

materials, to the Office of the Director by overnight courier, for delivery the next business day. In order to be timely, a request for review shall be received at the Office of the Director no later than 20 calendar days from the date of the notice to the agency.

(k) The United States Trustee shall have 30 calendar days from the date of the agency's request for review to submit to the Director a written response regarding the matters raised in the agency's request for review. The United States Trustee shall provide a copy of this response to the agency by overnight courier, for delivery the next business day.

(l) The Director may seek additional information from any party in the manner and to the extent the Director deems appropriate.

(m) In reviewing the decision to deny an agency's application or remove an agency from the approved list, the Director shall determine:

(1) Whether the denial or removal decision is supported by the record; and  
(2) Whether the denial or removal decision constitutes an appropriate exercise of discretion.

(n) Except as provided in paragraph (o) of this section, the Director shall issue a written final decision no later than 60 calendar days from the receipt of the agency's request for review, unless the agency agrees to a longer period of time or the Director extends the deadline. The Director's final decision on the agency's request for review shall constitute final agency action.

(o) Whenever the United States Trustee provides under paragraph (i) of this section that a decision to remove an agency from the approved list is effective immediately, the Director shall issue a written decision no later than 15 calendar days from the receipt of the agency's request for review, unless the agency agrees to a longer period of time, which decision shall:

(1) Be limited to deciding whether the determination that the removal decision should take effect immediately was supported by the record and an appropriate exercise of discretion;

(2) Constitute final agency action only on the issue of whether the removal decision should take effect immediately; and

(3) Not constitute final agency action on the ultimate issue of whether the agency should be removed from the approved list; after issuing the decision, the Director shall issue a written final decision by the deadline set forth in paragraph (n) of this section.

(p) In reaching a decision under paragraphs (n) and (o) of this section,

the Director may specify a person to act as a reviewing official. The reviewing official's duties shall be specified by the Director on a case-by-case basis, and may include reviewing the record, obtaining additional information from the participants, providing the Director with written recommendations, and such other duties as the Director shall prescribe in a particular case.

(q) An agency that files a request for review shall bear its own costs and expenses, including counsel fees.

(r) When a decision to remove an agency from the approved list takes effect, the agency shall:

(1) Immediately cease providing counseling services to clients and shall not agree to provide counseling services to prospective clients;

(2) No later than 3 business days after the date of removal, issue all certificates to all clients who completed counseling services prior to the agency's removal from the approved list; and

(3) No later than 3 business days after the date of removal, return all fees to clients and prospective clients who had paid for counseling services, but had not completely received them.

(s) An agency must exhaust all administrative remedies before seeking redress in any court of competent jurisdiction.

Dated: January 18, 2008.

**Clifford J. White III,**

*Director, Executive Office for United States Trustees.*

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## DEPARTMENT OF THE INTERIOR

### Minerals Management Service

#### 30 CFR Part 256

[Docket ID: MMS-2007-OMM-0064]

RIN 1010-AD44

#### Bonus or Royalty Credits for Relinquishing Certain Leases Offshore Florida

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The MMS proposes to amend its regulations for oil and gas leases on the Outer Continental Shelf to implement a mandate in the Gulf of Mexico Energy Security Act of 2006. This proposed rule would (1) provide a credit to lessees who relinquish certain eligible leases in the Gulf of Mexico; (2) define eligible leases as those within 125 miles of the Florida coast in the

Eastern Planning Area and certain leases within 100 miles of the Florida coast in the Central Planning Area; and (3) allow lessees to use the credits in lieu of monetary payment for either a lease bonus bid or royalty due on oil and gas production from most other leases in the Gulf of Mexico or to transfer the credits to other Gulf of Mexico lessees for their use.

**DATES:** Submit comments by April 1, 2008. The MMS may not fully consider comments received after this date. Submit comments to the Office of Management and Budget on the information collection burden in this proposed rule by March 3, 2008.

**FOR FURTHER INFORMATION CONTACT:** Marshall Rose, Chief, Economics Division, at (703) 787-1536.

**ADDRESSES:** You may submit comments on the rulemaking by any of the following methods. Please use the Regulation Identifier Number (RIN) 1010-AD44 as an identifier in your message. See also Public Availability of Comments under Procedural Matters.

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Select "Minerals Management Service" from the agency drop-down menu, then click "submit." In the Docket ID column, select MMS-2007-OMM-0064 to submit public comments and to view supporting and related materials available for this rulemaking. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's "User Tips" link. All comments will be posted to the docket.

- *Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; Attention: Regulations and Standards Branch (RSB); 381 Elden Street, MS-4024, Herndon, Virginia 20170-4817.* Please reference "Bonus or Royalty Credits for Relinquishing Certain Leases Offshore Florida, 1010-AD44" in your comments and include your name and return address.

- *Send comments on the information collection in this rule to:* Interior Desk Officer 1010-AD44, Office of Management and Budget; 202-395-6566 (fax); e-mail: [oira\\_docket@omb.eop.gov](mailto:oira_docket@omb.eop.gov). Please also send a copy to MMS.

#### SUPPLEMENTARY INFORMATION:

#### Background and Summary of the Proposed Rule

Congress passed, and on December 20, 2006, the President signed, the Gulf of Mexico Energy Security Act of 2006 (GOMESA), Public Law No. 109-432.

Section 104(c) of that statute authorizes the Secretary of the Interior (Secretary) to issue a bonus or royalty credit for the exchange of certain leases located offshore of the State of Florida. The statute defines leases eligible for the credit as those in existence on the enactment date of the GOMESA and located both within specified Outer Continental Shelf (OCS) planning areas and distances from the Florida coastline. The statute sets the size of the credit as equal to the bonus and rental paid for the relinquished eligible lease, and limits its use to payments by lessees of bonuses and royalties for leases in the Gulf of Mexico (GOM) not subject to revenue sharing under section 8(g) of the Outer Continental Shelf Lands Act (OCSLA) (43 U.S.C. 1337(g)). Finally, the statute mandates a regulatory process for notifying the Secretary of a lessee's decision to exchange a lease for a credit, issuing the credit, allocating the credit among multiple lease owners, and transferring the credit to other parties.

To implement section 104(c), MMS proposes to add a new subpart N to 30 CFR part 256. Part 256 deals with OCS lease administration, including transfer and termination of a lease. After briefly reviewing the credit issuing process, the following discussion explains how MMS proposes to handle redemption of the credits.

#### Issuing Credits

Section 104, together with the definitions in section 102(1), (4), and (5), identifies the offshore area in which existing leases are located to be eligible to be exchanged for the credit. Therein, reference is made to parts of the Central Planning Area (CPA) and the Eastern

Planning Area, as designated in the Draft Proposed Program Outer Continental Shelf Oil and Gas Leasing Program 2007–2012, dated February 2006. However, the area does not include all of the CPA in the area eligible for the credits. The GOMESA limits the included part of the CPA to the portion of the CPA within 100 miles of the coastline of the State of Florida, and to the area that lies either within a particular area shown on a map that MMS published 10 years ago, or, east of a particular coordinate line on the Pensacola Official Protraction Diagram.

The MMS previously delineated the area in which leases are eligible for the credit using Official Protraction Diagram (OPD) designations. The OPD, in conjunction with the OCS block numbers, uniquely identifies each OCS block by a designated numbering system. The planning area boundaries that were in effect when MMS published the referenced maps coincided with the OPD boundaries. After recent changes MMS made in the boundary between its Eastern, Central, and Western Planning Areas for the GOM, the new planning area boundaries do not coincide with the pre-existing OPD boundaries. Thus, definitions added to §§ 256.5 and 256.90 propose to use OPD boundaries to define the western extent of the eligible area. The northern and eastern extent of the eligible area is the seaward boundary of the State of Florida.

The GOMESA defines the southern extent of the eligible area by reference to the distance from the Florida coastline. Parts of three OPDs (Desoto Canyon, Destin Dome, and Pensacola) are both in the eligible part of the new

CPA and within the requisite 100 miles of the Florida coastline. Other parts of these three OPDs, as well as other OPDs, are in the new Eastern planning area and within the requisite 125 miles of the Florida coastline. These areas contain a total of 79 still active leases as of the end of calendar year 2006. The GOMESA makes all of these leases that were in effect on December 20, 2006, the date of enactment of the GOMESA, eligible for this exchange program. The MMS seeks comments on whether this interpretation of eligibility for the credits based on location and lease status complies with the requirements specified in GOMESA.

Section 256.91 proposes to grant credits equal to the original bonus paid for the relinquished lease plus the cumulative rental paid on that lease since issuance. Because the GOMESA explicitly values the credits as equal only to the sum of these two costs, no authority exists to include reimbursement for any other costs. Thus, MMS will not credit or value any exploration costs incurred in connection with eligible leases for purposes of issuing credits; nor will MMS include time value of money (interest) in calculating the amount of a credit. The MMS estimates the aggregate value of credits available under the statutory formula as slightly more than \$60 million.

The following table lists each lease identified under the proposed interpretation of GOMESA that is eligible for the credit and the amount of the credit. MMS seeks comments about whether any variations exist between the data in this table and the information held by the lease owners.

