

ELECTRONIC CODE OF FEDERAL REGULATIONS

e-CFR Data is current as of September 9, 2014

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Title 30: Mineral Resources

PART 1220—ACCOUNTING PROCEDURES FOR DETERMINING NET PROFIT SHARE PAYMENT FOR OUTER CONTINENTAL SHELF OIL AND GAS LEASES

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AUTHORITY: Sec. 205, Pub. L. 95-372, 92 Stat. 643 (43 U.S.C. 1337).

SOURCE: 45 FR 36800, May 30, 1980, unless otherwise noted. Redesignated at 48 FR 1182, Jan. 11, 1983, and further redesignated at 48 FR 35642, Aug. 5, 1983, 75 FR 61087, Oct. 4, 2010.

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§1220.001 Purpose and scope.

(a) This part 1220 establishes accounting procedures for determining the net profit share base and calculating net profit share payments due the United States for the production of oil and gas from OCS leases.

(b) The procedures established by this part 1220 apply to any OCS lease issued by the Department of the Interior under any bidding system established by §1260.110(a) of this title which has a net profit share component.

[45 FR 36800, May 30, 1980, as amended at 46 FR 29689, June 2, 1981. Redesignated at 48 FR 1182, Jan. 11, 1983. Amended at 48 FR 35642, Aug. 5, 1983]

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§1220.002 Definitions.

For purposes of this part 220:

Allowance for capital recovery means the amount calculated according to procedures specified in §1220.020. This amount allows a premium for risk initially undertaken by the lessee and a return on investment made during the capital recovery period. It is provided in lieu of interest on equipment and materiel charged to the NPSL capital account.

Capital recovery period means the period of time that begins on the date of issuance of the NPSL and ends on the last day of the month during which the sooner of the following occurs:

(1) The lessee completes the last well on the first platform specified in the development and production plan originally approved by the Bureau of Ocean Energy Management, Regulation, and Enforcement (BOEMRE), with any approved amendments thereto, and installation of wellhead equipment. In the event the last well is dry, then the capital recovery period shall be deemed to have ended with the determination that the last well is non-productive;

(2) The balance in the NPSL capital account changes from a debit balance to a credit balance; or

(3) The lessee, at his election, chooses to terminate the capital recovery period. A decision to terminate the capital recovery period prior to the events specified in paragraphs (a) (1) and (2) of this definition shall be communicated in writing to the BOEM Director and shall be irrevocable.

Controllable materiel means materiel which at the time is so classified in the Materiel Classification Manual as most recently recommended by the Council of Petroleum Accountants Societies of North America.

Cost means an expenditure or an accrual incurred by a lessee in conducting NPSL operations.

Cost pool means a grouping of costs identified with more than one OCS lease, whether the leases are NPSLs or other types of leases.

Credit means a payment, rebate, reimbursement to a lessee, or other reduction in cost or increase in revenue attributable to NPSL operations.

Direct cost means any cost listed in §1220.011 that benefits only NPSL operations.

Field employee means an employee below a first level supervisor who is directly employed in the NPSL project area.

First level supervisor means an employee whose primary function in NPSL operations is the direct supervision of other employees and/or contract labor directly employed on the NPSL project area in a field operating capacity.

G & G means geological, geophysical, geochemical and other similar investigations carried out on the NPSL tract.

Joint cost means any cost listed in §1220.011 that benefits NPSL operations and one or more other operations of the lessee or an outside party.

Lessee means a person authorized by an OCS lease, or an approved assignment thereof, to develop and produce oil and gas, including all parties holding such authority by or through the lessee, and the person designated to conduct NPSL operations.

Lessee's cost of allowed employee absence means the lessee's cost of holiday, vacation, sickness, disability benefits, jury duty and other customary excused allowances.

Materiel means equipment, apparatus, and supplies.

Net profit share base means the end of the month credit balance in the NPSL capital account determined pursuant to §1220.021. The net profit share base is the production revenue remaining after subtracting all allowable costs and adding all allowable credits (including production revenue) in accordance with the procedures established by this part 1220.

Net profit share payment means the portion of the net profit share base payable to the United States.

Net profit share rate means the percentage share of the net profit share base payable to the United States. The percentage share may be fixed in the notice of OCS lease sale or be the bid variable, depending upon the bidding system used, as established by §1260.110(a) of this title.

NPSL means a net profit share lease, which is an OCS lease that provides for payment to the United States of a percentage share of the net profits for production of oil and gas from the tract. This percentage share may be fixed in the notice of OCS lease sale or be the bid variable, depending on the bidding system used, as established by §1260.110(a) of this title.

NPSL operations means all activities subsequent to issuance of the NPSL necessary and proper for the exploration, development, operation, maintenance, and final abandonment of the NPSL property.

NPSL project area means the NPSL tract, offshore facilities, and shore base facilities.

