

## Title 30: Mineral Resources

[Browse Previous](#)

### PART 282—OPERATIONS IN THE OUTER CONTINENTAL SHELF FOR MINERALS OTHER THAN OIL, GAS, AND SULPHUR

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#### Section Contents

#### [Subpart A—General](#)

- [§ 282.0 Authority for information collection.](#)
- [§ 282.1 Purpose and authority.](#)
- [§ 282.2 Scope.](#)
- [§ 282.3 Definitions.](#)
- [§ 282.4 Opportunities for review and comment.](#)
- [§ 282.5 Disclosure of data and information to the public.](#)
- [§ 282.6 Disclosure of data and information to an adjacent State.](#)
- [§ 282.7 Jurisdictional controversies.](#)

#### [Subpart B—Jurisdiction and Responsibilities of Director](#)

- [§ 282.10 Jurisdiction and responsibilities of Director.](#)
- [§ 282.11 Director's authority.](#)
- [§ 282.12 Director's responsibilities.](#)
- [§ 282.13 Suspension of production or other operations.](#)
- [§ 282.14 Noncompliance, remedies, and penalties.](#)
- [§ 282.15 Cancellation of leases.](#)

#### [Subpart C—Obligations and Responsibilities of Lessees](#)

- [§ 282.20 Obligations and responsibilities of lessees.](#)
- [§ 282.21 Plans, general.](#)
- [§ 282.22 Delineation Plan.](#)
- [§ 282.23 Testing Plan.](#)
- [§ 282.24 Mining Plan.](#)
- [§ 282.25 Plan modification.](#)
- [§ 282.26 Contingency Plan.](#)
- [§ 282.27 Conduct of operations.](#)
- [§ 282.28 Environmental protection measures.](#)
- [§ 282.29 Reports and records.](#)
- [§ 282.30 Right of use and easement.](#)
- [§ 282.31 Suspension of production or other operations.](#)

#### [Subpart D—Payments](#)

- [§ 282.40 Bonds.](#)
- [§ 282.41 Method of royalty calculation.](#)
- [§ 282.42 Payments.](#)

#### [Subpart E—Appeals](#)

- [§ 282.50 Appeals.](#)
- 

**Authority:** 43 U.S.C. 1331 *et seq.*

**Source:** 54 FR 2067, Jan. 18, 1989, unless otherwise noted.

## **Subpart A—General**

### **§ 282.0 Authority for information collection.**

The information collection requirements in this part have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1010–0081. The information is being collected to inform the Minerals Management Service (MMS) of general mining operations in the Outer Continental Shelf (OCS). The information will be used to ensure that operations are conducted in a safe and environmentally responsible manner in compliance with governing laws and regulations. The requirement to respond is mandatory.

### **§ 282.1 Purpose and authority.**

(a) The Act authorizes the Secretary to prescribe such rules and regulations as may be necessary to carry out the provisions of the Act (43 U.S.C. 1334). The Secretary is authorized to prescribe and amend regulations that the Secretary determines to be necessary and proper in order to provide for the prevention of waste, conservation of the natural resources of the OCS, and the protection of correlative rights therein. In the enforcement of safety, environmental, and conservation laws and regulations, the Secretary is authorized to cooperate with adjacent States and other Departments and Agencies of the Federal Government.

(b) Subject to the supervisory authority of the Secretary, and unless otherwise specified, the regulations in this part shall be administered by the Director of the MMS.

### **§ 282.2 Scope.**

The rules and regulations in this part apply as of their effective date to all operations conducted under a mineral lease for OCS minerals other than oil, gas, or sulphur issued under the provisions of section 8(k) of the Act.

### **§ 282.3 Definitions.**

When used in this part, the following terms shall have the meaning given below:

*Act* means the OCS Lands Act, as amended (43 U.S.C. 1331 *et seq.*).

*Adjacent State* means with respect to any activity proposed, conducted, or approved under this part, any coastal State—

(1) That is, or is proposed to be, receiving for processing, refining, or transshipment OCS mineral resources commercially recovered from the seabed;

(2) That is used, or is scheduled to be used, as a support base for prospecting, exploration, testing, or mining activities; or

(3) In which there is a reasonable probability of significant effect on land or water uses from such activity.

*Contingency Plan* means a plan for action to be taken in emergency situations.

*Data* means geological and geophysical (G&G) facts and statistics or samples which have not been analyzed, processed, or interpreted.

*Development* means those activities which take place following the discovery of minerals in paying quantities including geophysical activities, drilling, construction of offshore facilities, and operation of all onshore support facilities, which are for the purpose of ultimately producing the minerals discovered.

*Director* means the Director of MMS of the U.S. Department of the Interior or an official authorized to act on the Director's behalf.

*Exploration* means the process of searching for minerals on a lease including:

(1) Geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of minerals;

(2) Any drilling including the drilling of a borehole in which the discovery of a mineral other than oil, gas, or sulphur is made and the drilling of any additional boreholes needed to delineate any mineral deposits; and

(3) The taking of sample portions of a mineral deposit to enable the lessee to determine whether to proceed with development and production.

*Geological sample* means a collected portion of the seabed, the subseabed, or the overlying waters (when obtained for geochemical analysis) acquired while conducting postlease mining activities.

*Governor* means the Governor of a State or the person or entity designated by, or pursuant to, State law to exercise the power granted to a Governor.

*Information* means G&G data that have been analyzed, processed, or interpreted.

*Lease* means one of the following, whichever is required by the context: Any form of authorization which is issued under section 8 or maintained under section 6 of the Acts and which authorizes exploration for, and development and production of, specific minerals; or the area covered by that authorization.

*Lessee* means the person authorized by a lease, or an approved assignment thereof, to explore for and develop and produce the leased deposits in accordance with the regulations in this chapter. The term includes all parties holding that authority by or through the lessee.

*Major Federal action* means any action or proposal by the Secretary which is subject to the provisions of section 102(2)(C) of the National Environmental Policy Act (NEPA) ( *i.e.* , an action which will have a significant impact on the quality of the human environment requiring preparation of an Environmental Impact Statement (EIS) pursuant to section 102(2)(C) of NEPA).

*Marine environment* means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, 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 OCS.

*Minerals* includes oil, gas, sulphur, geopressured-geothermal and associated resources, and all other minerals which are authorized by an Act of Congress to be produced from "public lands" as defined in section 103 of the Federal Land Policy and Management Act of 1976.

*OCS mineral* means any mineral deposit or accretion found on or below the surface of the seabed but does not include oil, gas, or sulphur; salt or sand and gravel intended for use in association with the development of oil, gas, or sulphur; or source materials essential to production of fissionable materials which are reserved to the United States pursuant to section 12(e) of the Act.

*Operator* means the individual, partnership, firm, or corporation having control or management of operations on the lease or a portion thereof. The operator may be a lessee, designated agent of the lessee, or holder of rights under an approved operating agreement.

*Outer Continental Shelf* means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of Submerged Lands Act (43 U.S.C. 1301) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

*Person* means a citizen or national of the United States; an alien lawfully admitted for permanent residency in the United States as defined in 8 U.S.C. 1101(a)(20); a private, public, or municipal corporation organized under the laws of the United States or of any State or territory thereof; an association of such citizens, nationals, resident aliens or private, public, or municipal corporations, States, or political subdivisions of States; or anyone operating in a manner provided for by treaty or other applicable international agreements. The term does not include Federal Agencies.

*Secretary* means the Secretary of the Interior or an official authorized to act on the Secretary's behalf.

*Testing* means removing bulk samples for processing tests and feasibility studies and/or the testing of mining equipment to obtain information needed to develop a detailed Mining Plan.

#### **§ 282.4 Opportunities for review and comment.**

(a) In carrying out MMS's responsibilities under the Act and regulations in this part, the Director shall provide opportunities for Governors of adjacent States, State/Federal task forces, lessees and operators, other Federal Agencies, and other interested parties to review proposed activities described in a Delineation, Testing, or Mining Plan together with an analysis of potential impacts on the

environment and to provide comments and recommendations for the disposition of the proposed plan.

(b)(1) For Delineation Plans, the adjacent State Governor(s) shall be notified by the Director within 15 days following the submission of a request for approval of a Delineation Plan. Notification shall include a copy of the proposed Delineation Plan and the accompanying environmental information. The adjacent State Governor(s) who wishes to comment on a proposed Delineation Plan may do so within 30 days of the receipt of the proposed plan and the accompanying information.

(2) In cases where an Environmental Assessment is to be prepared, the Director's invitation to provide comments may allow the adjacent State Governor(s) more than 30 days following receipt of the proposed plan to provide comments.

(3) The Director shall notify Federal Agencies, as appropriate, with a copy of the proposed Delineation Plan and the accompanying environmental information within 15 days following the submission of the request. Agencies that wish to comment on a proposed Delineation Plan shall do so within 30 days following receipt of the plan and the accompanying information.

(c)(1) For Testing Plans, the adjacent State Governor(s) shall be notified by the Director within 20 days following submission of a request for approval of a proposed Testing Plan. Notification shall include a copy of the proposed Testing Plan and the accompanying environmental information. The adjacent State Governor(s) who wishes to comment on a proposed Testing Plan may do so within 60 days of the receipt of a plan and the accompanying information.

(2) In cases where an EIS is to be prepared, the Director's invitation to provide comments may allow the adjacent State Governor(s) more than 60 days following receipt of the proposed plan to provide comments.

(3) The Director shall notify Federal Agencies, as appropriate, with a copy of the proposed Testing Plan and the accompanying environmental information within 20 days following the submission of the request. Agencies that wish to comment on a proposed Testing Plan shall do so within 60 days following receipt of the plan and the accompanying information.

(d)(1) For Mining Plans, the adjacent State Governor(s) shall be notified by the Director within 20 days following the submission of a request for approval of a proposed Mining Plan. Notification shall include a copy of the proposed Mining Plan and the accompanying environmental information. The adjacent State Governor(s) who wishes to comment on a proposed Mining Plan may do so within 60 days of the receipt of a plan and the accompanying information.

(2) In cases where an EIS is to be prepared, the Director's invitation to provide comments may allow the adjacent State Governor(s) more than 60 days following receipt of the proposed plan to provide comments.

(3) The Director shall notify Federal Agencies, as appropriate, with a copy of the proposed Mining Plan and the accompanying environmental information within 20 days following the submission of the request. Agencies that wish to comment on a proposed Mining Plan shall do so within 60 days following receipt of the plan and the accompanying information.

(e) When an adjacent State Governor(s) has provided comments pursuant to paragraphs (b), (c), and (d) of this section, the Governor(s) shall be given, in writing, a list of recommendations which are adopted and the reasons for rejecting any of the recommendations of the Governor(s) or for implementing any alternative means identified during consultations with the Governor(s).

## **§ 282.5 Disclosure of data and information to the public.**

(a) The Director shall make data, information, and samples available in accordance with the requirements and subject to the limitations of the Act, the Freedom of Information Act (5 U.S.C. 552), and the implementing regulations (43 CFR part 2).

(b) Geophysical data, processed G&G information, interpreted G&G information, and other data and information submitted pursuant to the requirements of this part shall not be available for public inspection without the consent of the lessee so long as the lease remains in effect, unless the Director determines that earlier limited release of such information is necessary for the unitization of operations on two or more leases, to ensure proper Mining Plans for a common orebody, or to promote operational safety. When the Director determines that early limited release of data and information is necessary, the data and information shall be shown only to persons with a direct interest in the affected lease(s), unitization agreement, or joint Mining Plan.

(c) Geophysical data, processed geophysical information and interpreted geophysical information collected on a lease with high resolution systems (including, but not limited to, bathymetry, side-scan sonar, subbottom profiler, and magnetometer) in compliance with stipulations or orders concerning protection of environmental aspects of the lease may be made available to the public 60 days after submittal to the Director, unless the lessee can demonstrate to the satisfaction of the Director that release of the information or data would unduly damage the lessee's competitive position.

## **§ 282.6 Disclosure of data and information to an adjacent State.**

(a) Proprietary data, information, and samples submitted to MMS pursuant to the requirements of this part shall be made available for inspection by representatives of adjacent State(s) upon request by the Governor(s) in accordance with paragraphs (b), (c), and (d) of this section.

(b) Disclosure shall occur only after the Governor has entered into an agreement with the Secretary providing that:

(1) The confidentiality of the information shall be maintained;

(2) In any action commenced against the Federal Government or the State for failure to protect the confidentiality of proprietary information, the Federal Government or the State, as the case may be, may not raise as a defense any claim of sovereign immunity or any claim that the employee who revealed the proprietary information, which is the basis of the suit, was acting outside the scope of the person's employment in revealing the information;

(3) The State agrees to hold the United States harmless for any violation by the State or its employees or contractors of the agreement to protect the confidentiality of proprietary data, information, and samples; and

(c) The data, information, and samples available for inspection by representatives of adjacent State(s) pursuant to an agreement shall be related to leased lands.

## **§ 282.7 Jurisdictional controversies.**

In the event of a controversy between the United States and a State as to whether certain lands are subject to Federal or State jurisdiction, either the Governor of the State or the Secretary may initiate negotiations in an attempt to settle the jurisdictional controversy. With the concurrence of the Attorney General, the Secretary may enter into an agreement with a State with respect to OCS mineral activities and to payment and impounding of rents, royalties, and other sums and with respect to the issuance or nonissuance of new leases pending settlement of the controversy.

## **Subpart B—Jurisdiction and Responsibilities of Director**

### **§ 282.10 Jurisdiction and responsibilities of Director.**

Subject to the authority of the Secretary, the following activities are subject to the regulations in this part and are under the jurisdiction of the Director: Exploration, testing, and mining operations together with the associated environmental protection measures needed to permit those activities to be conducted in an environmentally responsible manner; handling, measurement, and transportation of OCS minerals; and other operations and activities conducted pursuant to a lease issued under part 281 of this chapter, or pursuant to a right of use and easement granted under this part, by or on behalf of a lessee or the holder of a right of use and easement.

### **§ 282.11 Director's authority.**

(a) In the exercise of jurisdiction under §282.10, the Director is authorized and directed to act upon the requests, applications, and notices submitted under the regulations in this part; to issue either written or oral orders to govern lease operations; and to require compliance with applicable laws, regulations, and lease terms so that all operations conform to sound conservation practices and are conducted in a manner which is consistent with the following:

(1) Make such OCS minerals available to meet the nation's needs in a timely manner;

(2) Balance OCS mineral resource development with protection of the human, marine, and coastal environments;

(3) Ensure the public a fair and equitable return on OCS minerals leased on the OCS; and

(4) Foster and encourage private enterprise.

(b)(1) The Director is to be provided ready access to all OCS mineral resource data and all environmental data acquired by the lessee or holder of a right of use and easement in the course of operations on a lease or right of use and easement and may require a lessee or holder to obtain additional environmental data when deemed necessary to assure adequate protection of the human, marine, and coastal environments.

(2) The Director is to be provided an opportunity to inspect, cut, and remove representative portions of all samples acquired by a lessee in the course of operations on the lease.

(c) In addition to the rights and privileges granted to a lessee under any lease issued or maintained under the Act, on request, the Director may grant a lessee, subject to such conditions as the Director may prescribe, a right of use and easement to construct and maintain platforms, artificial islands, and/or other installations and devices which are permanently or temporarily attached to the seabed and which are needed for the conduct of leasehold exploration, testing, development, production, and processing activities or other leasehold related operations whether on or off the lease.

(d)(1) The Director may approve the consolidation of two or more OCS mineral leases or portions of two or more OCS mineral leases into a single mining unit requested by lessees, or the Director may require such consolidation when the operation of those leases or portions of leases as a single mining unit is in the interest of conservation of the natural resources of the OCS or the prevention of waste. A mining unit may also include all or portions of one or more OCS mineral leases with all or portions of one or more adjacent State leases for minerals in a common orebody. A single unit operator shall be responsible for submission of required Delineation, Testing, and Mining Plans covering OCS mineral operations for an approved mining unit.

(2) Operations such as exploration, testing, and mining activities conducted in accordance with an approved plan on any lease or portion of a lease which is subject to an approved mining unit shall be considered operations on each of the leases that is made subject to the approved mining unit.

(3) Minimum royalty paid pursuant to a Federal lease, which is subject to an approved mining unit, is creditable against the production royalties allocated to that Federal lease during the lease year for which the minimum royalty is paid.

(4) Any OCS minerals produced from State and Federal leases which are subject to an approved mining unit shall be accounted for separately unless a method of allocating production between State and Federal leases has been approved by the Director and the appropriate State official.

#### **§ 282.12 Director's responsibilities.**

(a) The Director is responsible for the regulation of activities to assure that all operations conducted under a lease or right of use and easement are conducted in a manner that protects the environment and promotes orderly development of OCS mineral resources. Those activities are to be designed to prevent serious harm or damage to, or waste of, any natural resource (including OCS mineral deposits and oil, gas, and sulphur resources in areas leased or not leased), any life (including fish and other aquatic life), property, or the marine, coastal, or human environment.

(b)(1) In the evaluation of a Delineation Plan, the Director shall consider whether the plan is consistent with:

(i) The provisions of the lease;

(ii) The provisions of the Act;

(iii) The provisions of the regulations prescribed under the Act;

(iv) Other applicable Federal law; and

(v) Requirements for the protection of the environment, health, and safety.

(2) Within 30 days following the completion of an environmental assessment or other NEPA document prepared pursuant to the regulations implementing NEPA or within 30 days following the comment period provided in §282.4(b) of this part, the Director shall:

(i) Approve any Delineation Plan which is consistent with the criteria in paragraph (b)(1) of this section;

(ii) Require the lessee to modify any Delineation Plan that is inconsistent with the criteria in paragraph (b)(1) of this section; or

(iii) Disapprove a Delineation Plan when it is determined that an activity proposed in the plan would probably cause serious harm or damage to life (including fish and other aquatic life); to property; to natural resources of the OCS including mineral deposits (in areas leased or not leased); or to the marine, coastal, or human environment, and the proposed activity cannot be modified to avoid the conditions.

(3) The Director shall notify the lessee in writing of the reasons for disapproving a Delineation Plan or for requiring modification of a

plan and the conditions that must be met for plan approval.

(c)(1) In the evaluation of a Testing Plan, the Director shall consider whether the plan is consistent with:

(i) The provisions of the lease;

(ii) The provisions of the Act;

(iii) The provisions of the regulations prescribed under the Act;

(iv) Other applicable Federal law;

(v) Environmental, safety, and health requirements; and

(vi) The statutory requirement to protect property, natural resources of the OCS, including mineral deposits (in areas leased or not leased), and the national security or defense.

(2) Within 60 days following the release of a final EIS prepared pursuant to NEPA or within 60 days following the comment period provided in §282.4(c) of this part, the Director shall:

(i) Approve any Testing Plan which is consistent with the criteria in paragraph (c)(1) of this section;

(ii) Require the lessee to modify any Testing Plan which is inconsistent with the criteria in paragraph (c)(1) of this section; or

(iii) Disapprove any Testing Plan when the Director determines the existence of exceptional geological conditions in the lease area, exceptional resource values in the marine or coastal environment, or other exceptional circumstances and that (A) implementation of the activities described in the plan would probably cause serious harm and damage to life (including fish and other aquatic life), to property, to any mineral deposit (in areas leased or not leased), to the national security or defense, or to the marine, coastal, or human environments; (B) that the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time; and (C) the advantages of disapproving the Testing Plan outweigh the advantages of development and production of the OCS mineral resources.

(3) The Director shall notify the lessee in writing of the reason(s) for disapproving a Testing Plan or for requiring modification of a Testing Plan and the conditions that must be met for approval of the plan.

(d)(1) In the evaluation of a Mining Plan, the Director shall consider whether the plan is consistent with:

(i) The provisions of the lease;

(ii) The provisions of the Act;

(iii) The provisions of the regulations prescribed under the Act;

(iv) Other applicable Federal law;

(v) Environmental, safety, and health requirements; and

(vi) The statutory requirements to protect property, natural resources of the OCS, including mineral deposits (in areas leased or not leased), and the national security or defense.

(2) Within 60 days following the release of a final EIS prepared pursuant to NEPA or within 60 days following the comment period provided in §282.4(d) of this part, the Director shall:

(i) Approve any Mining Plan which is consistent with the criteria in paragraph (d)(1) of this section;

(ii) Require the lessee to modify any Mining Plan which is inconsistent with the criteria in paragraph (d)(1) of this section; or

(iii) Disapprove any Mining Plan when the Director determines the existence of exceptional geological conditions in the lease area,

exceptional resource values in the marine or coastal environment, or other exceptional circumstances, and that—

(A) Implementation of the activities described in the plan would probably cause serious harm and damage to life (including fish and other aquatic life), to property, to any mineral deposit (in areas leased or not leased), to the national security or defense, or to the marine, coastal, or human environments;

(B) That the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time; and

(C) The advantages of disapproving the Mining Plan outweigh the advantages of development and production of the OCS mineral resources.

(3) The Director shall notify the lessee in writing of the reason(s) for disapproving a Mining Plan or for requiring modification of a Mining Plan and the conditions that must be met for approval of the plan.

(e) The Director shall assure that a scheduled onsite compliance inspection of each facility which is subject to regulations in this part is conducted at least once a year. The inspection shall be to determine that the lessee is in compliance with the requirements of the law; provisions of the lease; the approved Delineation, Testing, or Mining Plan; and the regulations in this part. Additional unscheduled onsite inspections shall be conducted without advance notice to the lessee to assure compliance with the provisions of applicable law; the lease; the approved Delineation, Testing, or Mining Plan; and the regulations in this part.

(f)(1) The Director shall, after completion of the technical and environmental evaluations, approve, disapprove, or require modification of the lessee's requests, applications, plans, and notices submitted pursuant to the provisions of this part; issue orders to govern lease operations; and require compliance with applicable provisions of the law, the regulations, the lease, and the approved Delineation, Testing, or Mining Plans. The Director may give oral orders or approvals whenever prior approval is required before the commencement of an operation or activity. Oral orders or approvals given in response to a written request shall be confirmed in writing within 3 working days after issuance of the order or granting of the oral approval.

(2) The Director shall, after completion of the technical and environmental evaluations, approve, disapprove, or require modification, as appropriate, of the design plan, fabrication plan, and installation plan for platforms, artificial islands, and other installations and devices permanently or temporarily attached to the seabed. The approval, disapproval, or requirement to modify such plans may take the form of a condition of granting a right of use and easement under paragraph (a) of this section or as authorized under any lease issued or maintained under the Act.

(g) The Director shall establish practices and procedures to govern the collection of all rents, royalties, and other payments due the Federal Government in accordance with terms of the leasing notice, the lease, and the applicable Royalty Management regulations listed in §281.26(i) of this chapter.

(h) The Director may prescribe or approve, in writing or orally, departures from the operating requirements of the regulations of this part when such departures are necessary to facilitate the proper development of a lease; to conserve natural resources; or to protect life (including fish and other aquatic life), property, or the marine, coastal, or human environment.

### **§ 282.13 Suspension of production or other operations.**

(a) The Director may direct the suspension or temporary prohibition of production or any other operation or activity on all or any part of a lease when it has been determined that such suspension or temporary prohibition is in the national interest to:

(1) Facilitate proper development of a lease including a reasonable time to develop a mine and construct necessary support facilities,  
or

(2) Allow for the construction or negotiation for use of transportation facilities.

(b) The Director may also direct or, at the request of the lessee, approve a suspension or temporary prohibition of production or any other operation or activity, if:

(1) The lessee failed to comply with a provision of applicable law, regulation, order, or the lease;

(2) There is a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), property, any mineral deposit, or the marine, coastal, or human environment;

(3) The suspension or temporary prohibition is in the interest of national security or defense;

(4) The suspension or temporary prohibition is necessary for the initiation and conduct of an environmental evaluation to define mitigation measures to avoid or minimize adverse environmental impacts.

(5) The suspension or temporary prohibition is necessary to facilitate the installation of equipment necessary for safety of operations and protection of the environment;

(6) The suspension or temporary prohibition is necessary to allow for undue delays encountered by the lessee in obtaining required permits or consents, including administrative or judicial challenges or appeals;

(7) The Director determines that continued operations would result in premature abandonment of a producing mine, resulting in the loss of otherwise recoverable OCS minerals;

(8) The Director determines that the lessee cannot successfully operate a producing mine due to market conditions that are either temporary in nature or require temporary shutdown and reinvestment in order for the lessee to adapt to the conditions; or

(9) The suspension or temporary prohibition is necessary to comply with judicial decrees prohibiting production or any other operation or activity, or the permitting of those activities, effective the date set by the court for that prohibition.

(c) When the Director orders or approves a suspension or a temporary prohibition of operation or activity including production on all of a lease pursuant to paragraph (a) or (b) of this section, the term of the lease shall be extended for a period of time equal to the period of time that the suspension or temporary prohibition is in effect, except that no lease shall be so extended when the suspension or temporary prohibition is the result of the lessee's gross negligence or willful violation of a provision of the lease or governing regulations.

(d) The Director may, at any time within the period prescribed for a suspension or temporary prohibition issued pursuant to paragraph (b)(2) of this section, require the lessee to submit a Delineation, Testing, or Mining Plan for approval in accordance with the requirements for the approval of such plans in this part.

(e)(1) When the Director orders or issues a suspension or a temporary prohibition pursuant to paragraph (b)(2) of this section, the Director may require the lessee to conduct site-specific studies to identify and evaluate the cause(s) of the hazard(s) generating the suspension or temporary prohibition, the potential for damage from the hazard(s), and the measures available for mitigating the hazard(s). The nature, scope, and content of any study shall be subject to approval by the Director. The lessee shall furnish copies and all results of any such study to the Director. The cost of the study shall be borne by the lessee unless the Director arranges for the cost of the study to be borne by a party other than the lessee. The Director shall make results of any such study available to interested parties and to the public as soon as practicable after the completion of the study and submission of the results thereof.

(2) When the Director determines that measures are necessary, on the basis of the results of the studies conducted in accordance with paragraph (e)(1) of this section and other information available to and identified by the Director, the lessee shall be required to take appropriate measures to mitigate, avoid, or minimize the damage or potential damage on which the suspension or temporary prohibition is based. When deemed appropriate by the Director, the lessee shall submit a revised Delineation, Testing, or Mining Plan to incorporate the mitigation measures required by the Director. In choosing between alternative mitigation measures, the Director shall balance the cost of the required measures against the reduction or potential reduction in damage or threat of damage or harm to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not leased), to the national security or defense, or to the marine, coastal, or human environment.

(f)(1) If under the provisions of paragraphs (b) (2), (3), and (4) of this section, the Director, with respect to any lease, directs the suspension of production or other operations on the entire leasehold, no payment of rental or minimum royalty shall be due for or during the period of the directed suspension and the time for the lessee specify royalty free period of a period of reduced royalty pursuant to §281.28(b) of this subchapter will be extended for the period of directed suspension. If under the provisions of paragraphs (b) (2), (3), and (4) of this section the Director, with respect to a lease on which there has been no production, directs the suspension of operations on the entire leasehold, no payment of rental shall be due during the period of the directed suspension.

(2) If under the provisions of this section, the Director grants the request of a lessee for a suspension of production or other operations, the lessee's obligations to pay rental, minimum royalty, or royalty shall continue to apply during the period of the approved suspension, unless the Director's approval of the lessee's request for suspension authorizes the payment of a lesser amount during the period of approved suspension. If under the provision of this section, the Director grants a lessee's request for a suspension of production or other operations for a lease which includes provisions for a time period which the lessee may specify during which production from the leasehold would be royalty free or subject to a reduced royalty obligation pursuant to §281.28(b) of this subchapter, the time during which production from a leasehold may be royalty free or subject to a reduced royalty obligation shall not be extended unless the

Director's approval of the suspension specifies otherwise.

(3) If the lease anniversary date falls within a period of suspension for which no rental or minimum royalty payments are required under paragraph (a) of this section, the prorated rentals or minimum royalties are due and payable as of the date the suspension period terminates. These amounts shall be computed and notice thereof given the lessee. The lessee shall pay the amount due within 30 days after receipt of such notice. The anniversary date of a lease shall not change by reason of any period of lease suspension or rental or royalty relief resulting therefrom.

#### **§ 282.14 Noncompliance, remedies, and penalties.**

(a)(1) If the Director determines that a lessee has failed to comply with applicable provisions of law; the regulations in this part; other applicable regulations; the lease; the approved Delineation, Testing, or Mining Plan; or the Director's orders or instructions, and the Director determines that such noncompliance poses a threat of immediate, serious, or irreparable damage to the environment, the mine or the deposit being mined, or other valuable mineral deposits or other resources, the Director shall order the lessee to take immediate and appropriate remedial action to alleviate the threat. Any oral orders shall be followed up by service of a notice of noncompliance upon the lessee by delivery in person to the lessee or agent, or by certified or registered mail addressed to the lessee at the last known address.

(2) If the Director determines that the lessee has failed to comply with applicable provisions of law; the regulations in this part; other applicable regulations; the lease; the requirements of an approved Delineation, Testing, or Mining Plan; or the Director's orders or instructions, and such noncompliance does not pose a threat of immediate, serious, or irreparable damage to the environment, the mine or the deposit being mined, or other valuable mineral deposits or other resources, the Director shall serve a notice of noncompliance upon the lessee by delivery in person to the lessee or agent or by certified or registered mail addressed to the lessee at the last known address.

(b) A notice of noncompliance shall specify in what respect(s) the lessee has failed to comply with the provisions of applicable law; regulations; the lease; the requirements of an approved Delineation, Testing, or Mining Plan; or the Director's orders or instructions, and shall specify the action(s) which must be taken to correct the noncompliance and the time limits within which such action must be taken.

(c) Failure of a lessee to take the actions specified in the notice of noncompliance within the time limit specified shall be grounds for a suspension of operations and other appropriate actions, including but not limited to the assessment of a civil penalty of up to \$10,000 per day for each violation that is not corrected within the time period specified (43 U.S.C. 1350(b)).

(d) Whenever the Director determines that a violation of or failure to comply with any provision of the Act; or any provision of a lease, license, or permit issued pursuant to the Act; or any provision of any regulation promulgated under the Act probably occurred and that such apparent violation continued beyond notice of the violation and the expiration of the reasonable time period allowed for corrective action, the Director shall follow the procedures concerning remedies and penalties in subpart N, Remedies and Penalties, of part 250 of this title to determine and assess an appropriate penalty.

(e) The remedies and penalties prescribed in this section shall be concurrent and cumulative, and the exercise of one shall not preclude the exercise of the other. Further, the remedies and penalties prescribed in this section shall be in addition to any other remedies and penalties afforded by any other law or regulation (43 U.S.C. 1350(e)).

#### **§ 282.15 Cancellation of leases.**

(a) Whenever the owner of a nonproducing lease fails to comply with any of the provisions of the Act, the lease, or the regulations issued under the Act, and the default continues for a period of 30 days after mailing of notice by registered or certified letter to the lease owner at the owner's record post office address, the Secretary may cancel the lease pursuant to section 5(c) of the Act, and the lessee shall not be entitled to compensation. Any such cancellation is subject to judicial review as provided by section 23(b) of the Act.

(b) Whenever the owner of any producing lease fails to comply with any of the provisions of the Act, the lease, or the regulations issued under the Act, the Secretary may cancel the lease only after judicial proceedings pursuant to section 5(d) of the Act, and the lessee shall not be entitled to compensation.

(c) Any lease issued under the Act, whether producing or not, may be canceled by the Secretary 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) The Secretary may cancel a lease in accordance with the following:

(1) Cancellation may occur at any time if the Secretary determines after a hearing that—

(i) Continued activity pursuant to such lease would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral (in areas leased or not leased), to the national security or defense, or to the marine, coastal, or human environment;

(ii) The threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time; and

(iii) The advantages of cancellation outweigh the advantages of continuing such lease in force.

(2) Cancellation shall not occur unless and until operations under such lease shall have been under suspension or temporary prohibition by the Secretary, with due extension of any lease term continuously for a period of 5 years or for a lesser period upon request of the lessee;

(3) Cancellation shall entitle the lessee to receive such compensation as is shown to the Secretary as being equal to the lesser of—

(i) The fair value of the canceled rights as of the date of cancellation, taking account of both anticipated revenues from the lease and anticipated costs, including costs of compliance with all applicable regulations and operating orders, liability for cleanup costs or damages, or both, and all other costs reasonably anticipated on the lease, or

(ii) The excess, if any, over the lessee's revenue from the lease (plus interest thereon from the date of receipt to date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from date of payment to date of reimbursement), except that in the case of joint leases which are canceled due to the failure of one or more partners to exercise due diligence, the innocent parties shall have the right to seek damages for such loss from the responsible party or parties and the right to acquire the interests of the negligent party or parties and be issued the lease in question.

(iii) The lessee shall not be entitled to compensation where one of the following circumstances exists when a lease is canceled:

(A) A producing lease is forfeited or is canceled pursuant to section (5)(d) of the Act;

(B) A Testing Plan or Mining Plan is disapproved because the lessee's failure to demonstrate compliance with the requirements of applicable Federal law; or

(C) The lessee of a nonproducing lease fails to comply with a provision of the Act, the lease, or regulations issued under the Act, and the noncompliance continues for a period of 30 days or more after the mailing of a notice of noncompliance by registered or certified letter to the lessee.

## **Subpart C—Obligations and Responsibilities of Lessees**

### **§ 282.20 Obligations and responsibilities of lessees.**

(a) The lessee shall comply with the provisions of applicable laws; regulations; the lease; the requirements of the approved Delineation, Testing, or Mining Plans; and other written or oral orders or instructions issued by the Director when performing exploration, testing, development, and production activities pursuant to a lease issued under part 281 of this title. The lessee shall take all necessary precautions to prevent waste and damage to oil, gas, sulphur, and other OCS mineral-bearing formations and shall conduct operations in such manner that does not cause or threaten to cause harm or damage to life (including fish and other aquatic life); to property; to the national security or defense; or to the marine, coastal, or human environment (including onshore air quality). The lessee shall make all mineral resource data and information and all environmental data and information acquired by the lessee in the course of exploration, testing, development, and production operations on the lease available to the Director for examination and copying at the lease site or an onshore location convenient to the Director.