LEASES AND AMOUNTS ELIGIBLE FOR BONUS OR ROYALTY CREDIT

Lease No.	Lease effective date	Bid amount	Rental paid to 12/31/2006	Total credit
G06390 .....	2/1/1984	\$957,000	\$86,400	\$1,043,400
G06401 .....	2/1/1984	1,103,450	51,265	1,154,715
G06402 .....	2/1/1984	1,106,780	85,825	1,192,605
G06406 .....	2/1/1984	1,607,800	69,120	1,676,920
G06407 .....	2/1/1984	1,308,800	311,040	1,619,840
G06408 .....	2/1/1984	1,106,430	103,105	1,209,535
G06409 .....	2/1/1984	1,213,500	103,105	1,316,605
G06440 .....	2/1/1984	918,500	82,032	1,000,532
G06464 .....	3/1/1984	1,107,500	57,762	1,165,262
G06469 .....	2/1/1984	1,613,500	75,038	1,688,538
G06470 .....	2/1/1984	1,107,500	75,038	1,182,538
G06474 .....	2/1/1984	1,610,800	75,038	1,685,838
G06475 .....	2/1/1984	1,201,700	75,038	1,276,738
G06476 .....	2/1/1984	1,107,500	75,038	1,182,538
G06477 .....	2/1/1984	908,700	75,038	983,738
G08308 .....	3/1/1987	2,877,000	77,866	2,954,866
G08309 .....	3/1/1987	2,325,000	17,173	2,342,173
G08310 .....	3/1/1987	1,165,000	17,173	1,182,173
G08333 .....	2/1/1988	1,379,000	71,854	1,450,854
G08334 .....	2/1/1988	1,379,000	71,854	1,450,854
G08346 .....	2/1/1988	1,355,000	67,593	1,422,593

## LEASES AND AMOUNTS ELIGIBLE FOR BONUS OR ROYALTY CREDIT—Continued

Lease No.	Lease effective date	Bid amount	Rental paid to 12/31/2006	Total credit
G08361 .....	8/1/1986	1,837,000	59,107	1,896,107
G08362 .....	8/1/1986	944,000	59,107	1,003,107
G08363 .....	8/1/1986	3,276,000	59,107	3,335,107
G08364 .....	8/1/1986	2,377,000	59,107	2,436,107
G08365 .....	8/1/1986	1,857,000	59,107	1,916,107
G08366 .....	8/1/1986	944,000	59,107	1,003,107
G08367 .....	8/1/1986	1,363,000	59,107	1,422,107
G08368 .....	8/1/1986	1,117,000	59,107	1,176,107
G10404 .....	4/1/1990	157,000	52,100	209,100
G10405 .....	4/1/1990	145,000	52,100	197,100
G10408 .....	4/1/1990	149,000	52,100	201,100
G10409 .....	4/1/1990	187,000	52,100	239,100
G10410 .....	4/1/1990	209,000	52,100	261,100
G10413 .....	11/1/1989	150,550	51,899	202,449
G10414 .....	11/1/1989	150,550	51,899	202,449
G10415 .....	4/1/1990	153,000	52,100	205,100
G10417 .....	11/1/1989	306,200	64,811	371,011
G10426 .....	6/1/1990	150,550	37,199	187,749
G10427 .....	6/1/1990	150,550	37,199	187,749
G10428 .....	11/1/1989	218,880	115,445	334,325
G10429 .....	11/1/1989	155,300	41,827	197,127
G10430 .....	6/1/1990	145,000	47,330	192,330
G10431 .....	6/1/1990	938,500	41,649	980,149
G10432 .....	6/1/1990	330,900	41,649	372,549
G10433 .....	6/1/1990	900,600	41,649	942,249
G10434 .....	6/1/1990	245,200	41,649	286,849
G10435 .....	6/1/1990	376,500	41,649	418,149
G10436 .....	11/1/1989	2,102,400	115,445	2,217,845
G10437 .....	11/1/1989	910,080	115,445	1,025,525
G10438 .....	11/1/1989	155,200	41,747	196,947
G10439 .....	11/1/1989	167,200	76,387	243,587
G10440 .....	11/1/1989	184,500	80,743	265,243
G10443 .....	11/1/1989	560,600	80,743	641,343
G10446 .....	10/1/1990	146,000	61,995	207,995
G10447 .....	10/1/1990	146,000	61,995	207,995
G10448 .....	10/1/1990	146,000	61,995	207,995
G10449 .....	10/1/1990	153,000	61,995	214,995
G10450 .....	10/1/1990	153,000	61,995	214,995
G10451 .....	10/1/1990	145,000	61,995	206,995
G10452 .....	10/1/1990	168,000	61,995	229,995
G10453 .....	10/1/1990	153,000	61,995	214,995
G10454 .....	10/1/1990	168,000	61,995	229,995
G10455 .....	10/1/1990	148,500	41,922	190,422
G10456 .....	10/1/1990	156,100	41,922	198,022
G10459 .....	10/1/1990	181,500	41,922	223,422
G10460 .....	10/1/1990	148,700	41,922	190,622
G10461 .....	10/1/1990	159,200	41,922	201,122
G10462 .....	10/1/1990	196,500	41,922	238,422
G10463 .....	10/1/1990	151,700	41,922	193,622
G10464 .....	10/1/1990	157,500	41,922	199,422
G10465 .....	10/1/1990	147,300	41,922	189,222
G10466 .....	10/1/1990	147,300	41,922	189,222
G10471 .....	10/1/1990	163,500	41,922	205,422
G10472 .....	10/1/1990	195,400	41,922	237,322
G10473 .....	10/1/1990	192,600	41,922	234,522
G10477 .....	10/1/1990	157,600	41,922	199,522
G10484 .....	10/1/1990	145,000	61,995	206,995
G10485 .....	10/1/1990	158,000	61,995	219,995
79 .....	.....	\$55,458,120	4,944,064	60,402,184

The process proposed by § 256.92 for claiming a credit would begin when all parties holding record title interests in an eligible lease notify the Regional Supervisor for Leasing and Environment in the MMS GOM Regional Office of the decision to exchange the lease. Parties

holding record title interest in an eligible lease are permitted up to 1 year from the effective date of the final rule to apply for these credits. After that date, MMS will no longer accept applications for the credits provided for in this rule. In addition to a request for

a credit, the notification would include: (1) The name of a contact for each record title holder; (2) the percentage record title interest of each owner; (3) a list of the bonus and rental payments made by, or on behalf of, all current owners of the lease; and (4) the form

(Form MMS-152, Relinquishment of Federal Oil and Gas Lease) necessary to execute relinquishment according to § 256.76. The MMS would confirm the percentage interest and payments claimed by the current owners and add any bonus bid or rental payments made by prior owners to determine the credit amount.

Once the adjudication unit in the MMS GOM Region has approved the exchange, the MMS' Minerals Revenue Management (MRM) office would post the credits in the appropriate company payor accounts of the record title interest owners. The credit would become available when MMS sends a written certification to the record title interest owners of an eligible lease that this lease has qualified for a credit of a specific amount.

In the case of multiple record title interest owners of an eligible lease, § 256.93 proposes that MMS would allocate the credit to each record title interest owner based on its percentage of total ownership interest in the lease at the time the owners submit to MMS the request to exchange the lease.

The MMS recognizes that the original lessee(s) would have made bonus payments. If the original lessee sells its record title interest in a lease, the financial terms of the sale will have compensated the original lessee, in some manner satisfactory to it, for the bonus payment it made for its record title interest. Thus, the current record title interest owners made the timely and legally binding investment to acquire and hold the right to explore for and produce the oil and gas that may underlie the seabed on that lease. Therefore, MMS would allocate current record title interest owners the credit usable to acquire an interest in another lease or to pay royalties on production from another lease. Moreover, if the terms of any particular operating rights assignment imply any right or interest in that credit on the part of the assignee, then the current record title holder and the assignee may resolve that issue between themselves.

### Redeeming Credits

Section 256.94(a) proposes to authorize current record title interest owners to redeem these credits as either payment of bonus bids or royalties paid in value. The notice MMS sends certifying that a lease has qualified for a credit would include the amount of the credit and instructions on how to apply the credit, either to a bonus payment due on a successful bid for new leases or to royalties reported due on Form MMS 2014—Report of Sales and Royalty Remittance for other leases.

Under section 104(c)(3) of the statute, the credit may not be used in lieu of payments due under a lease subject to the revenue distribution provisions of section 8(g) of the OCSLA (43 U.S.C. 1337(g)). Under section 8(g)(2), the Secretary pays 27 percent of bonuses, rents, royalties, and other moneys collected from leases lying within 3 nautical miles of the seaward boundary of a coastal state to that state (or 27 percent of the portion of such revenues corresponding to the portion of the lease that lies within 3 nautical miles of the state's seaward boundary). Proposed § 256.94(a) contains this restriction.

Provisions in section 105 of the GOMESA create certain other revenue distribution requirements in addition to the 8(g) provisions. Since Congress certainly knew of, but did not include, these newer revenue distribution programs in this exclusion, this proposal allows a bonus or royalty credit to be used for payments due from leases subject to these newer revenue distribution provisions.

Because using a credit to pay a bonus or royalty in lieu of payment in cash results in the United States receiving less money than if the bidder or lessee paid in cash, it necessarily follows that any distribution of royalty or bonus payments to a state or coastal political subdivision under GOMESA section 105 would result in a corresponding reduction from what it would have been had the entire payment been made in cash. However, MMS projects that the financial impact of section 105 on the coastal states during fiscal years 2007 through 2016 would be very limited. In that time period, under the definition of "qualified Outer Continental Shelf revenues" in GOMESA section 102(9), section 105's distribution requirements apply only to revenues derived from new leases issued after GOMESA's enactment in the portion of the 181 Area located in the Eastern Planning Area and to the 181 South Area. Production and royalty from such leases will not occur anytime soon. Further, MMS allocates the portion of qualified Outer Continental Shelf revenues paid to Gulf producing states between those states based on an inverse distance formula. Therefore, any financial impact on a particular state of a reduction in a particular bonus payment for a new lease in the subject areas because of use of a bonus credit should be very minimal. In fact, lessees who obtain credits will more likely apply them to royalties due under other existing leases with no revenue distribution to non-Federal recipients, or transfer them to other parties for that purpose, thus further reducing the financial impact to

states and localities from this treatment of credit.

The GOMESA limits the credit to monetary payments. The MMS makes explicit in proposed § 256.94(b) that the credit does not apply to royalty-in-kind (RIK) deliveries. Section 102 of the statute defines the credit as follows:

The term "bonus or royalty credit" means a legal instrument or other written documentation, or an entry in an account managed by the Secretary, that may be used in lieu of any other *monetary* [emphasis added] payment for—

(A) a bonus bid for a lease on the outer Continental Shelf; or

(B) a royalty due on oil or gas production from any lease located on the outer Continental Shelf.

The RIK deliveries are not monetary payments. Since the lessee fulfills its royalty obligations by delivering a volume of oil and gas to MMS, the lessee pays no money when paying the RIK. Thus, a lessee cannot use a monetary credit in lieu of delivering RIK. Under current circumstances, exclusion of RIK would confine the application of a royalty credit under the proposed rule to about 30 percent of the roughly \$4 billion in royalty generated annually by GOM producers. Recent royalty collections from 8(g) sources in the GOM total about 3 percent of all oil and gas royalties collected offshore in the GOM. Thus, annual royalties currently paid in cash, to which credits under this proposed rule may apply, total over \$1 billion under leases on tracts in the GOM lying outside the "8(g) zone"—more than 16 times the total value of credits that could be issued under this rule, even if no credits were applied to bonus payments in future lease sales.

Section 256.94(c) proposes to address credits that remain unused after 5 years from the date MMS issues the credits. The section would state that if any credit remains unused after 5 years from the date MMS issued the credit, the MMS reserves the right to apply the remaining credit to the credit holder's ongoing obligations at MMS's discretion.

Section 256.95 proposes to allow current record title interest owners to transfer credits to other parties. The transferee of the credit could use the full face amount of the credit. (Any discount in a payment from the transferee to the transferor of the credit would be a matter solely between those two parties.) This attribute of the credit would largely mitigate any perceived limitation imposed by restricting use of the credit to future bonus or royalty in-value due. As indicated, the expected aggregate size of the credits created

under section 104(c) constitutes only about 6 percent of the royalty in-value collected annually in the GOM. Thus, an ample market should exist for companies that wish to transfer rather than directly use credits they may receive.

When MMS receives the necessary transfer information, MRM will adjust the financial accounts of the transferor and transferee accordingly. The credit becomes available when the MMS sends a written confirmation to the transferee. Rather than create a standard form that must be executed to effect a credit transfer, this rule proposes to rely on a "Letter of Agreement" signed by an authorized official of both the transferor and transferee companies to transfer a bonus or royalty credit. A more formal process does not appear warranted by the few companies involved, all of which have other Gulf of Mexico activities, and the size of the credits relative to authorized uses. The MMS seeks comments on whether a high volume of transfers would warrant a more formal credit transfer process like that used for lease assignments.

To summarize, this proposed rule would offer credits equal to past bonus and rental payments made in connection with 79 offshore leases near Florida in exchange for relinquishment of these leases. The necessary restrictions that MMS proposes for the use of those credits would not compromise their value because the credits would have no expiration date, are transferable, and in aggregate are quite small in magnitude relative to the bonus or royalty-in-value payment obligations to which they can be applied. The credits may be used to meet future bonus or royalty-in-value payments for leases in the GOM outside the 8(g) zone.

## Procedural Matters

### *Regulatory Planning and Review* (Executive Order (E.O.) 12866)

This proposed rule is not a significant rule as determined by the Office of Management and Budget (OMB) and is not subject to review under E.O. 12866.

(1) This proposed rule would not have an annual effect of \$100 million or more on the economy. It would not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The total value of the credit is defined by statute as bonuses and rental paid on the leases in the eligible area. The MMS records show 79 leases are eligible. Total bonuses and

rentals paid in connection with these leases is about \$60 million.

(2) This proposed rule would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency because the credit is confined to leases in Federal offshore waters that lie outside the coastal jurisdiction of State and other local agencies.

(3) This proposed rule would not alter the budgetary effects of entitlements, grants, user fees or loan programs, or the rights or obligations of their recipients.

(4) This proposed rule would not raise novel legal or policy issues. The proposed rule would implement a statutory program that exchanges a credit against future obligations for the return of old, largely inactive leases in a sensitive area.

### *Regulatory Flexibility Act*

The Department of the Interior certifies that this proposed rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This proposed rule applies to the lessees holding record title interests in the 79 offshore leases located near the coastline of the State of Florida. These lessees fall under the Small Business Administration's North American Industry Classification System (NAICS) code 211111, Crude Petroleum and Natural Gas Extraction. Under this NAICS code, companies with less than 500 employees are considered small businesses. Only one of the current record title owners of these 79 leases has less than 500 employees. Moreover, this rule provides a clear benefit to the lessees. It specifies a valuable credit and a simple process for claiming a benefit for relinquishing a lease which the owners have had trouble operating due to access limitations.

This proposed rule would create a relatively small amount of total credits in exchange for certain leases through a relinquishment process that all OCS lessees are accustomed to using. The credits could be used to fulfill any of a relatively large pool of routine bonus or royalty in-value OCS obligations under leases located in the GOM. The credits also would be freely transferable or assignable, and would have no time limit on use. Thus, should a small entity obtain a credit through a transfer, it would be able to use the credit for routine obligations or it could exchange the credit for approximately equivalent value in a potentially large market of other users. The provisions of this proposed rule would not have a significant adverse economic effect on

offshore lessees and operators, including those that are classified as small businesses.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the actions of MMS, call 1-888-734-3247. You may comment to the Small Business Administration without fear of retaliation. Disciplinary action for retaliation by an MMS employee may include suspension or termination from employment with the DOI.

### *Small Business Regulatory Enforcement Fairness Act*

This proposed rule is not a major rule under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2)). This proposed rule:

a. Would not have an annual effect on the economy of \$100 million or more. This proposed rule would offer credits worth approximately \$60 million for the exchange of 79 leases in a sensitive area. Not all companies may choose to relinquish their leases for the credit offered. Even if all the credits were redeemed in 1 year, it would not have an annual effect on the economy of \$100 million.

b. Would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, local government agencies, or geographic regions. The credit represents only a transfer of previous payments back to lessees. The relatively small amount returned by these credits would have little effect on markets, agencies, or regions.

c. Would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. Productive activities have been restricted on the leases that would be returned, and the monetary credit received in exchange would be too small to have a perceptible effect.

### *Unfunded Mandates Reform Act*

This proposed rule would not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The proposed rule would not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing

the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

*Takings Implication Assessment (E.O. 12630)*

Under the criteria in E.O. 12630, this proposed rule does not have significant takings implications. The proposed rule is not a governmental action capable of interference with constitutionally protected property rights. A takings implication assessment is not required.

*Federalism (E.O. 13132)*

Under the criteria in E.O. 13132, this proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. As noted above, the potential revenue sharing effects are excluded either explicitly or implicitly by virtue of the treatment of the expected credit redemptions. This proposed rule would not substantially and directly affect the relationship between the Federal and State governments. To the extent that State and local governments have a role in OCS activities, this proposed rule would not affect that role. A Federalism Assessment is not required.

*Civil Justice Reform (E.O. 12988)*

This rule complies with the requirements of E.O. 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

*Consultation With Indian Tribes (E.O. 13175)*

Under the criteria in E.O. 13175, we have evaluated this proposed rule and determined that it has no potential effects on federally recognized Indian

tribes. There are no Indian or tribal lands on the OCS.

*Paperwork Reduction Act (PRA) of 1995*

This proposed rule contains a collection of information that will be submitted to OMB for review and approval under § 3507(d) of the PRA. This proposed rule also refers to, but does not change, information collection burdens already covered and approved under OMB Control Number 1010–0006.

As part of our continuing effort to reduce paperwork and respondent burdens, MMS invites the public and other Federal agencies to comment on any aspect of the reporting and recordkeeping burden. You may submit your comments on the information collection aspects of this rule directly to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs, OMB Attention: Desk Officer for the Department of the Interior via OMB e-mail:

(OIRA\_DOCKET@omb.eop.gov); or by fax (202) 395–6566; identify with 1010–AD44. Send a copy of your comments to the Regulations and Standards Branch (RSB), Attn: Comments; 381 Elden Street, MS–4024; Herndon, Virginia 20170–4817. Please reference “Bonus or Royalty Credits for Relinquishing Certain Leases Offshore Florida”—AD44 in your comments. You may obtain a copy of our submission to OMB for the new collection of information by contacting the Bureau’s Information Collection Clearance Officer at (202) 208–7744.

The PRA provides that 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. The OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 to 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect

if OMB received it by March 3, 2008. This does not affect the deadline for the public to comment to MMS on the proposed regulations. The title of the information collection is “30 CFR Part 256, Bonus or Royalty Credits for Relinquishing Certain Leases Offshore Florida.”

Respondents are those from the approximately 130 Federal oil and gas lessees who may earn or trade for the bonus or royalty credit. This rulemaking affects those companies that own record title interests in 79 leases. Responses to this collection are required to obtain benefits. The frequency of response is on occasion. The information collection (IC) does not include questions of a sensitive nature. The IC involves requests for a bonus or royalty credit in exchange for relinquishing certain leases or the transfer of such credit to another entity. The MMS will use this information to track the possession and redemption of these special bonus or royalty credits.

The OMB approved the collection of information required by the current 30 CFR part 256 regulations under OMB Control Number 1010–0006 (17,058 burden hours, expiration 5/31/2010). When the final regulations take effect, MMS will consolidate the information collection burden approved for this proposed rulemaking into the primary 30 CFR part 256 information collection under 1010–0006.

The following table shows the two new paperwork burden estimates for this proposed rulemaking. We estimate a total of 45 burden hours, including the time for gathering the information and submitting the request to MMS for review. It should be noted that this rulemaking concerns only 79 current leases and will not affect future leases. Therefore, the associated information collection would be a one-time only burden should respondents holding eligible leases elect to take advantage of the bonus or royalty credits for relinquishing these leases.

Citation 30 CFR part 256 subpart N	Reporting & recordkeeping requirement	Hour burden	Average No. of annual responses	Annual burden hours
92(a) .....	Request a bonus or royalty credit and submit supporting documentation.	1	30	30
92(a)(5) .....	Submit a request to relinquish lease according to § 256.76 .....	Burden currently approved under 1010–0006.*		
95 .....	Request approval to transfer bonus or credit to another party with supporting information.	1	15	15
TOTAL BURDEN			45	45

\* 240 hours for this requirement are already approved under 1010–0006.

The MMS specifically solicits comments on the following questions:

(a) Is the proposed collection of information necessary for MMS to properly perform its functions, and will it be useful?

(b) Are the estimates of the burden hours of the proposed collection reasonable?

(c) Do you have any suggestions that would enhance the quality, clarity, or usefulness of the information to be collected?

(d) Is there a way to minimize the information collection burden on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology?

In addition, the PRA requires agencies to estimate the total annual reporting and recordkeeping “non-hour cost” burden resulting from the collection of information. We have not identified any, and we solicit your comments on this item. For reporting and recordkeeping only, your response should split the cost estimate into two components: (a) Total capital and start-up cost component and (b) annual operation, maintenance, and purchase of services component. Your estimates should consider the costs to generate, maintain, and disclose or provide the information. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and start-up costs include, among other items, computers and software you purchase to prepare for collecting information; monitoring, sampling, drilling, and testing equipment; and record storage facilities. Generally, your estimates should not include equipment or services purchased:

(1) Before October 1, 1995;

(2) To comply with requirements not associated with the information collection;

(3) For reasons other than to provide information or keep records for the Government; or

(4) As part of customary and usual business or private practices.

#### *National Environmental Policy Act (NEPA) of 1969*

We have analyzed this proposed rule in accordance with the criteria of the National Environmental Policy Act and the Department Manual at 516 DM. We determined this proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment. This proposed rule

deals with financial matters and has no direct effect on MMS decisions on environmental activities; hence, an environmental impact statement is not required. Pursuant to Department Manual 516 DM 2.3A (2), Section 1.10 of 516 DM 2, Appendix 1 excludes from documentation in an environmental assessment or impact statement “policies, directives, regulations and guidelines of an administrative, financial, legal, technical or procedural nature; or the environmental effects of which are too broad, speculative or conjectural to lend themselves to meaningful analysis and will be subject later to the NEPA process, either collectively or case-by-case.” Section 1.3 of the same appendix clarifies that royalties and audits are considered routine financial transactions that are subject to categorical exclusion from the NEPA process. No exception to the categorical exclusion applies.

#### *Data Quality Act*

In developing this rule we did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106–554).

#### *Effects on the Energy Supply (E.O. 13211)*

This rule is not a significant energy action under the definition in E.O. 13211. A Statement of Energy Effects is not required.

#### *Public Availability of Comments*

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

#### *Clarity of This Regulation*

We are required by E.O. 12866, E.O. 12988, and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one

of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

#### **List of Subjects in 30 CFR Part 256**

Administrative practice and procedure, Continental shelf, Government contracts, Mineral royalties, Oil and gas exploration, Public lands—mineral resources, Reporting and recordkeeping requirements.

Dated: January 16, 2008.

**C. Stephen Allred,**

*Assistant Secretary—Land and Minerals Management.*

For the reasons stated in the preamble, the Minerals Management Service (MMS) proposes to amend 30 CFR part 256 as follows:

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

1. The authority citation for part 256 is revised to read as follows:

**Authority:** 31 U.S.C. 9701, 42 U.S.C. 6213, 43 U.S.C. 1334, P. L. No. 109–432.

2. Section 256.5 is amended by adding definitions for “Bonus or royalty credit,” “Central planning area,” “Coastline,” “Desoto Canyon OPD,” “Destin Dome OPD,” “Eastern planning area,” and “Pensacola OPD” to read as follows:

#### **§256.5 Definitions.**

\* \* \* \* \*

(m) *Bonus or royalty credit* means a legal instrument or other written documentation, or an entry in an account managed by the Secretary that a bidder or lessee may use in lieu of any other monetary payment for—

(1) A bonus due for a lease on the outer Continental Shelf; or

(2) A royalty due on oil or gas production from any lease located on the outer Continental Shelf.

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

(o) *Coastline* means the line of ordinary low water along that portion of the coast in direct contact with the open sea and the line marking the seaward limit of inland waters.

(p) *Desoto Canyon OPD* means the official protraction diagram designated as Desoto Canyon which has a western edge located at the universal transverse mercator (UTM) X coordinate 1,346,400 in the North American Datum of 1927 (NAD 27).

(q) *Destin Dome OPD* means the official protraction diagram designated as Destin Dome which has a western edge located at the universal transverse mercator (UTM) X coordinate 1,393,920 in the NAD 27.

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

(s) *Pensacola OPD* means the official protraction diagram designated as Pensacola which has a western edge located at the universal transverse mercator (UTM) X coordinate 1,393,920 in the NAD 27.

3. A new subpart N consisting of §§ 256.90 through 256.95 are added to read as follows:

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

Sec.

256.90 Which leases may I exchange for a bonus or royalty credit?

256.91 How much bonus or royalty credit will MMS grant in exchange for a lease?

256.92 What must I do to obtain a bonus or royalty credit?

256.93 How is the bonus or royalty credit allocated among multiple lease owners?

256.94 How may I use the bonus or royalty credit?

256.95 How do I transfer a bonus or royalty credit to another person?

#### **§ 256.90 Which leases may I exchange for a bonus or royalty credit?**

You may exchange a lease for a bonus or royalty credit if it:

(a) Was in effect on December 20, 2006, and

(b) Is located in:

(1) The Eastern planning area and within 125 miles of the coastline of the State of Florida, or

(2) The Central planning area and within the Desoto Canyon OPD, the Destin Dome OPD, or the Pensacola OPD and within 100 miles of the coastline of the State of Florida.

#### **§ 256.91 How much bonus or royalty credit will MMS grant in exchange for a lease?**

The amount of the bonus or royalty credit for an exchanged lease equals the sum of:

(a) The amount of the bonus payment; and

(b) All rental paid for the lease as of the date the lessee submits the request to exchange the lease under § 256.92 to MMS.

#### **§ 256.92 What must I do to obtain a bonus or royalty credit?**

(a) To obtain the bonus or royalty credit, all of the record title interest owners in the lease must submit the following to the MMS Regional Supervisor for Leasing and Environment for the Gulf of Mexico on or before [INSERT THE DATE THAT IS 1 YEAR AFTER THE EFFECTIVE DATE OF THE FINAL RULE IN THE **Federal Register**]:

(1) A written request to exchange the lease for the bonus or royalty credit, signed by all record title interest owners in the lease.

(2) The name and contact information for a person who will act as a contact for each record title interest owner.

(3) Documentation of each record title interest owner's percentage share in the lease.

(4) A list of all bonus and rental payments for that lease made by, or on behalf of, each of the current record title owners.

(5) A written relinquishment of the lease as described in § 256.76. Notwithstanding § 256.76, the relinquishment will become effective when the credit becomes effective under paragraph (b) of this section.

(b) The credit becomes effective when MMS issues a certification to the record title interest owners that the lease has qualified for the credit.

#### **§ 256.93 How is the bonus or royalty credit allocated among multiple lease owners?**

The MMS will allocate the bonus or royalty credit for an exchanged lease to the current record title interest owners in the same percentage share as each owner has in the lease as of the date of the request to exchange the lease.

#### **§ 256.94 How may I use the bonus or royalty credit?**

(a) You may use a credit issued under this part in lieu of a monetary payment due under any lease in the Gulf of Mexico not subject to the revenue distribution provisions of section 8(g)(2) of the OCSLA (43 U.S.C. 1337(g)(2)) for either:

(1) A bonus for acquisition of an interest in a new lease; or

(2) Royalty due on oil and gas production after [INSERT THE DATE THAT IS 30 DAYS AFTER THE PUBLICATION DATE OF THE FINAL RULE IN THE **Federal Register**].

(b) You may not use a bonus or royalty credit in lieu of delivering oil or gas taken as royalty-in-kind.

(c) If you have any credit that remains unused after 5 years from the date MMS issued the credit, MMS reserves the right to apply the remaining credit to your ongoing obligations at its discretion.

#### **§ 256.95 How do I transfer a bonus or royalty credit to another person?**

(a) You may transfer your bonus or royalty credit to any other person by submitting to the MMS Adjudication Unit for the Gulf of Mexico two originally executed transfer letters of agreement.

(b) Authorized officers of all companies involved in transferring and receiving the credit must sign the transfer letters of agreement as indicated on the qualification card filed with MMS.

(c) A transfer letter of agreement must include:

(1) The effective date of the transfer,

(2) The OCS–G number for the lease that originally qualified for the credit,

(3) The amount of the credit being transferred,

(4) Company names punctuated exactly as filed on the qualification card at MMS, and

(5) A corporate seal, only if MMS used a corporate seal qualification process for your corporation.

(d) The transferee of a credit transferred under this section may use it in accordance with § 256.94 as soon as MMS sends a confirmation of the transfer to the transferee.

[FR Doc. E8–1860 Filed 1–31–08; 8:45 am]

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## **ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD**

### **36 CFR Parts 1190 and 1191**

**RIN 3014–AA22**

#### **Emergency Transportable Housing Advisory Committee**

**AGENCY:** Architectural and Transportation Barriers Compliance Board.

**ACTION:** Notice of meeting.

**SUMMARY:** The Architectural and Transportation Barriers Compliance Board (Access Board) has established an advisory committee to make recommendations for possible revisions to the Americans with Disabilities Act (ADA) and Architectural Barriers Act (ABA) Accessibility Guidelines to include provisions for emergency transportable housing. This notice announces the dates, time, and location