NPSL property means the NPSL tract, and materiel and offshore facilities acquired for use in NPSL operations and that are installed and/or used on the NPSL tract.

NPSL tract means a tract subject to an NPSL.

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

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

Offshore facilities means platform and support systems located offshore that are necessary to conduct NPSL operations, e.g., oil and gas handling facilities, living quarters, offices, shops, cranes, electrical supply equipment and systems, fuel and water storage and piping, heliport, marine docking installations, communication facilities, and navigation aids.

Outside party means any person who is not a lessee.

Person means person as defined in part 1260 of this title.

Personal expenses means travel and other reasonable reimbursable expenses of lessee's employees.

Production means all oil, gas, or other hydrocarbon products produced, removed, saved, or sold from the NPSL property. Gas and liquids of all kinds are included in production. Production includes the allocated share of production from a unit of which the NPSL is a part.

Production revenue means the value of all production attributable to an NPSL property, which value is determined in accordance with §1260.110(b) of this title.

Railway receiving point or *recognized barge terminal* means the location that a vendor would use in determining the sale price to the lessee of new materiel to be delivered to the NPSL project area.

Reliable supply store means a recognized source or common stock point for the particular materiel involved.

Shore base facilities means onshore facilities necessary for NPSL operations, including:

(1) Shore base support facilities, e.g., a receiving and trans-shipment point for materiel, staging area for shuttling personnel to and from the NPSL tract, a communication, scheduling, and dispatching center; and

(2) Shore base production facilities, e.g., pumps, separating facilities, gas plants, and tankage for production from the NPSL tract.

Technical employees means those employees having special and specific engineering, geological or other professional skills, and whose primary function in NPSL operations is the handling and resolution of specific operating conditions and problems for the benefit of NPSL operations.

Tract means land located on the OCS that is offered for lease through an OCS lease sale and that is identified by a leasing map or an official protraction diagram prepared by DOI.

[45 FR 36800, May 30, 1980, as amended at 46 FR 29689, June 2, 1981. Redesignated and amended at 48 FR 1182, Jan. 11, 1983. Redesignated at 48 FR 35642, Aug. 5, 1983. Amended at 75 FR 61087, Oct. 4, 2010; 78 FR 30206, May 22, 2013]

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§1220.003 Information collection.

(a) The Office of Management and Budget (OMB) approved the information collection requirements contained in this part under 44 U.S.C. 3501 *et seq.* The approved OMB control number is identified in 30 CFR 1210.10. The information will be used to determine all allowable direct and allocable joint costs incurred during the term of the lease, appropriate overhead allowances permitted on these costs pursuant to §1220.012, and allowances for capital recovery calculated pursuant to §1220.020. The information collection is mandatory in accordance with the Federal Oil and Gas Royalty Management Act of 1982, 30 U.S.C. 1701 *et seq.*

(b) Send comments regarding the burden estimates or any other aspect of this information collection, including suggestions for reducing burden, to the Office of Natural Resources Revenue, Attention: Rules & Regs Team, OMB Control Number 1012-0009, P.O. Box 25165, Denver, CO 80225 -0165.

[57 FR 41868, Sept. 14, 1992, as amended at 58 FR 64903, Dec. 10, 1993 75 FR 61087, Oct. 4, 2010; 76 FR 76616, Dec. 8, 2011]

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§1220.010 NPSL capital account.

(a) For each NPSL tract, an NPSL capital account shall be established and maintained by the lessee for NPSL operations. The NPSL capital account shall include debit entries for all allowable direct and allocable joint costs incurred during the term of the lease, appropriate overhead allowances permitted on these costs pursuant to §1220.012, and allowances for capital recovery calculated pursuant to §1220.020. The NPSL capital account shall be credited with production revenues attributable to the NPSL and any other credits arising from NPSL activities.

(b) The NPSL capital account shall be kept on an accrual basis.

[45 FR 36800, May 30, 1980, as amended at 75 FR 61087, Oct. 4, 2010]

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§1220.011 Schedule of allowable direct and allocable joint costs and credits.

The costs and credits specified in paragraphs (a) through (p) of this section may be charged direct, or allocated to NPSL operations, as appropriate, in accordance with §1220.014.

(a) *Lease rental.* The rent paid by the lessee for the NPSL tract is allowable.

(b) *Labor.* (1)(i) Salaries and wages of lessee's field employees, first level supervisors and technical employees employed in the NPSL project area in NPSL operations are allowable if such costs are not charged under paragraph (g) of this section.

(ii) Salaries and wages of technical employees within technical branches of the lessee's organization who are either temporarily or permanently assigned to, and directly employed in NPSL operations are allowable provided that such employees work "full time" on some particular aspect of NPSL operations or some specific technical problem. Excluded from this category are employees assigned a role in NPSL operations as a duty collateral with other duties that do not directly benefit NPSL operations.

(iii) Salaries and wages of technical employees within technical branches of the lessee's organization who are assigned technical tasks directly related to NPSL operations may be allowable. Costs may be charged to the NPSL if supported by adequate time records showing the nature of the task and the hours spent on that task.

(2) Lessee's cost of allowed employee absence paid to employees whose salaries and wages are chargeable to NPSL operations under paragraphs (b)(1) (i) and (ii) of this section are allowable.

(3) Expenditures or contributions made pursuant to assessments imposed by governmental authority that are applicable to lessee's costs chargeable to NPSL operations under paragraphs (b)(1) (i) and (ii) and (b)(2) of this section are allowable.

(4) Reasonable personal expenses, including allowable relocation costs of employees whose salaries and wages are chargeable to NPSL operations under paragraphs (b)(1) (i) and (ii) of this section and that are paid by the lessee or for which the employees are reimbursed under the lessee's normal practice are allowable except as limited by §1220.013(g).

(i) Allowable relocation costs include:

(A) Travel expenses, including transportation, lodging, subsistence, and reasonable incidental expenses of the employee and members of his immediate family and transportation of his household and personal effects to the new location.

(B) Other necessary and reasonable expenses normally incident to relocation, such as costs of cancelling an unexpired lease, disconnecting and reinstalling household appliances, and purchases of insurance against damages to or loss of personal property are allowable. Costs of cancelling an unexpired lease shall not exceed three times the monthly rental.

(C) Closing costs (*i.e.*, brokerage fees, legal fees, appraisal fees, etc.) for the sale of the employee's actual residence when notified of the transfer are allowable; and

(D) Continuing costs of ownership of the vacant former actual residence being sold, such as continuing mortgage principal and interest payments, maintenance of building and grounds (exclusive of fixing-up expenses), utilities, taxes, property insurance, etc., after settlement date of lease or date of new permanent residence are allowable.

(ii) The combined total of costs listed in paragraphs (b)(4)(i) (C) through (D) of this section shall not exceed 8 percent of the sales price of the property sold.

(iii) Section 1220.013(g) specifies employee relocation expenses that are not allowable as a charge to NPSL operations.

(5) Lessee's current costs of established plans for employee's group life insurance, hospitalization, pension, retirement, stock purchase, thrift, bonds, and other benefit plans of a like nature that are made available to all of lessee's employees on an equitable basis, applicable to lessee's labor cost chargeable to NPSL operations under paragraphs (b)(1) (i) and (ii) and (b)(2) of this section, are allowable. The amount of these charges shall be lessee's actual cost not to exceed 23 percent of the total charges under paragraphs (b)(1) (i) and (ii) and (b)(2) except that the Director may from time to time establish a different maximum percentage.

(6) Charges for expenses incurred under paragraphs (b)(2) through (b)(5) of this section may be made to NPSL accounts on a “when and as paid” basis or by a percentage assessment method. If the percentage assessment method is used, it shall be based upon the lessee’s actual cost experience expressed as a percentage of costs chargeable under paragraphs (b)(1) (i) and (ii) and (b)(2) of this section. Under either method the lessee’s own cost of administering the plans and paying the salaries and benefits defined in this paragraph shall be excluded. In determining actual cost experience of an employee benefit plan, any dividend or refunds received that are applicable to insurance or annuity policies shall be used to reduce the cost of such policies.

(c) *Materiel.* (1) Materiel purchased or furnished by a lessee as NPSL property shall be charged or credited at amounts specified in §1220.015. The purchase and inventorying of materiel is subject to the conditions and provisions in §1220.032.

(2) Charges to an NPSL account shall be made only for such materiel purchased or furnished as NPSL property as is reasonably practical and consistent with efficient and economical operations. The accumulation of surplus stocks shall be avoided.

(3) Credit for salvaged or returned materiel shall be made to the NPSL capital account. When the amount originally charged qualifies for the allowance for capital recovery in §1220.020, the credit shall be calculated pursuant to §1220.021(a)(3).

(d) *Transportation.* Transportation of employees and materiel necessary for NPSL operations to, from, and within the NPSL project area, are allowable, but subject to the following limitations:

(1) If materiel is moved to the NPSL project area, no charge shall be made to NPSL operations for a distance greater than the distance from the nearest reliable supply store, recognized barge terminal, or railway receiving point where like materiel is normally available, unless agreed to by the Office of Natural Resources Revenue (ONRR) Director.

(2) If surplus materiel is moved from the NPSL project area, no charge shall be made to NPSL operations for a distance greater than the distance to the nearest reliable supply store, recognized barge terminal, or railway receiving point unless agreed to by the ONRR Director. No charge shall be made to NPSL operations for moving materiel to other properties owned by or under the control of a lessee, unless agreed to by the ONRR Director.

(3) In the application of paragraphs (d)(1) and (d)(2) of this section, there shall be no equalization of actual gross trucking costs of \$200 or less, excluding accessorial charges.

(e) *Contract services.* Except when excluded by paragraph (f) of this section and/or §1220.013(c), the cost of services and utilities provided under contract by outside parties to the lessee and which constitute proper and necessary NPSL operations or support for NPSL operations, and rental charges paid to outside parties for the use of equipment used in the NPSL project area in support of NPSL operations, may be charged to NPSL operations subject to the following conditions and limitations:

(1) Contract services (including professional consulting services and contract services of technical personnel) that are entirely performed in the NPSL project area and benefit exclusively NPSL operations may be charged at the rates specified in the contract.

(2) Contract services (including professional consulting services and contract services of technical personnel) that are entirely performed in the NPSL project area and benefit the NPSL operations and operations on other tracts must be allocated among all tracts benefited and only that portion representing services benefiting the NPSL tract charged to NPSL operations.

(3) Contract services (including professional consulting services and contract services of technical personnel) that are performed at sites outside the NPSL project area may be charged to NPSL operations only if:

(i) The contracted services charged to the NPSL operations benefit only the NPSL tract or support NPSL operations;

(ii) The contract under which such services are provided deals exclusively with services benefiting the NPSL tract or NPSL operations, or the costs of the contract services which are applicable to the NPSL tract or NPSL operations are separately and specifically identified in the contract; and

(iii) Services specified in the contract relate to the resolution of specific technical problems confronting NPSL operations, or specific engineering design problems related to equipment or facilities required for NPSL operations.

(4) The cost of any contract service related to research and development is specifically excluded, as are contract services calling for feasibility studies not directly related to specific engineering design problems or alternatives for equipment and facilities required by NPSL operations.

(f) *Legal expenses.* Expense of handling, investigating and settling litigation or claims, discharging of liens, payments of judgments and amounts paid for settlement of claims incurred in or resulting from NPSL operations, or necessary to protect or recover the NPSL property are allowable, except those costs listed in §1220.013(f) as unallowable. This includes the salaries and wages of lessee's legal staff and the expense of outside attorneys who are assigned to matters described in this paragraph if supported by adequate time records showing the nature of the matter, its direct relationship to NPSL operations, and the hours spent on the matter.

(g) *Rental of equipment and facilities furnished by lessee.* (1)(i) The NPSL capital account shall be charged for the use of equipment and facilities owned by a lessee that are proper and necessary for NPSL operations, including shore base and offshore facilities and pipelines from the tract to shore base production facilities, and that are not NPSL property. Rental charges shall be made at rates based upon actual costs of acquisition, construction, and operation. Such rates may include labor, the cost of setting up and dismantling equipment, maintenance, repairs, other operating expenses, insurance, taxes, depreciation (calculated using a method consistent with generally accepted accounting principles, consistently applied) and a return on the remaining undepreciated basis not to exceed 8 percent per year, except that the ONRR Director may from time to time establish a different maximum percentage. Any cost of acquiring real property in excess of that reasonably required to support the facilities furnished for NPSL operations shall not be included in the costs used to establish these rates. Rates charged shall not exceed average commercial rates for equipment and facilities of similar nature and capability currently prevailing in the vicinity of the NPSL project area.

(ii) The term “*equipment and facilities*” is used in the broad sense to include equipment that may be mobile or semimobile and also installations that may be semipermanent or permanent in nature. Such equipment and facilities listed below shall be charged on the basis indicated.

| Equipment/facilities | Basis of charge |
|---------------------------------|-----------------|
| A. Mobile equipment: | |
| Aircraft | Hour. |
| Automobiles | Mile or hour. |
| Trucks | Mile or hour. |
| Tractors | Hour. |
| Bulldozers | Hour. |
| Mobile cranes | Hour. |
| Trailer-mounted test separators | Hour. |
| Truck-mounted cement mixers | Hour. |
| Boats | Day or hour. |
| House trailers | Day. |
| B. Semimobile equipment: | |
| Drill rigs | Foot or day. |
| Workover rigs | Hour. |
| Pulling units | Hour. |
| Derricks | Day. |

| | |
|---|------------------|
| Drilling tender | Day. |
| Barges | Day. |
| C. Semipermanent installations: | |
| Skid-mounted separators | Day or volume. |
| Skid-mounted compressors | Day or volume. |
| D. Permanent installations: | |
| Compressor stations | Volume. |
| Saltwater disposal wells | Volume or wells. |
| Source water wells and supply systems | Volume. |
| Roads | Wells. |
| Production/drilling platform | Volume or wells. |
| Canals | Wells. |
| Dock | Wells. |
| Oil storage and loading facilities. | Volume. |
| Gathering systems and pipeline | Volume. |
| ACT systems | Volume. |
| