

Title 30: Mineral Resources

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PART 260—OUTER CONTINENTAL SHELF OIL AND GAS LEASING

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Source: 66 FR 11518, Feb. 23, 2001, unless otherwise noted.

Subpart A—General Provisions

§ 260.1 What is the purpose of this part?

Part 260 implements the Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. 1331 *et seq.*, as amended, by providing regulations to foster co-operation, including, but not limited to:

- (a) Implementing alternative bidding systems;
- (b) Prohibiting joint bidding for development rights by certain types of joint ventures; and
- (c) Establishing diligence requirements for Federal OCS leases.

§ 260.2 What definitions apply to this part?

OCS lease means a Federal lease for oil and gas issued under the OCSLA.

OCSLA means the Outer Continental Shelf Lands Act, (43 U.S.C. 1331 *et seq.*), as amended.

Person includes, in addition to a natural person, an association, a State, or a private, public, or municipal corporation.

We means the Minerals Management Service (MMS).

You means the lessee or operating rights holder.

§ 260.3 What is MMS's authority to collect information?

The Paperwork Reduction Act of 1995 (PRA) requires us to inform you that we may not conduct or sponsor and you are not required to respond of information unless it displays a currently valid OMB control number. OMB approved the information collection requirements in part 260 under *et seq.* and assigned OMB control number 1010-0143. The PRA also requires us to inform you of the following:

(a) We use the information collected under §§260.114(a)(2), (c)(1) and 260.124 (a)(2):

(1) To make decisions on requests for reconsideration of our assignment of a lease that has a qualifying well to an existing field or designate a new lease under §§260.114(a) and 260.124(a), and

(2) To ensure that the royalty suspension volume is properly allocated among constituent leases in a field under §260.117.

(b) Respondents are Federal OCS oil and gas lessees and operating rights holders. Responses are required to obtain or retain a benefit. We will not disclose any proprietary information under applicable law and part 250 of this chapter.

(c) You may 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.

Subpart B—Bidding Systems

General Provisions

§ 260.101 What is the purpose of this subpart?

This subpart establishes the bidding systems that we may use to offer and sell Federal leases for the exploration, development, and production of resources located on the OCS.

§ 260.102 What definitions apply to this subpart?

Act means the Outer Continental Shelf Deep Water Royalty Relief Act, Pub. L. 104-58, 43 U.S.C. 1337(3).

Eligible lease means a lease that:

- (1) Is issued as part of an OCS lease sale held after November 28, 1995, and before November 28, 2000;
- (2) Is located in the Gulf of Mexico in water depths of 200 meters or deeper;
- (3) Lies wholly west of 87 degrees, 30 minutes West longitude; and
- (4) Is offered subject to a royalty suspension volume.

Field means an area consisting of a single reservoir or multiple reservoirs all grouped on, or related to, the same general geological structural feature or stratigraphic trapping condition. Two or more reservoirs may be in a field, separated vertically by intervening impervious strata, or laterally by local geological barriers, or by both.

Highest responsible qualified bidder means a person who has met the appropriate requirements of 30 CFR part 256, subpart G of this title, and has bid higher than any other bids by qualified bidders on the same tract.

Highest royalty rate means the highest percent rate payable to the United States, as specified in the lease, in the amount or value of the production removed, or sold.

Lease period means the time from lease issuance until relinquishment, expiration, or termination.

Lowest royalty rate means the lowest percent rate payable to the United States, as specified in the lease, in the amount or value of the production removed, or sold.

OCS lease sale means the Department of the Interior (DOI) proceeding by which leases for certain OCS tracts are offered for sale by competitive bidding, during which bids are received, announced, and recorded.

Pre-Act lease means a lease that:

- (1) Is issued as part of an OCS lease sale held before November 28, 1995;
- (2) Is located in the Gulf of Mexico in water depths of 200 meters or deeper; and
- (3) Lies wholly west of 87 degrees, 30 minutes West longitude. (See part 203 of this title.)

Production period means the period during which the amount of oil and gas produced from a tract (or, if the tract is unitized, the amount of oil and gas allocated under a unitization formula) will be measured for purposes of determining the amount of royalty payable to the United States.

Qualified bidder means a person who has met the appropriate requirements of 30 CFR part 256, subpart G of this title.

Royalty rate means the percentage of the amount or value of the production saved, removed, or sold that is due and payable to the United States.

Royalty suspension (RS) lease means a lease that:

- (1) Is issued as part of an OCS lease sale held after November 28, 2000;
- (2) Is in locations or planning areas specified in a particular Notice of OCS Lease Sale; and
- (3) Is offered subject to a royalty suspension specified in a Notice of OCS Lease Sale published in the Federal Register.

Tract means a designation assigned solely for administrative purposes to a block or combination of blocks that are identified by a leasing map or a protraction diagram prepared by the DOI.

Value of production means the value of all oil and gas production saved, removed, or sold from a tract (or, if the tract is unitized, the value of all oil and gas production saved, removed, or sold and credited to the tract under a unitization formula) during a period of production. The value of production is

under part 206 of this title.

[66 FR 11518, Feb. 23, 2001, as amended at 72 FR 25202, May 4, 2007]

§ 260.110 What bidding systems may MMS use?

We will apply a single bidding system selected from those listed in this section to each tract included in an OCS lease sale. The following table lists the bidding systems, the bid variables, and characteristics.

For the bidding system—	The bid variable is the And the characteristics are—
(a) Cash bonus bid with a fixed royalty rate of not less than 12.5 percent	The highest responsible qualified bidder will pay a royalty rate of not less than 12.5 percent at the beginning of the lease period. We will specify the royalty rate for each tract offered in the Notice of OCS Lease Sale published in the Federal Register.
(b) Royalty rate bid with fixed cash bonus	We will specify the fixed amount of cash bonus the highest responsible qualified bidder must pay in the Notice of OCS Lease Sale published in the Federal Register.
(c) Cash bonus bid with a sliding royalty rate of not less than 12.5 percent at the beginning of the lease period	<p>(1) We will calculate the royalty rate the highest responsible qualified bidder must pay using either:</p> <p>(i) A sliding-scale formula, which relates the royalty rate to the adjusted value or volume of production, or</p> <p>(ii) A schedule that establishes the royalty rate that we will apply to ranges of the adjusted value or volume of production.</p> <p>(2) We will determine the adjusted value of production by applying a factor to the actual value of production.</p> <p>(3) If you are the successful high bidder, your lease will include the sliding-scale formula or schedule and will specify the lowest and highest rates that will apply.</p> <p>(4) You will pay a royalty rate of not less than 12.5 percent at the beginning of the lease period.</p> <p>(5) We will include the sliding-scale royalty formula or schedule, inflation factor and procedures for making the inflation adjustment and determine the adjusted value or amount of production in the Notice of OCS Lease Sale published in the Federal Register.</p>
(d) Cash bonus bid with fixed share of the net profit of 30 percent	<p>(1) We will award a lease to the highest responsible qualified bidder to determine the amount of the net profit share payment to the United States each month by multiplying the net profit share base times the net profit share rate, according to §220.022. You will calculate the net profit share according to §220.021.</p> <p>(2) You will pay a net profit share of not less than 30 percent.</p> <p>(3) We will specify the capital recovery factor, as described in §220.022, and the net profit share rate, both of which may vary from tract to tract, in the Notice of OCS Lease Sale published in the Federal Register.</p>
(e) Cash bonus with variable royalty rate(s) during production	The MMS may suspend or defer royalty for a period, volume, or value of production. Notwithstanding suspensions or deferrals, we may impose a minimum royalty. The suspensions or deferrals may vary based on price changes of oil and/or gas.

	<p>(2) You may pay a royalty rate less than 12.5 percent on production than zero percent.</p> <p>(3) We will specify the applicable royalty rates(s) and suspension magnitudes, formulas, or relationships in the Notice of OCS Lease published in the Federal Register.</p>
(f) Cash bonus with royalty rate(s) based on formula(s) or schedule(s) specified during one or more periods of production	(b) Cash bonus with royalty rate on formula(s) or schedule(s) specified in the Notice of OCS Lease Sale published in the Federal Register.
(g) Cash bonus with a fixed royalty rate of not less than 12.5 percent during the beginning of the lease period, suspension of royalty payment based on a percentage of production volume, or value of production, or depending upon the rate of extraction, and with suspensions that may vary based on the specified production	(b) Except for periods of royalty suspension, you will pay a fixed royalty rate of not less than 12.5 percent. If we award to you a lease under this system, we will calculate the royalty due during the designated period using the rate of extraction, and with suspensions that may vary based on the specified production schedule in the Notice of OCS Lease Sale published in the Federal Register.

§ 260.111 What conditions apply to the bidding systems that MMS uses?

- (a) For each of the bidding systems in §260.110, we will include an annual rental fee. Other fees and provisions may apply as well. The Notice of Sale published in the Federal Register will specify the annual rental and any other fees the highest responsible qualified bidder must pay and any provisions.
- (b) If we use any deferment or schedule of payments for the cash bonus bid, we will specify and include it in the Notice of OCS Lease Sale published in the Federal Register.
- (c) For the bidding systems listed in this subpart, if the bid variable is a cash bonus bid, the highest bid by a qualified bidder determines the amount of bonus to be paid. We will include the minimum bid level(s) in the Notice of OCS Lease Sale published in the Federal Register.
- (d) For the bidding systems listed in this subpart, if the bid variable is the royalty rate, the highest bid by a qualified bidder determines the royalty rate. We will include the minimum royalty rate(s) in the Notice of OCS Lease Sale published in the Federal Register.
- (e) We may, by rule, add to or modify the bidding systems listed in §260.110, according to the procedural requirements of the OCSLA, 43 U.S.C. as amended by Public Law 95-372, 92 Stat. 629.

Eligible Leases

§ 260.112 How do royalty suspension volumes apply to eligible leases?

Royalty suspension volumes, as specified in section 304 of the Act, apply to eligible leases that meet the criteria in §260.113. For purposes of the §§260.113 through 260.117:

- (a) Any volumes of production that are not normally royalty-bearing under the lease or the regulations (e.g., fuel gas) do not count against royalty volumes; and
- (b) Production includes volumes allocated to a lease under an approved unit agreement.

§ 260.113 When does an eligible lease qualify for a royalty suspension volume?

(a) Your eligible lease may receive a royalty suspension volume only if it is in a field where no current lease produced oil or gas (other than test before November 28, 1995. For eligible leases, the bidding system in §260.110(g) applies only to leases in fields that meet this condition.

(b) You may receive a royalty suspension volume only if your entire lease is west of 87 degrees, 30 minutes West longitude. A field that lies on b that meridian will receive a royalty suspension volume only for those eligible leases lying entirely west of the meridian.

§ 260.114 How does MMS assign and monitor royalty suspension volumes for eligible leases?

(a) We will assign your lease that has a qualifying well (under part 250, subpart A of this title) to an existing field or designate a new field and will

other affected lessees and operating rights holders in the field of that assignment.

(1) Within 15 days of that notification, you or any of the other affected lessees or operating rights holders may file a written request with the Director (Director) for reconsideration accompanied by a "Statement of Reasons."

(2) The Director will respond in writing either affirming or reversing the assignment decision. The Director's decision is the final action of the Department of the Interior and is not subject to appeal to the Interior Board of Land Appeals under part 290 of this title and 43 CFR part 4.

(b) We have specified the water depth for each eligible lease in the final Notice of OCS Lease Sale. Our determination of the water depth for each lease is final once we issue the lease. We have specified in the Notice the royalty suspension volume applicable to each water depth. The minimum royalty suspension volumes for fields in million barrels of oil equivalent (MMBOE) are shown in the following table:

Water depth	Minimum royalty suspension volume
(1) 200 to 400 m	1005 MMBOE
(2) 400 to 800 m	8005 MMBOE
(3) 800 m and more	8750 MMBOE

(c) Before commencing production, you must:

(1) Notify the MMS Regional Supervisor for Production and Development of your intention to start production; and

(2) Request confirmation of the size of the royalty suspension volume that applies to your eligible lease.

(d) When production (other than test production) first occurs from any of the eligible leases in a field, we will determine what royalty suspension volume applies to the lease(s) in that field. We base the determination for eligible lease(s) on the royalty suspension volumes specified in paragraph (b) of this section for the water depths of eligible leases specified in §260.117(a).

(e) Your eligible lease may obtain more than one royalty suspension volume. If a new field is discovered on your eligible lease that already benefits from a royalty suspension volume from another field, production from that new field receives a separate royalty suspension.

[66 FR 11518, Feb. 23, 2001, as amended at 67 FR 57739, Sept. 12, 2002]

§ 260.115 How long will a royalty suspension volume for an eligible lease be effective?

A royalty suspension volume for an eligible lease will continue through the end of the month in which cumulative production from the leases in a field share the royalty suspension volume reaches that volume or the lease period ends.

§ 260.116 How do I measure natural gas production on my eligible lease?

You must measure natural gas production on your eligible lease subject to the royalty suspension volume as follows: 5.62 thousand cubic feet of natural gas, measured according to part 250, subpart L of this title, equals one barrel of oil equivalent.

§ 260.117 What other provisions apply to royalty suspension volumes for eligible leases?

In addition to the provisions in §§260.111 through 260.116, the provisions in this section apply to royalty suspension volumes on eligible leases.

(a) If a new field consists of eligible leases in different water-depth categories, the royalty suspension volume associated with the eligible lease in the deepest water applies.

(b) If your eligible lease is the only eligible lease in a field, you do not owe royalty on the production from your lease up to the applicable royalty suspension volume.

(c) If a field consists of more than one eligible lease:

(1) Payment of royalties on the eligible leases' initial production is suspended until cumulative production equals the field's established royalty suspension volume;

(2) Only production from leases entitled to share in the field's royalty suspension volume counts as part of this cumulative production; and

(3) The royalty suspension volume for each eligible lease is equal to each lease's actual production (or production allocated under an approved unit) until the field's royalty suspension volume is reached.

(d) This paragraph applies if we add an eligible lease to a field that has an established royalty suspension volume that we approved under part 203 of this title. This paragraph also applies to a field that has an established royalty suspension volume as a result of production starting from one or more eligible leases. In situations covered by this paragraph:

(1) The field's royalty suspension volume will not change, even if the added lease is in deeper water;

(2) If we granted a royalty suspension volume under part 203 of this title that is larger than the minimum specified for that water depth, the added lease may share in the larger suspension volume;

(3) The eligible lease may receive a royalty suspension volume only to the extent of its production before the cumulative production equals the field's established royalty suspension volume; and

(4) Only production from leases entitled to share in the field's previously established royalty suspension volume counts as part of this cumulative production.

(e) A pre-Act lease may receive a royalty suspension volume under part 203 of this title for a field that already has a royalty suspension volume established for other leases. If this happens, then:

(1) The eligible and pre-Act leases share a single royalty suspension volume;

(2) The field's royalty suspension volume is the larger of the volume for the eligible leases or the volume MMS grants in response to the pre-Act lease application; and

(3) The suspension volume for each eligible lease is its actual production from the lease until cumulative production from all leases in the field equals the field-based suspension volume.

(f) If we reassign a well on an eligible lease to another field, the past production from that well:

(1) Will count toward the royalty suspension volume, if any, specified for the field to which it is reassigned; and

(2) Will not count toward the royalty suspension volume, if any, for the field from which it was reassigned.

Royalty Suspension (RS) Leases

§ 260.120 How does royalty suspension apply to leases issued in a sale held after November 2000?

We may issue leases with suspension of royalties for a period, volume or value of production, as authorized in section 303 of the Act. For purposes of this section and §§260.121 through 260.124:

(a) Any volumes of production that are not normally royalty-bearing under the lease or the regulations (e.g., fuel gas) do not count against royalty suspension volumes; and

(b) Production includes volumes allocated to a lease under an approved unit agreement.

§ 260.121 When does a lease issued in a sale held after November 2000 get a royalty suspension?

(a) We will specify any royalty suspension for your RS lease in the Notice of OCS Lease Sale published in the Federal Register for the sale in which the RS lease is issued and will repeat it in the lease document. In addition:

- (1) Your RS lease may produce royalty-free the royalty suspension we specify for your lease, even if the field to which we assign it is producing.
- (2) The royalty suspension we specify in the Notice of OCS Lease Sale for your lease does not apply to any other leases in the field to which we lease.
- (b) You may apply for a supplemental royalty suspension for a project under part 203 of this title, if your lease lies:
 - (1) In the Gulf of Mexico,
 - (2) In water 200 meters or deeper, and
 - (3) Wholly west of 87 degrees, 30 minutes West longitude.
- (c) Your RS lease retains the royalty suspension with which we issued it even if we deny your application for more relief.

§ 260.122 How long will a royalty suspension volume be effective for a lease issued in a sale held after November 2000?

- (a) The royalty suspension volume for your RS lease will continue through the end of the month in which cumulative production from your lease equals the applicable royalty suspension volume or the lease period ends.
- (b)(1) Notwithstanding any royalty suspension under this subpart, you must pay royalty at the lease stipulated rate on:
 - (i) Any oil produced for any period stipulated in the lease during which the arithmetic average of the daily closing prices on the New York Mercantile Exchange (NYMEX) for light sweet crude oil exceeds a threshold price stipulated in the lease, or
 - (ii) Any natural gas produced for any period stipulated in the lease during which the arithmetic average of the daily closing prices on the NYMEX exceeds a threshold price stipulated in the lease.
- (2) You must pay any royalty due under this paragraph, plus late payment interest under §218.54 of this title, no later than 90 days after the end of the month in which royalty is owed.
- (3) Any production on which you must pay royalty under this paragraph will count toward the production volume determined under §§260.120 through 260.122.
- (c) If you must pay royalty on any product (either oil or natural gas) for any period under paragraph (b), you must continue to pay royalty on that product for the next succeeding period of the same length until the arithmetic average of the daily closing NYMEX prices for that product for that period can be determined. If the arithmetic average of the daily closing prices for that product for that period is less than the threshold price stipulated in the lease, you are entitled to a credit or refund of royalties paid for that period with interest under applicable law.
- (d) MMS will adjust the threshold oil and gas prices referred to in paragraph (b) for any period stipulated in the lease by the percentage, if any, by which the implicit price deflator for the gross domestic product changed during the preceding period.

§ 260.123 How do I measure natural gas production for a lease issued in a sale held after November 2000?

You must measure natural gas production subject to the royalty suspension volume for your lease as follows: 5.62 thousand cubic feet of natural gas, measured at standard conditions, according to part 250, subpart L of this title, equals one barrel of oil equivalent.

§ 260.124 How will royalty suspension apply if MMS assigns a lease issued in a sale held after November 2000 to a field eligible or pre-Act lease?

- (a) We will assign your lease that has a qualifying well (under part 250, subpart A of this title) to an existing field or designate a new field and will not affect other affected lessees and operating rights holders in the field of that assignment.
- (1) Within 15 days of the final notification, you or any of the other affected lessees or operating rights holders may file a written request with the Director for reconsideration, accompanied by a Statement of Reasons.
- (2) The Director will respond in writing either affirming or reversing the assignment decision. The Director's decision is the final action of the Department of the Interior and is not subject to appeal to the Interior Board of Land Appeals under part 290 of this title and 43 CFR part 4.

(b) If we establish a royalty suspension volume for a field, either as a result of an approved application for royalty relief submitted for a pre-Act lease under part 203 of this title or as the result of production starting from one or more eligible leases in the field, then:

(1) Royalty-free production from your RS lease shares from and counts as part of any royalty suspension volume under §260.114(d) for the field to which we assign your lease; and

(2) Your RS lease may continue to produce royalty-free up to the royalty suspension we specified for your lease, even if the field to which we assign your lease has produced all of its royalty suspension volume.

(c) Your lease may share in a suspension volume larger than the royalty suspension with which we issued it and to the extent we grant a larger volume in response to an application by a pre-Act lease submitted under part 203 of this title. To share in any larger royalty suspension volume, you must file an application described in §§203.71 and 203.83. In no case will royalty-free production for your RS lease be less than the royalty suspension specified for your lease.

[66 FR 11518, Feb. 23, 2001, as amended at 67 FR 57739, Sept. 12, 2002]

Bidding System Selection Criteria

§ 260.130 What criteria does MMS use for selecting bidding systems and bidding system components?

In analyzing the application of one of the bidding systems listed in §260.110 to tracts selected for any OCS lease sale, we may, at our discretion, consider the following purposes and policies. We recognize that each of the purposes and policies may not be specifically applicable to the selection process for a particular bidding system or tract, or may present a conflict that we will have to resolve in the process of bidding system selection. The order of listing does not indicate a ranking.

- (a) Providing fair return to the Federal Government;
- (b) Increasing competition;
- (c) Ensuring competent and safe operations;
- (d) Avoiding undue speculation;
- (e) Avoiding unnecessary delays in exploration, development, and production;
- (f) Discovering and recovering oil and gas;
- (g) Developing new oil and gas resources in an efficient and timely manner;
- (h) Limiting the administrative burdens on Government and industry; and
- (i) Providing an opportunity to experiment with various bidding systems to enable us to identify those most appropriate for the satisfaction of the needs of the United States in OCS lease sales.

Subpart C [Reserved]

Subpart D—Joint Bidding

§ 260.301 What is the purpose of this subpart?

The purpose of this subpart is to encourage participation in OCS oil and gas lease sales by limiting the requirement for filing "Statements of Production" by certain joint bidders.

§ 260.302 What definitions apply to this subpart?

For the purposes of this subpart, all terms used are defined as in §256.40 of this title.

§ 260.303 What are the joint bidding requirements?

(a) You must file a Statement of Production with the Director, according to the requirements of §§256.38 through 256.44 of this title if:

- (1) You submit a joint bid for any OCS oil and gas lease during a 6-month bidding period; and
- (2) You were chargeable for the prior production period with an average daily production from all sources in excess of 1.6 million barrels of crude oil equivalents, and liquefied petroleum products.

(b) The Statement of Production that you file under paragraph (a) of this section must state that you are chargeable for the prior production period with an average daily production in excess of the quantities listed in paragraph (a) of this section.

(c) If your average daily production in the prior production period met or exceeded the quantities specified in paragraph (a) of this section, you must submit a joint bid for any OCS oil and gas lease during the applicable 6-month bidding period with any other person similarly chargeable. We will disqualify these bids.

(d) If your average daily production in the prior production period met or exceeded the quantities specified in paragraph (a) of this section, you must not enter into an agreement prior to a lease sale that would result in two or more persons, similarly chargeable, acquiring or holding any interest in the tract for which a bid is submitted. We will disqualify and reject these bids.