

**§ 585.112**

**30 CFR Ch. V (7-1-12 Edition)**

(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 activi-

ties 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.

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*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: (i) 3 years after the initiation of commercial generation or (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: (i) 10 years after the approval of the grant; (ii) Grant termination; or (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: