

# Electronic Code of Federal Regulations (e-CFR)

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## **Title 30: Mineral Resources**

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### **PART 256—LEASING OF SULPHUR OR OIL AND GAS IN THE OUTER CONTINENTAL SHELF**

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**Authority:** 43 U.S.C. 1331 *et seq.* , 42 U.S.C. 6213, 31 U.S.C. 9701.

**Source:** 44 FR 38276, June 29, 1979, unless otherwise noted. Redesignated at 47 FR 47006, Oct. 22, 1982.

**Subpart A—Outer Continental Shelf Oil, Gas, and Sulphur Management, General**

#### **§ 256.0 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 256, Leasing of Sulphur or Oil and Gas in the Outer Continental Shelf.”

(b) MMS 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.* MMS will protect proprietary information collected according to section 26 of the OCS Lands Act and 30 CFR 256.10.

(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, Minerals Management Service, Mail Stop 4230, 1849 C Street, NW., Washington, DC 20240.

[65 FR 2876, Jan. 19, 2000]

#### **§ 256.1 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-way, rights-of-use and easements are addressed in other parts.

[64 FR 72795, Dec. 28, 1999]

#### **§ 256.2 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.

#### **§ 256.4 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.

[64 FR 72795, Dec. 28, 1999]

#### **§ 256.5 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, Minerals Management Service.

(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) *MMS* means the Minerals Management Service.

(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 MMS to perform the duties described in this part.

[44 FR 38276, June 29, 1979. Redesignated and amended at 47 FR 47006, 47007, Oct. 22, 1982; 54 FR 2049, Jan. 18, 1989]

### **§ 256.7 Cross references.**

- (a) For Minerals Management Service regulations governing exploration, development and production on leases, see 30 CFR parts 250 and 270.
- (b) For MMS regulations governing the appeal of an order or decision issued under the regulations in this part, see 30 CFR part 290.
- (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.

[44 FR 38276, June 29, 1979. Redesignated at 47 FR 47006, Oct. 22, 1982, and amended at 54 FR 50617, Dec. 8, 1989; 55 FR 32908, Aug. 13, 1990; 62 FR 27955, May 22, 1997]

### **§ 256.8 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) The MMS 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.

### **§ 256.10 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 Minerals Management Service may be released only in accordance with the regulations in 30 CFR parts 250, 251, and 252.

(b) The Director shall prepare an index to OCS information (see 30 CFR 252.5). 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 MMS 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.

[44 FR 38276, June 29, 1979, as amended at 47 FR 25970, June 16, 1982. Redesignated and amended at 47 FR 47006, 47007, Oct. 22, 1982]

#### **§ 256.11 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.

#### **§ 256.12 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 §256.22.

(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.

[53 FR 29886, Aug. 9, 1988]

## **Subpart B—Oil and Gas Leasing Program**

### **§ 256.16 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.

[44 FR 38276, June 29, 1979. Redesignated at 47 FR 47006, Oct. 22, 1982; 47 FR 50684, Nov. 9, 1982]

### **§ 256.17 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.

[44 FR 38276, June 29, 1979, as amended at 47 FR 25970, June 16, 1982. Redesignated at 47 FR 47006, Oct. 22, 1982; 47 FR 50684, Nov. 9, 1982]

### **§ 256.19 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 §§256.16 and 256.17 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.

[44 FR 38276, June 29, 1979. Redesignated at 47 FR 47006, Oct. 22, 1982; 47 FR 50684, Nov. 9, 1982]

#### **§ 256.20 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 §256.16 of this part.

[44 FR 38276, June 29, 1979. Redesignated at 47 FR 47006, Oct. 22, 1982; 47 FR 50684, Nov. 9, 1982]

### **Subpart C—Reports From Federal Agencies**

#### **§ 256.22 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.

[51 FR 6107, Feb. 20, 1986]

### **Subpart D—Call for Information and Nominations**

#### **§ 256.23 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 regional Minerals Manager of the Minerals Management Service 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 nearshore; multiple uses of the proposed leasing area, including navigation, recreation, and fisheries; and other socioeconomic, biological, and environmental information.

[47 FR 25970, June 16, 1982. Redesignated at 47 FR 47006, Oct. 22, 1982 and amended at 51 FR 21345, June 12, 1986; 59 FR 53094, Oct. 21, 1994]

#### **§ 256.25 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 251.14).

(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.

[44 FR 38276, June 29, 1979, as amended at 47 FR 25971, June 16, 1982. Redesignated at 47 FR 47006, Oct. 22, 1982]

### **Subpart E—Area Identification and Tract Size**

#### **§ 256.26 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 §256.12 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.

[47 FR 25971, June 16, 1982. Redesignated at 47 FR 47006, Oct. 22, 1982 and amended at 51 FR 21345, June 12, 1986; 53 FR 29886, Aug. 9, 1988]

#### **§ 256.28 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.

[47 FR 25971, June 16, 1982. Redesignated at 47 FR 47006, Oct. 22, 1982]

### **Subpart F—Lease Sales**

#### **§ 256.29 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.

[44 FR 38276, June 29, 1979, as amended at 47 FR 25971, June 16, 1982. Redesignated at 47 FR 47006, Oct. 22, 1982, and amended at 51 FR 37178, Oct. 20, 1986]

#### **§ 256.31 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.

#### **§ 256.32 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 appendix A of 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.

[44 FR 38276, June 29, 1979. Redesignated and amended at 47 FR 25971, June 16, 1982. Further redesignated at 47 FR 47006, Oct. 22, 1982]

### **Subpart G—Issuance of Leases**

#### **§ 256.35 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) MMS may disqualify you from acquiring any new leaseholdings or lease assignments if your operating performance is unacceptable according to 30 CFR 250.135.

[44 FR 38276, June 29, 1979. Redesignated at 47 FR 47006, Oct. 22, 1982, as amended at 64 FR 72795, Dec. 28, 1999]

#### **§ 256.37 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 MMS 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 §256.73 of this part.

(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.

[44 FR 38276, June 29, 1979. Redesignated at 47 FR 47006, Oct. 22, 1982 and amended at 50 FR 49043, Nov. 29, 1985; 54 FR 2049, Jan. 18, 1989; 61 FR 55889, Oct. 30, 1996]

#### **§ 256.38 Joint bidding provisions.**

#### **§ 256.40 Definitions.**

The following definitions apply to §§256.38 through 256.44 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 §256.43 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 six month period of January 1 through June 30 preceding November 1 through April 30 for joint bids submitted during the six month bidding period from November 1 through April 30, and means the continuous six month period of July 1 through December 31 preceding May 1 through October 31 for joint bids submitted during the six 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* means 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<sub>2</sub>H<sub>6</sub>
- (B) Propane—C<sub>3</sub>H<sub>8</sub>
- (C) Butane—C<sub>4</sub>H<sub>10</sub> 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) *Six month bidding period* means the six month period of time
- (1) From May 1 through October 31; or
- (2) From November 1 through April 30, respectively.

[44 FR 38276, June 29, 1979; 44 FR 55380, Sept. 26, 1979. Redesignated at 47 FR 47006, Oct. 22, 1982, as amended at 66 FR 11518, Feb. 23, 2001]

#### **§ 256.41 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 liquified petroleum products, shall have filed under oath with the Director, a Statement of Production of crude oil, natural gas and liquified 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, MMS (Attention: Offshore Leasing Management Division), Washington, DC 20240. The Statement of Production shall indicate that the person was chargeable, in accordance with §256.43 of this part, with an average daily production in excess of 1.6 million barrels of crude oil, natural gas and liquified 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 §256.43 of this part with an average daily production in excess of 1.6 million barrels of crude oil, natural gas and liquified 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 §256.46(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 thereunder as having been obtained by fraud or misrepresentation.

(d) The Secretary may exempt a person from the provisions of §§256.41(a), 256.44, 256.46(g) and 256.62(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.

[44 FR 38276, June 29, 1979; 44 FR 55380, Sept. 26, 1979, as amended at 45 FR 69174, Oct. 17, 1980; 47 FR 25971, June 16, 1982. Redesignated and amended at 47 FR 47006, 47007, Oct. 22, 1982]

### **§ 256.43 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 §256.41 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 §256.41 of this part, chargeability under this section, and reporting under §256.46(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 §256.41 of this part, chargeability under §256.46(g) of this part, 1.454 barrels of natural gas liquids at 60 °F shall equal one barrel of crude oil.

[44 FR 38276, June 29, 1979; 44 FR 55380, Sept. 26, 1979, as amended at 47 FR 25971, June 16, 1982. Redesignated at 47 FR 47006, 47007, Oct. 22, 1982]

#### **§ 256.44 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 §256.41 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 §256.46(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 §256.41 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.