(b) In all cases where there is more than one lease owner of record, one person shall be designated payor for the lease. The payor shall be responsible for making all rental, minimum royalty, and royalty payments.

(c) In all cases where lease operations are not conducted by the sole lessee, a "designation of operator" shall be submitted to and accepted by the Director prior to the commencement of leasehold operations. This designation when accepted will be recognized as authority for the designee to act on behalf of the lessees and to fulfill the lessees' obligations under the Act, the lease, and the regulations of this part. All changes of address and any termination of a designation of operator shall be reported immediately, in writing, to the Director. In the case of a termination of a designation of operator or in the event of a controversy between the lessee and

the designated operator, both the lessee and the designated operator will be responsible for the protection of the interests of the lessor.

(d) When required by the Director or at the option of the lessee, the lessee shall submit to the Director the designation of a local representative empowered to receive notices, provide access to OCS mineral and environmental data and information, and comply with orders issued pursuant to the regulations of this part. If there is a change in the designated representative, the Director shall be notified immediately.

(e) Before beginning operations, the lessee shall inform the Director in writing of any designation of a local representative under paragraph (d) of this section and the address of the mine office responsible for the exploration, testing, development, or production activities; the lessee's temporary and permanent addresses; or the name and address of the designated operator who will be responsible for the operations, and who will act as the local representative of the lessee. The Director shall also be informed of each change thereafter in the address of the mine office or in the name or address of the local representative.

(f) The holder of a right of use and easement shall exercise its rights under the right of use and easement in accordance with the regulations of this part.

(g) A lessee shall submit reports and maintain records in accordance with §282.29 of this part.

(h) When an oral approval is given by MMS in response to an oral request under these regulations, the oral request shall be confirmed in writing by the lessee or holder of a right of use and easement within 72 hours.

(i) The lessee is responsible for obtaining all permits and approvals from MMS or other Agencies needed to carry out exploration, testing, development, and production activities under a lease issued under part 281 of this title.

#### **§ 282.21 Plans, general.**

(a) No exploration, testing, development, or production activities, except preliminary activities, shall be commenced or conducted on any lease except in accordance with a plan submitted by the lessee and approved by the Director. Plans will not be approved before completion of comprehensive technical and environmental evaluations to assure that the activities described will be carried out in a safe and environmentally responsible manner. Prior to the approval of a plan, the Director will assure that the lessee is prepared to take adequate measures to prevent waste; conserve natural resources of the OCS; and protect the environment, human life, and correlative rights. The lessee shall demonstrate to the satisfaction of the Director that the lease is in good standing, the lessee is authorized and capable of conducting the activities described in the plan, and that an acceptable bond has been provided.

(b) Plans shall be submitted to the Director for approval. The lessee shall submit the number of copies prescribed by the Director. Such plans shall describe in detail the activities that are to be conducted and shall demonstrate that the proposed exploration, testing, development, and production activities will be conducted in an operationally safe and environmentally responsible manner that is consistent with the provisions of the lease, applicable laws, and regulations. The Governor of an affected State and other Federal Agencies shall be provided an opportunity to review and provide comments on proposed Delineation, Testing, and Mining Plans and any proposal for a significant modification to an approved plan. Following review, including the technical and environmental evaluations, the Director shall either approve, disapprove, or require the lessee to modify its proposed plan.

(c) Lessees are not required to submit a Delineation or Testing Plan prior to submittal of a proposed Testing or Mining Plan if the lessee has sufficient data and information on which to base a Testing or Mining Plan without carrying out postlease exploration and/or testing activities. A Mining Plan may include proposed exploration or testing activities where those activities are needed to obtain additional data and information on which to base plans for future mining activities. A Testing Plan may include exploration activities when those activities are needed to obtain additional data or information on which to base plans for future testing or mining activities.

(d) Preliminary activities are bathymetric, geological, geophysical, mapping, and other surveys necessary to develop a comprehensive Delineation, Testing, or Mining Plan. Such activities are those which have no significant adverse impact on the natural resources of the OCS. The lessee shall give notice to the Director at least 30 days prior to initiating the proposed preliminary activities on the lease. The notice shall describe in detail those activities that are to be conducted and the time schedule for conducting those activities.

(e) Leasehold activities shall be carried out with due regard to conservation of resources, paying particular attention to the wise management of OCS mineral resources, minimizing waste of the leased resource(s) in mining and processing, and preventing damage to unmined parts of the mineral deposit and other resources of the OCS.

#### **§ 282.22 Delineation Plan.**

All exploration activities shall be conducted in accordance with a Delineation Plan submitted by the lessee and approved by the Director. The Delineation Plan shall describe the proposed activities necessary to locate leased OCS minerals, characterize the

quantity and quality of the minerals, and generate other information needed for the development of a comprehensive Testing or Mining Plan. A Delineation Plan at a minimum shall include the following:

(a) The OCS mineral(s) or primary interest.

(b) A brief narrative description of the activities to be conducted and how the activities will lead to the discovery and evaluation of a commercially minable deposit on the lease.

(c) The name, registration, and type of equipment to be used, including vessel types as well as their navigation and mobile communication systems, and transportation corridors to be used between the lease and shore.

(d) Information showing that the equipment to be used (including the vessel) is capable of performing the intended operation in the environment which will be encountered.

(e) Maps showing the proposed locations of test drill holes, the anticipated depth of penetration of test drill holes, the locations where surficial sample were taken, and the location of proposed geophysical survey lines for each surveying method being employed.

(f) A description of measures to be taken to avoid, minimize, or otherwise mitigate air, land, and water pollution and damage to aquatic and wildlife species and their habitats; any unique or special features in the lease area; aquifers; other natural resources of the OCS; and hazards to public health, safety, and navigation.

(g) A schedule indicating the starting and completion dates for each proposed exploration activity.

(h) A list of any known archaeological resources on the lease and measures to assure that the proposed exploration activities do not damage those resources.

(i) A description of any potential conflicts with other uses and users of the area.

(j) A description of measures to be taken to monitor the effects of the proposed exploration activities on the environment in accordance with §282.28(c) of this part.

(k) A detailed description of practices and procedures to effect the abandonment of exploration activities, e.g., plugging of test drill holes. The proposed procedures shall indicate the steps to be taken to assure that test drill holes and other testing procedures which penetrate the seafloor to a significant depth are properly sealed and that the seafloor is left free of obstructions or structures that may present a hazard to other uses or users of the OCS such as navigation or commercial fishing.

(l) A detailed description of the cycle of all materials, the method for discharge and disposal of waste and refuse, and the chemical and physical characteristics of waste and refuse.

(m) A description of the potential environmental impacts of the proposed exploration activities including the following:

(1) The location of associated port, transport, processing, and waste disposal facilities and affected environment (e.g., maps, land use, and layout);

(2) A description of the nature and degree of environmental impacts and the domestic socioeconomic effects of construction and operation of the associated facilities, including waste characteristics and toxicity;

(3) Any proposed mitigation measures to avoid or minimize adverse impacts on the environment;

(4) A certificate of consistency with the federally approved State coastal zone management program, where applicable; and

(5) Alternative sites and technologies considered by the lessee and the reasons why they were not chosen.

(n) Any other information needed for technical evaluation of the planned activity, such as sample analyses to be conducted at sea, and the evaluation of potential environmental impacts.

