

§ 556.809 [Reserved]

**§ 556.810 What must I do with respect to the designation of operator on a lease when a transfer of operating rights ownership is submitted?**

(a) If a transfer of ownership of operating rights only changes the percentage ownership; no new parties, new aliquots, or new depths are involved in the transaction; and no change of designated operator is made, you will not need to submit a new designation of operator form.

(b) In all cases other than that in paragraph (a) of this section, you must submit new designation of operator forms, in accordance with § 550.143 of this chapter. In the event that you are transferring multiple operating rights interests, you must comply with this requirement for each interest that does not fall within paragraph (a) of this section.

**Subpart I—Bonding or Other Financial Assurance**

**§ 556.900 Bond requirements for an oil and gas or sulfur lease.**

This section establishes bond requirements for the lessee of an OCS oil and gas or sulfur 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 area-wide bond that guarantees compliance with all the terms and conditions of all your oil and gas and sulfur leases in the area where the lease is located; or

(3) Maintain a lease or area-wide bond in the amount required in § 556.901(a) or (b).

(b) For the purpose of this section, there are three areas. 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 instrument) under paragraph (a)(1) of this section and § 556.901(a) and (b) may be satisfied if your operator or an operating rights owner provides a lease bond in the required amount that guarantees compliance with all the terms and conditions of the lease. Your operator or an operating rights owner 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 United States 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 in the event that 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.

**§ 556.901 Additional bonds.**

(a) This paragraph explains what bonds you 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; or

(B) The date you submit a request for approval of the assignment of a lease on 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 approval of 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 sulfur leases held by the lessee on the

OCS for the area in which the lease 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; or

(B) The date you submit a request for approval of the assignment of a lease on 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) You need not submit and maintain a \$500,000 lease development bond pursuant to paragraph (b)(1) of this section if you furnish and maintain 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 sulfur leases you hold on the OCS for the area in which the lease is located.

(c) If you can demonstrate to the satisfaction of the authorized officer that you can satisfy your decommissioning obligations 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 decommissioning.

(d) The Regional Director may determine that additional security (*i.e.*, security above the amounts prescribed in § 556.900(a) and paragraphs (a) and (b) of

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this section) is necessary to ensure compliance with the obligations under your lease, the regulations in this chapter, and the regulations in 30 CFR chapters II and XII.

(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 for future production;

(iii) Business stability based on five years of continuous operation and production of oil and gas or sulfur in the OCS or in the onshore oil and gas industry;

(iv) Reliability in meeting obligations based on:

(A) Credit rating; 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 additional bond or bonds.

(e) The Regional Director will determine the amount of additional bond required to guarantee compliance. The Regional Director will consider potential underpayment of royalty and cumulative decommissioning obligations.

(f) If your cumulative potential obligations and liabilities either increase or decrease, the Regional Director may adjust the amount of additional 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 additional 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 decommissioning are less than the required bond amount. If the Regional Director finds that the evidence you submit is convincing, the Regional Director may reduce the amount of additional bond required.

**§ 556.902 General requirements for bonds.**

(a) Any bond or other security that you, as lessee, operating rights owner 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, regulations in this chapter, and regulations under 30 CFR chapters II and XII; 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 Director. 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 non-cancellable, except as provided in § 556.906 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:

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- (1) A surety bond;
- (2) Treasury securities as provided in § 556.900(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, and if the document omits terms or conditions contained on the form approved by the Director, the bond you submit will be deemed to contain the omitted terms and conditions.

### § 556.903 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 §§ 556.900 and 556.901 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 your 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.

### § 556.904 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 § 556.901(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 your decommissioning obligations.

(2) You must fully fund the lease-specific abandonment account to cover all decommissioning costs 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 decommissioning of a lease. The required obligation may be associated with oil and gas or sulfur production from a lease other than the lease bonded through the lease-specific abandonment account.

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**§ 556.905 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 § 556.901(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, and decommissioning.

(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 30 CFR chapters II and XII, 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, the regulations in this chapter and 30 CFR chapters II and XII, 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.
(ii) Financial statements for completed quarters in the current fiscal year, and	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 § 556.907, 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.

**§ 556.906 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

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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 you or 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 decommissioning 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 § 556.900(a) or under § 556.901(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 additional bonds submitted under § 556.901(d), the surety issuing the new additional bond agrees to assume that portion of the outstanding liabilities that accrued during the period of liability that 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 § 556.900(a), § 556.901(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) Additional bonds submitted under § 556.901(d).	When the Regional Director determines that you have met all your obligations covered by the additional bond,	When you meet your bonded obligations, unless the Regional Director: (i) Determines that the future potential liability resulting from any undetected problem is greater than the amount of the base bond; and (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.

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### § 556.907 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 on 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 a 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 reason 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 five 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 and 30 CFR chapters II and XII.

(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 and 30 CFR chapters II and XII. In this case, the Regional Director will return the excess funds to the party from whom they were collected.

### Subpart J—Bonus or Royalty Credits for Exchange of Certain Leases

#### § 556.1000 Leases formerly eligible for a bonus or royalty credit.

Bonus or royalty credits were available to lessees with leases:

(a) In effect on December 20, 2006, and 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