[44 FR 38276, June 29, 1979; 44 FR 55380, Sept. 26, 1979, as amended at 45 FR 69175, Oct. 17, 1980; 47 FR 25971,

June 16, 1982. Redesignated at 47 FR 47006, Oct. 22, 1982]

**§ 256.46 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) MMS 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 an MMS 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 an MMS 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 an MMS 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 §256.41 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 §256.43 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 liquified 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.

[44 FR 38276, June 29, 1979, as amended at 45 FR 69175, Oct. 17, 1980; 47 FR 25971, June 16, 1982. Redesignated at 47 FR 47006, Oct. 22, 1982, as amended at 64 FR 40767, July 28, 1999]

**§ 256.47 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 §256.35(b) of this part, or disqualified under §256.44 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 §218.155, 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 §256.52 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.

[44 FR 38276, June 29, 1979, as amended at 47 FR 25972, June 16, 1982. Redesignated at 47 FR 47006, Oct. 22, 1982, and amended at 49 FR 8606, Mar. 8, 1984; 49 FR 10056, Mar. 16, 1984; 50 FR 47378, Nov. 18, 1985; 61 FR 34732, July 3, 1996; 62 FR 27955, May 22, 1997]

#### **§ 256.49 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.

[47 FR 25972, June 16, 1982. Redesignated at 47 FR 47006, Oct. 22, 1982]

#### **§ 256.50 Dating of 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**

### **§ 256.52 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 MMS 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 areawide bond in the amount required in §256.53(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 §256.53 (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 250, subpart N of this chapter;

(2) Suspend production and other operations on your leases in accordance with §250.110 of this chapter; and

(3) Initiate action to cancel your lease.

[62 FR 27955, May 22, 1997; 64 FR 9066, Feb. 24, 1999, as amended at 66 FR 60150, Dec. 3, 2001]

### **§ 256.53 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 §§256.52(a) and 256.53 (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.

[58 FR 45262, Aug. 27, 1993. Redesignated and amended at 62 FR 27956, May 22, 1997]

#### **§ 256.54 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 Offshore Minerals Management. 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 §256.58 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 §256.52(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 Offshore Minerals Management the bond you submit will be deemed to contain the omitted terms and conditions.

[62 FR 27956, May 22, 1997]

**§ 256.55 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 §§256.52 and 256.53 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 MMS.

[62 FR 27957, May 22, 1997]

**§ 256.56 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 §256.53(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 MMS and pledged to meet the lessee's obligations under §250.1703 of this chapter.

(2) You must fully fund the lease-specific abandonment account to cover all the costs of lease abandonment and site clearance as estimated by MMS 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 MMS 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 MMS 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.

[62 FR 27957, May 22, 1997; 64 FR 9066, Feb. 24, 1999, as amended at 67 FR 35412, May 17, 2002]

**§ 256.57 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 §256.53(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.**

|                                     |              |
|-------------------------------------|--------------|
| <b>The guarantor should submit—</b> | <b>that—</b> |
|-------------------------------------|--------------|

|   |  |
|---|--|
| (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 | 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 §256.59 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.

[62 FR 27957, May 22, 1997]

**§ 256.58 Termination of the period of liability and cancellation of a bond.**

This section defines the terms and conditions under which MMS 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 MMS 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 §256.52(a) or under §256.53(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 §256.53(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:**

| <b>For the following type of bond</b>                         | <b>The period of liability will end</b>   | <b>Your bond will be cancelled . . .</b>   |
|---|---|--|
| (1) Base bonds submitted under §256.52(a), §256.53(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 §256.53(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<br>(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 MMS that it has discharged its obligations under the lease, and the representation was materially false when the bond was canceled or released.

[66 FR 60150, Dec. 3, 2001]

**§ 256.59 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.

[62 FR 27958, May 22, 1997]

## **Subpart J—Assignments, Transfers, and Extensions**

### **§ 256.62 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) MMS 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 §256.35(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 §256.44(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 MMS, 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 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.

[44 FR 38276, June 29, 1979. Redesignated at 47 FR 47006, Oct. 22, 1982, and amended at 58 FR 45262, Aug. 27, 1993; 62 FR 27959, May 22, 1997; 67 FR 35412, May 17, 2002]

### **§ 256.63 Service fees.**

(a) The table in this paragraph (a) shows the fees that you must pay to MMS 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**

**[Effective September 26, 2005]**

| Service                                      | Fee amount | 30 CFR citation |
|--|------------|-----------------|
| (1) Record Title/Operating Rights (Transfer) | \$170      | §256.64         |
| (2) Non-required Document Filing             | 25         | §256.64         |

(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.

[70 FR 49876, Aug. 25, 2005]

**§ 256.64 How to file transfers.**

This section explains how to file instruments with MMS 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 §256.35 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 the service fee listed in §256.63 of this subpart with your application for approval of any instrument of transfer you are required to file (Record Title/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 per lease affected, you must also pay the service fee listed in §256.63 (Non-required Document Filing Fee). Such documents may be rejected at the discretion of the authorized officer.

(9) Notwithstanding the provisions of paragraph (a)(8) of this section, the requirements to pay a filing fee in connection with any application for approval of any instrument of transfer and to pay a fee in connection with documents not required to be filed are suspended until January 3, 2006.

(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 §256.46 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 §§256.52 and 256.53 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 §256.46 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.

[44 FR 38276, June 29, 1979. Redesignated at 47 FR 47006, Oct. 22, 1982, as amended at 62 FR 27959, May 22, 1997; 62 FR 39775, July 24, 1997; 70 FR 49877, Aug. 25, 2005; 70 FR 61893, Oct. 27, 2005]

#### **§ 256.65 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.

#### **§ 256.67 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.

**§ 256.68 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.

**§ 256.70 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.

[44 FR 38276, June 29, 1979, as amended at 55 FR 32908, Aug. 13, 1990; 64 FR 9066, Feb. 24, 1999; 64 FR 72795, Dec. 28, 1999]

**§ 256.71 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.

**§ 256.72 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.

[44 FR 38276, June 29, 1979. Redesignated at 47 FR 47006, Oct. 22, 1982, and amended at 54 FR 50617, Dec. 8, 1989]

**§ 256.73 Effect of suspensions on lease term.**

(a) A suspension may extend the term of a lease (see 30 CFR 250.171) with the extension being the length of time the suspension is in effect except as provided in paragraph (b) of this section.

(b) A Directed Suspension does not extend the lease term when the Regional Supervisor directs a suspension because of:

(1) Gross negligence; or (2) A willful violation of a provision of the lease or governing regulations.

(c) MMS may issue suspensions for a period of up to 5 years per suspension. The Regional Supervisor will set the length of the suspension based on the conditions of the individual case involved. MMS may grant consecutive suspensions. For more information on suspension of operations or production refer to the section under the heading "Suspensions" in 30 CFR part 250, subpart A.

[64 FR 72795, Dec. 28, 1999]

## **Subpart K—Termination of Leases**

### **§ 256.76 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 MMS. 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.

### **§ 256.77 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 30 CFR 250.182 shall apply as appropriate.

[44 FR 38276, June 29, 1979; 44 FR 55380, Sept. 26, 1979. Redesignated at 47 FR 47006, Oct. 22, 1982; 64 FR 13343, Mar. 18, 1999; 64 FR 72795, Dec. 28, 1999]

## **Subpart L—Section 6 Leases**

### **§ 256.79 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.

[44 FR 38276, June 29, 1979; 44 FR 55380, Sept. 26, 1979. Redesignated at 47 FR 47006, Oct. 22, 1982]

#### **§ 256.80 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**

#### **§ 256.82 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 six 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.

### **Appendix A to Part 256—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:

| <b>Tract No.*</b> | <b>Total amount bid</b> | <b>Amount per acre (or per hectare)</b> | <b>Amount of cash submitted with bid</b> |
|-------------------|-------------------------|---|--|
|                   |                         |   |  |

|  |  |  |  |
|--|--|--|--|
|  |  |  |  |
|--|--|--|--|

**\*Or, if tract numbers are not used, Protraction Diagram or Leasing Map and block number.**

| <b>Bidder qualification<br/>No.</b> | <b>Proportionate interest of company(s)<br/>submitting bid</b> | <b>Name and address of bidding<br/>company</b> |
|-------------------------------------|--|--|
| _ Misc. No.                         |  |  |

\_\_\_\_\_,'

Authorized signatory's name and title.

[47 FR 25972, June 16, 1982. Redesignated at 47 FR 47006, Oct. 22, 1982]