### **§ 282.23 Testing Plan.**

All testing activities shall be conducted in accordance with a Testing Plan submitted by the lessee and approved by the Director. Where

a lessee needs more information to develop a detailed Mining Plan than is obtainable under an approved Delineation Plan, to prepare feasibility studies, to carry out a pilot program to evaluate processing techniques or technology or mining equipment, or to determine environmental effects by a pilot test mining operation, the lessee shall submit a comprehensive Testing Plan for the Director's approval. Any OCS minerals acquired during activities conducted under an approved Testing Plan will be subject to the payment of royalty pursuant to the governing lease terms. A Testing Plan at a minimum shall include the following:

- (a) The nature and purpose of the proposed testing program.
- (b) A comprehensive description of the activities to be performed including descriptions of the proposed methods for analysis of samples taken.
- (c) A narrative description and maps showing water depths and the locations of the proposed pilot mining or other testing activities.
- (d) A comprehensive description of the method and manner in which testing activities will be conducted and the results the lessee expects to obtain as a result of those activities.
- (e) The name, registration, and type of equipment to be used, including vessel types together with their navigation and mobile communication systems, and transportation corridors to be used between the lease and shore.
- (f) Information showing that the equipment to be used (including the vessel) is capable of performing the intended operation in the environment which will be encountered.
- (g) A schedule specifying the starting and completion dates for each of the testing activities.
- (h) A list of known archaeological resources on the lease and measures to be used to assure that the proposed testing activities do not damage those resources.
- (i) A description of any potential conflicts with other uses and users of the area.
- (j) A description of measures to be taken to avoid, minimize, or otherwise mitigate air, land, and water pollution and damage to aquatic and wildlife species and their habitat; any unique or special features in the lease area, other natural resources of the OCS; and hazards to public health, safety, and navigation.
- (k) A description of the measures to be taken to monitor the impacts of the proposed testing activities in accordance with §282.28(c) of this part.
- (l) A detailed description of the cycle of all materials including samples and wastes, the method for discharge and disposal of waste and refuse, and the chemical and physical characteristics of such waste and refuse.
- (m) A detailed description of practices and procedures to effect the abandonment of testing activities, e.g., abandonment of a pilot mining facility. The proposed procedures shall indicate the steps to be taken to assure that mined areas do not pose a threat to the environment and that the seafloor is left free of obstructions and structures that may present a hazard to other uses or users of the OCS such as navigation or commercial fishing.
- (n) A description of potential environmental impacts of testing activities including the following:
  - (1) The location of associated port, transport, processing, and waste disposal facilities and affected environment (e.g., maps, land use, and layout);
  - (2) A description of the nature and degree of potential environmental impacts of the proposed testing activities and the domestic socioeconomic effects of construction and operation of the proposed testing facilities, including waste characteristics and toxicity;
  - (3) Any proposed mitigation measures to avoid or minimize adverse impacts on the environment;
  - (4) A certificate of consistency with the federally approved State coastal zone management program, where applicable; and
  - (5) Alternate sites and technologies considered by the lessee and the reasons why they were not selected.
- (o) Any other information needed for technical evaluation of the planned activities and for evaluation of the impact of those activities on

the human, marine, and coastal environments.

#### **§ 282.24 Mining Plan.**

All OCS mineral development and production activities shall be conducted in accordance with a Mining Plan submitted by the lessee and approved by the Director. A Mining Plan shall include comprehensive detailed descriptions, illustrations, and explanations of the proposed OCS mineral development, production, and processing activities and accurately present the lessee's proposed plan of operation. A Mining Plan at a minimum shall include the following:

(a) A narrative description of the mining activities including:

- (1) The OCS mineral(s) or material(s) to be recovered;
- (2) Estimates of the number of tons and grade(s) of ore to be recovered;
- (3) Anticipated annual production;
- (4) Volume of ocean bottom expected to be disturbed (area and depth of disruption) each year; and
- (5) All activities of the mining cycle from extraction through processing and waste disposal.

(b) Maps of the lease showing water depths, the outline of the mineral deposit(s) to be mined with cross sections showing thickness, and the area(s) anticipated to be mined each year.

(c) The name, registration, and type of equipment to be used, including vessel types as well as their navigation and mobile communication systems, and transportation corridors to be used between the lease and shore.

(d) Information showing that the equipment to be used (including the vessel) is capable of performing the intended operation in the environment which will be encountered.

(e) A description of equipment to be used in mining, processing, and transporting of the ore.

(f) A schedule indicating the anticipated starting and completion dates for each activity described in the plan.

(g) For onshore processing, a description of how OCS minerals are to be processed and how the produced OCS minerals will be weighed, assayed, and royalty determinations made.

(h) For at-sea processing, additional information including type and size of installation or structures and the method of tailings disposal.

(i) A list of known archaeological resources on the lease and the measures to be taken to assure that the proposed mining activities do not damage those resources.

(j) Description of any potential conflicts with other uses and users of the area.

(k) A detailed description of the nature and occurrence of the OCS mineral deposit(s) in the leased area with adequate maps and sections.

(l) A detailed description of development and mining methods to be used, the proposed sequence of mining or development, the expected production rate, the method and location of the proposed processing operation, and the method of measuring production.

(m) A detailed description of the method of transporting the produced OCS minerals from the lease to shore and adequate maps showing the locations of pipelines, conveyors, and other transportation facilities and corridors.

(n) A detailed description of the cycle of all materials including samples and wastes, the method of discharge and disposal of waste and refuse, and the chemical and physical characteristics of the waste and refuse.

(o) A description of measures to be taken to avoid, minimize, or otherwise mitigate air, land, and water pollution and damage to aquatic and wildlife species and their habitats; any unique or special features in the lease area, aquifers, or other natural resources of the OCS; and hazards to public health, safety, and navigation.

(p) A detailed description of measures to be taken to monitor the impacts of the proposed mining and processing activities on the environment in accordance with §282.28(c) of this part.

(q) A detailed description of practices and procedures to effect the abandonment of mining and processing activities. The proposed procedures shall indicate the steps to be taken to assure that mined areas on tailing deposits do not pose a threat to the environment and that the seafloor is left free of obstructions and structures that present a hazard to other users or uses of the OCS such as navigation or commercial fishing.

(r) A description of potential environmental impacts of mining activities including the following:

(1) The location of associated port, transport, processing, and waste disposal facilities and the affected environment (e.g., maps, land use, and layout);

(2) A description of the nature and degree of potential environmental impacts of the proposed mining activities and the domestic socioeconomic effects of construction and operation of the associated facilities, including waste characteristics and toxicity;

(3) Any proposed mitigation measures to avoid or minimize adverse impacts on the environment;

(4) A certificate of consistency with the federally approved State coastal zone management program, where applicable; and

(5) Alternative sites and technologies considered by the lessee and the reasons why they were not chosen.

(s) Any other information needed for technical evaluation of the proposed activities and for the evaluation of potential impacts on the environment.

#### **§ 282.25 Plan modification.**

Approved Delineation, Testing, and Mining Plans may be modified upon the Director's approval of the changes proposed. When circumstances warrant, the Director may direct the lessee to modify an approved plan to adjust to changed conditions. If the lessee requests the change, the lessee shall submit a detailed, written statement of the proposed modifications, potential impacts, and the justification for the proposed changes. Revision of an approved plan whether initiated by the lessee or ordered by the Director shall be submitted to the Director for approval. When the Director determines that a proposed revision could result in significant change in the impacts previously identified and evaluated or requires additional permits, the proposed plan revision shall be subject to the applicable review and approval procedures of §§282.21, 282.22, 282.23, and 282.24 of this part.

#### **§ 282.26 Contingency Plan.**

(a) When required by the Director, a lessee shall include a Contingency Plan as part of its request for approval of a Delineation, Testing, or Mining Plan. The Contingency Plan shall comply with the requirements of §282.28(e) of this part.

(b) The Director may order or the lessee may request the Director's approval of a modification of the Contingency Plan when such a change is necessary to reflect any new information concerning the nature, magnitude, and significance of potential equipment or procedural failures or the effectiveness of the corrective actions described in the Contingency Plan.

#### **§ 282.27 Conduct of operations.**

(a) The lessee shall conduct all exploration, testing, development, and production activities and other operations in a safe and workmanlike manner and shall maintain equipment in a manner which assures the protection of the lease and its improvements, the health and safety of all persons, and the conservation of property, and the environment.

(b) Nothing in this part shall preclude the use of new or alternative technologies, techniques, procedures, equipment, or activities, other than those prescribed in the regulations of this part, if such other technologies, techniques, procedures, equipment, or activities afford a degree of protection, safety, and performance equal to or better than that intended to be achieved by the regulations of this part, provided the lessee obtains the written approval of the Director prior to the use of such new or alternative technologies, techniques, procedures, equipment, or activities.

(c) The lessee shall immediately notify the Director when there is a death or serious injury; fire, explosion, or other hazardous event which threatens damage to life, a mineral deposit, or equipment; spills of oil, chemical reagents, or other liquid pollutants which could cause pollution; or damage to aquatic life or the environment associated with operations on the lease. As soon as practical, the lessee

shall file a detailed report on the event and action(s) taken to control the situation and to mitigate any further damage.

(d)(1) Lessees shall provide means, at all reasonable hours either day or night, for the Director to inspect or investigate the conditions of the operation and to determine whether applicable regulations; terms and conditions of the lease; and the requirements of the approved Delineation, Testing, or Mining Plan are being met.

(2) A lessee shall, on request by the Director, furnish food, quarters, and transportation for MMS representatives to inspect its facilities. Upon request, the lessee will be reimbursed by the United States for the actual costs which it incurs as a result of its providing food, quarters, and transportation for an MMS representative's stay of more than 10 hours. Request for reimbursement must be submitted within 60 days following the cost being incurred.

(e) Mining and processing vessels, platforms, structures, artificial islands, and mobile drilling units which have helicopter landing facilities shall be identified with at least one sign using letters and figures not less than 12 inches in height. Signs for structures without helicopter landing facilities shall be identified with at least one sign using letters and figures not less than 3 inches in height. Signs shall be affixed at a location that is visible to approaching traffic and shall contain the following information which may be abbreviated:

(1) Name of the lease operator;

(2) The area designation based on Official OCS Protraction Diagrams;

(3) The block number in which the facility is located; and

(4) Vessel, platform, structure, or rig name.

(f)(1) *Drilling.* (i) When drilling on lands valuable or potentially valuable for oil and gas or geopressured or geothermal resources, drilling equipment shall be equipped with blowout prevention and control devices acceptable to the Director before penetrating more than 500 feet unless a different depth is specified in advance by the Director.

(ii) In cases where the Director determines that there is sufficient likelihood of encountering pressurized hydrocarbons, the Director may require that the lessee comply with all or portions of the requirements in part 250, subpart D, of this title.

(iii) Before drilling any hole which may penetrate an aquifer, the lessee shall follow the procedures included in the approved plan for the penetration and isolation of the aquifer during the drilling operation, during use of the hole, and for subsequent abandonment of the hole.

(iv) Cuttings from holes drilled on the lease shall be disposed of and monitored in accordance with the approved plan.

(v) The use of muds in drilling holes on the lease and their subsequent disposition shall be according to the approved plan.

(2) All drill holes which are susceptible to logging shall be logged, and the lessee shall prepare a detailed lithologic log of each drill hole. Drill holes which are drilled deeper than 500 feet shall be drilled in a manner which permits logging. Copies of logs of cores and cuttings and all in-hole surveys such as electronic logs, gamma ray logs, neutron density logs, and sonic logs shall be provided to the Director.

(3) Drill holes for exploration, testing, development, or production shall be properly plugged and abandoned to the satisfaction of the Director in accordance with the approved plan and in such a manner as to protect the surface and not endanger any operation; any freshwater aquifer; or deposit of oil, gas, or other mineral substance.

(g) The use of explosives on the lease shall be in accordance with the approved plan.

(h)(1) Any equipment placed on the seabed shall be designed to allow its recovery and removal upon abandonment of leasehold activities.

(2) Disposal of equipment, cables, chains, containers, or other materials into the ocean is prohibited.

(3) Materials, equipment, tools, containers, and other items used on the OCS which are of such shape or configuration that they are likely to snag or damage fishing devices shall be handled and marked as follows:

(i) All loose materials, small tools, and other small objects shall be kept in a suitable storage area or a marked container when not in

use or in a marked container before transport over OCS waters;

(ii) All cable, chain, or wire segments shall be recovered after use and securely stored;

(iii) Skid-mounted equipment, portable containers, spools or reels, and drums shall be marked with the owner's name prior to use or transport over OCS waters; and

(iv) All markings must clearly identify the owner and must be durable enough to resist the effects of the environmental conditions to which they are exposed.

(4) Any equipment or material described in paragraphs (h)(2), (h)(3)(ii), and (h)(3)(iii) of this section that is lost overboard shall be recorded on the daily operations report of the facility and reported to the Director and to the U.S. Coast Guard.

(i) Any bulk sampling or testing that is necessary to be conducted prior to submission of a Mining Plan shall be in accordance with an approved Testing Plan. The sale of any OCS minerals acquired under an approved Testing Plan shall be subject to the payment of the royalty specified in the lease to the United States.

(j) *Installations and structures.* (1) The lessee shall design, fabricate, install, use, inspect, and maintain all installations and structures, including platforms on the OCS, to assure the structural integrity of all installations and structures for the safe conduct of exploration, testing, mining, and processing activities considering the specific environmental conditions at the location of the installation or structure.

(2) All fixed or bottom-founded platforms or other structures, e.g., artificial islands shall be designed, fabricated, installed, inspected, and maintained in accordance with the provisions of part 250, subpart I, of this title.

(k) The lessee shall not produce any OCS mineral until the method of measurement and the procedures for product valuation have been instituted in accordance with the approved Testing or Mining Plan. The lessee shall enter the weight or quantity and quality of each mineral produced in accordance with §282.29 of this title.

(l) The lessee shall conduct OCS mineral processing operations in accordance with the approved Testing or Mining Plan and use due diligence in the reduction, concentration, or separation of mineral substances by mechanical or chemical processes, by evaporation, or other means, so that the percentage of concentrates or other mineral substances are recovered in accordance with the practices approved in the Testing or Mining Plan.

(m) No material shall be discharged or disposed of except in accordance with the approved disposal practice and procedures contained in the approved Delineation, Testing, or Mining Plan.

## **§ 282.28 Environmental protection measures.**

(a) Exploration, testing, development, production, and processing activities proposed to be conducted under a lease will only be approved by the Director upon the determination that the adverse impacts of the proposed activities can be avoided, minimized, or otherwise mitigated. The Director shall take into account the information contained in the sale-specific environmental evaluation prepared in association with the lease offering as well as the site- and operational-specific environmental evaluations prepared in association with the review and evaluation of the approved Delineation, Testing, or Mining Plan. The Director's review of the air quality consequences of proposed OCS activities will follow the practices and procedures specified in §§250.194, 250.218, 250.249, and 250.303 of this title.

(b) If the baseline data available are judged by the Director to be inadequate to support an environmental evaluation of a proposed Delineation, Testing, or Mining Plan, the Director may require the lessee to collect additional environmental baseline data prior to the approval of the activities proposed.

(c)(1) The lessee shall monitor activities in a manner that develops the data and information necessary to enable the Director to assess the impacts of exploration, testing, mining, and processing activities on the environment on and off the lease; develop and evaluate methods for mitigating adverse environmental effects; validate assessments made in previous environmental evaluations; and ensure compliance with lease and other requirements for the protection of the environment.

(2) Monitoring of environmental effects shall include determination of the spatial and temporal environmental changes induced by the exploration, testing, development, production, and processing activities on the flora and fauna of the sea surface, the water column, and/or the seafloor.

(3) The Director may place observers onboard exploration, testing, mining, and processing vessels; installations; or structures to ensure that the provisions of the lease, the approved plan, and these regulations are followed and to evaluate the effectiveness of the

approved monitoring and mitigation practices and procedures in protecting the environment.

(4) The Director may order or the lessee may request a modification of the approved monitoring program prior to the startup of testing activities or commercial-scale recovery, and at other appropriate times as necessary, to reflect accurately the proposed operations or to incorporate the results of recent research or improved monitoring techniques.

(5) When prototype test mining is proposed, the lessee shall include a monitoring strategy for assessing the impacts of the testing activities and for developing a strategy for monitoring commercial-scale recovery and mitigating the impacts of commercial-scale recovery more effectively. At a minimum, the proposed monitoring activities shall address specific concerns expressed in the lease-sale environmental analysis.

(6) When required, the monitoring plan shall specify:

(i) The sampling techniques and procedures to be used to acquire the needed data and information;

(ii) The format to be used in analysis and presentation of the data and information;

(iii) The equipment, techniques, and procedures to be used in carrying out the monitoring program; and

(iv) The name and qualifications of person(s) designated to be responsible for carrying out the environmental monitoring.

(d) Lessees shall develop and conduct their operations in a manner designed to avoid, minimize, or otherwise mitigate environmental impacts and to demonstrate the effectiveness of efforts to that end. Based upon results of the monitoring program, the Director may specify particular procedures for mitigating environmental impacts.

(e) In the event that equipment or procedural failure might result in significant additional damage to the environment, the lessee shall submit a Contingency Plan which specifies the procedures to be followed to institute corrective actions in response to such a failure and to minimize adverse impacts on the environment. Such procedures shall be designed for the site and mining activities described in the approved Delineation, Testing, or Mining Plan.

