.

### § 585.1016 When will an Alternate Use RUE be cancelled?

The Secretary may cancel an Alternate Use RUE if it is determined, after notice and opportunity to be heard:

(a) You no longer qualify to hold an Alternate Use RUE;

(b) You failed to provide any additional financial assurance required by BOEM, replace or provide additional coverage for a de-valued bond, or replace a lapsed or forfeited bond within the prescribed time period;

(c) Continued activity under the Alternate Use RUE is likely to cause serious harm or damage to natural resources; life (including human and wildlife); property; the marine, coastal, or human environment; or sites, structures, or objects of historical or archaeological significance;

(d) Continued activity under the Alternate Use RUE is determined to be adversely impacting the original OCS Lands Act approved activities on the existing OCS facility;

(e) You failed to comply with any of the terms and conditions of your approved Alternate Use RUE or your approved plan; or

(f) You otherwise failed to comply with applicable laws or regulations.

### § 585.1017 [Reserved]

## DECOMMISSIONING AN ALTERNATE USE RUE

### § 585.1018 Who is responsible for decommissioning an OCS facility subject to an Alternate Use RUE?

(a) The holder of an Alternate Use RUE is responsible for all decommissioning obligations that accrue following the issuance of the Alternate Use RUE and which pertain to the Alternate Use RUE.

(b) The lessee under the lease originally issued under 30 CFR part 250 will remain responsible for decommissioning obligations that accrued before issuance of the Alternate Use RUE, as well as for decommissioning obligations that accrue following issuance of the Alternate Use RUE to the extent associated with continued activities authorized under other parts of this title.

### § 585.1019 What are the decommissioning requirements for an Alternate Use RUE?

(a) Decommissioning requirements will be determined by BOEM on a case-by-case basis, and will be included in the terms of each Alternate Use RUE.

(b) Decommissioning activities must be completed within 1 year of termination of the Alternate Use RUE.

(c) If you fail to satisfy all decommissioning requirements within the prescribed time period, we will call for the forfeiture of your bond or other financial guarantee, and you will remain liable for all accidents or damages that might result from such failure.

# SUBCHAPTER C—APPEALS

## PART 590—APPEAL PROCEDURES

### Subpart A—Offshore Minerals Management Appeal Procedures

Sec.
590.1 What is the purpose of this subpart?
590.2 Who may appeal?
590.3 What is the time limit for filing an appeal?
590.4 How do I file an appeal?
590.5 Can I obtain an extension for filing my Notice of Appeal?
590.6 Are informal resolutions permitted?
590.7 Do I have to comply with the decision or order while my appeal is pending?
590.8 How do I exhaust my administrative remedies?

### Subpart B [Reserved]

AUTHORITY: 5 U.S.C. 301 *et seq.;* 43 U.S.C. 1331

SOURCE: 76 FR 64623, Oct. 18, 2011, unless otherwise noted.

## Subpart A—Offshore Minerals Management Appeal Procedures

### § 590.1 What is the purpose of this subpart?

The purpose of this subpart is to explain the procedures for appeals of Bureau of Ocean Energy Management (BOEM) Offshore Minerals Management (OMM) decisions and orders issued under subchapter C.

### § 590.2 Who may appeal?

If you are adversely affected by an OMM official's final decision or order issued under 30 CFR chapter V, subchapter C, you may appeal that decision or order to the Interior Board of Land Appeals (IBLA). Your appeal must conform with the procedures found in this subpart and 43 CFR part 4, subpart E. A request for reconsideration of a BOEM decision concerning a lease bid, authorized in 30 CFR parts 556.47(e)(3), 581.21(a)(1), or 585.118(c), is not subject to the procedures found in this part.

### § 590.3 What is the time limit for filing an appeal?

You must file your appeal within 60 days after you receive OMM's final decision or order. The 60-day time period applies rather than the time period provided in 43 CFR 4.411(a). A decision or order is received on the date you sign a receipt confirming delivery or, if there is no receipt, the date otherwise documented.

### § 590.4 How do I file an appeal?

For your appeal to be filed, BOEM must receive all of the following within 60 days after you receive the decision or order:

(a) A written Notice of Appeal together with a copy of the decision or order you are appealing in the office of the OEMM officer that issued the decision or order. You cannot extend the 60-day period for that office to receive your Notice of Appeal; and

(b) A nonrefundable processing fee of $150 paid with the Notice of Appeal.

(1) You must pay electronically through *Pay.gov* at: *https://www.pay.gov/paygov/*, and you must include a copy of the *Pay.gov* confirmation receipt page with your Notice of Appeal.

(2) You cannot extend the 60-day period for payment of the processing fee.

### § 590.5 Can I obtain an extension for filing my Notice of Appeal?

You cannot obtain an extension of time to file the Notice of Appeal. See 43 CFR 4.411(c).

### § 590.6 Are informal resolutions permitted?

(a) You may seek informal resolution with the issuing officer's next level supervisor during the 60-day period established in § 590.3.

(b) Nothing in this subpart precludes resolution by settlement of any appeal or matter pending in the administrative process after the 60-day period established in § 590.3.

### § 590.7 Do I have to comply with the decision or order while my appeal is pending?

(a) The decision or order is effective during the 60-day period for filing an appeal under § 590.3 unless:

(1) OMM notifies you that the decision or order, or some portion of it, is suspended during this period because there is no likelihood of immediate and irreparable harm to human life, the environment, any mineral deposit, or property; or

(2) You post a surety bond under 30 CFR 550.1409 pending the appeal challenging an order to pay a civil penalty.

(b) This section applies rather than 43 CFR 4.21(a) for appeals of OMM orders.

(c) After you file your appeal, IBLA may grant a stay of a decision or order under 43 CFR 4.21(b); however, a decision or order remains in effect until IBLA grants your request for a stay of the decision or order under appeal.

### § 590.8 How do I exhaust my administrative remedies?

(a) If you receive a decision or order issued under chapter V, subchapter C, you must appeal that decision or order to IBLA under 43 CFR part 4, subpart E, to exhaust administrative remedies.

(b) This section does not apply if the Assistant Secretary for Land and Minerals Management or the IBLA makes a decision or order immediately effective notwithstanding an appeal.

## Subpart B [Reserved]