[54 FR 2067, Jan. 18, 1989; 64 FR 9066, Feb. 24, 1999, as amended at 64 FR 72795, Dec. 28, 1999; 70 FR 51519, Aug. 30, 2005]

## **§ 282.29 Reports and records.**

(a) A report of the amount and value of each OCS mineral produced from each lease shall be made by the payor for the lease for each calendar month, beginning with the month in which approved testing, development, or production activities are initiated and shall be filed in duplicate with the Director on or before the 20th day of the succeeding month, unless an extension of time for the filing of such report is granted by the Director. The report shall disclose accurately and in detail all operations conducted during each month and present a general summary of the status of leasehold activities. The report shall be submitted each month until the lease is terminated or relinquished unless the Director authorizes omission of the report during an approved suspension of production. The report shall show for each calendar month the location of each mining and processing activity; the number of days operations were conducted; the identity, quantity, quality, and value of each OCS mineral produced, sold, transferred, used or otherwise disposed of; identity, quantity, and quality of an inventory maintained prior to the point of royalty determination; and other information as may be required by the Director.

(b) The lessee shall submit a status report on exploration and/or testing activities under an approved Delineation or Testing Plan to the Director within 30 days of the close of each calendar quarter which shall include:

(1) A summary of activities conducted;

(2) A listing of all geophysical and geochemical data acquired and developed such as acoustic or seismic profiling records;

(3) A map showing location of holes drilled and where bottom samples were taken; and

(4) Identification of samples analyzed.

(c) Each lessee shall submit to the Director a report of exploration and/or testing activities within 3 months after the completion of operations. The final report of exploration and/or testing activities conducted on the lease shall include:

- (1) A description of work performed;
- (2) Charts, maps, or plats depicting the area and leases in which activities were conducted specifically identifying the lines of geophysical traverses and/or the locations where geological activity was conducted and/or the locations of other exploration and testing activities;
- (3) The dates on which the actual operations were performed;
- (4) A narrative summary of any mineral occurrences; environmental hazards; and effects of the activities on the environment, aquatic life, archaeological resources, or other uses and users of the area in which the activities were conducted;
- (5) Such other descriptions of the activities conducted as may be specified by the Director; and
- (6) Records of all samples from core drilling or other tests made on the lease. The records shall be in such form that the location and direction of the samples can be accurately located on a map. The records shall include logs of all strata penetrated and conditions encountered, such as minerals, water, gas, or unusual conditions, and copies of analyses of all samples analyzed.
- (d) The lessee shall report the results of environmental monitoring activities required in §282.28 of this part and shall submit such other environmental data as the Director may require to conform with the requirements of these regulations.
- (e)(1) All maps shall be appropriately marked with reference to official lease boundaries and elevations marked with reference to sea level. When required by the Director, vertical projections and cross sections shall accompany plan views. The maps shall be kept current and submitted to the Director annually, or more often when required by the Director. The accuracy of maps furnished shall be certified by a professional engineer or land surveyor.
- (2) The lessee shall prepare such maps of the leased lands as are necessary to show the geological conditions as determined from G&G surveys, bottom sampling, drill holes, trenching, dredging, or mining. All excavations shall be shown in such manner that the volume of OCS minerals produced during a royalty period can be accurately ascertained.
- (f) Any lessee who acquires rock, mineral, and core samples under a lease shall keep a representative split of each geological sample and a quarter longitudinal segment of each core for 5 years during which time the samples shall be available for inspection at the convenience of the Director who may take cuts of such cores, cuttings, and samples.
- (g)(1) The lessee shall keep all original data and information available for inspection or duplication, by the Director at the expense of the lessor, as long as the lease continues in force. Should the lessee choose to dispose of original data and information once the lease has expired, said data and information shall be offered to the lessor free of costs and shall, if accepted, become the property of the lessor.
- (2) Navigation tapes showing the location(s) where samples were taken and test drilling conducted shall be retained for as long as the lease continues in force.
- (h) Lessees shall maintain records in which will be kept an accurate account of all ore and rock mined; all ore put through a mill; all mineral products produced; all ore and mineral products sold, transferred, used, or otherwise disposed of and to whom sold or transferred, and the inventory weight, assay value, moisture content, base sales price, dates, penalties, and price received. The percentage of each of the mineral products recovered and the percentages lost shall be shown. The records associated with activities on a lease shall be available to the Director for auditing.
- (i) When special forms or reports other than those referred to in the regulations in this part may be necessary, instructions for the filing of such forms or reports will be given by the Director.

### **§ 282.30 Right of use and easement.**

- (a) A right of use and easement that includes any area subject to a lease issued or maintained under the Act shall be granted only after the lessee has been notified by the requestor and afforded the opportunity to comment on the request. A holder of a right under a right of use and easement shall exercise that right in accordance with the requirements of the regulations in this part. A right of use and easement shall be exercised only in a manner which does not interfere unreasonably with operations of any lessee on its lease.
- (b) Once a right of use and easement has been exercised, the right shall continue, beyond the termination of any lease on which it may be situated, as long as it is demonstrated to the Director that the right of use and easement is being exercised by the holder of the right and that the right of use and easement continues to serve the purpose specified in the grant. If the right of use and easement extends beyond the termination of any lease on which the right may be situated or if it is situated on an unleased portion of the OCS, the rights

of all subsequent lessees shall be subject to such right. Upon termination of a right of use and easement, the holder of the right shall abandon the premises in the same manner that a lessee abandons activities on a lease to the satisfaction of the Director.

### **§ 282.31 Suspension of production or other operations.**

A lessee may submit a request for a suspension of production or other operations. The request shall include justification for granting the requested suspension, a schedule of work leading to the initiation or restoration of production or other operations, and any other information the Director may require.

## **Subpart D—Payments**

### **§ 282.40 Bonds.**

(a) Pursuant to the requirements for a bond in §281.33 of this title, prior to the commencement of any activity on a lease, the lessee shall submit a surety or personal bond to cover the lessee's royalty and other obligations under the lease as specified in this section.

(b) All bonds furnished by a lessee or operator must be in a form approved by the Associate Director for Offshore Minerals Management. A single copy of the required form is to be executed by the principal or, in the case of surety bonds, by both the principal and an acceptable surety.

(c) Only those surety bonds issued by qualified surety companies approved by the Department of the Treasury shall be accepted. (See Department of Treasury Circular No. 570 and any supplemental or replacement circulars.)

(d) Personal bonds shall be accompanied by a cashier's check, certified check, or negotiable U.S. Treasury bonds of an equal value to the amount specified in the bond. Negotiable Treasury bonds shall be accompanied by a proper conveyance of full authority to the Director to sell such securities in case of default in the performance of the terms and conditions of the lease.

(e) A bond in the minimum amount of \$50,000 to cover the lessee's obligations under the lease shall be submitted prior to the commencement of any activity on a leasehold. A \$50,000 bond shall not be required on a lease if the lessee already maintains or furnishes a \$300,000 bond conditioned on compliance with the terms of leases for OCS minerals other than oil, gas, and sulphur held by the lessee on the OCS for the area in which the lease is located. A bond submitted pursuant to §256.58(a) of this chapter may be amended to include the aforementioned condition for compliance. Prior to approval of a Delineation, Testing, or Mining Plan, the bond amount shall be adjusted, if appropriate, to cover the operations and activities described in the proposed plan.

(f) For the purposes of this section there are four areas:

(1) The Gulf of Mexico;

(2) The area offshore the Pacific Coast States of California, Oregon, Washington, and Hawaii;

(3) The area offshore the coast of Alaska; and

(4) The area offshore the Atlantic coast.

(g) A separate bond shall be required for each area. An operator's bond may be submitted for a specific lease(s) in the same amount as the lessee's bond(s) applicable to the lease(s) involved.

(h) Where, upon a default, the surety makes a payment to the United States of an obligation incurred under a lease, the face amount of the surety bond and the surety's liability thereunder shall be reduced by the amount of such payment.

(i) After default, the principal shall, within 6 months after notice or within such shorter period as may be fixed by the Director, either post a new bond or increase the existing bond to the amount previously held. In lieu thereof, the principal may, within that time, file separate or substitute bonds for each lease. Failure to meet these requirements may result in a suspension of operations including production on leases covered by such bonds.

(j) The Director shall not consent to termination of the period of liability of any bond unless an acceptable alternative bond has been filed or until all the terms and conditions of the lease covered by the bond have been met.

[54 FR 2067, Jan. 18, 1989, as amended at 62 FR 27960, May 22, 1997]

**§ 282.41 Method of royalty calculation.**

In the event that the provisions of royalty management regulations do not apply to the specific commodities produced under regulations in this part, the lessee shall comply with procedures specified in the leasing notice.

**§ 282.42 Payments.**

Rentals, royalties, and other payments due the Federal Government on leases for OCS minerals shall be paid and reports submitted by the payor for a lease in accordance with §281.26 of this title.

**Subpart E—Appeals**

**§ 282.50 Appeals.**

See 30 CFR part 290 for instructions on how to appeal any order or decision that we issue under this part.

[65 FR 3857, Jan. 25, 2000]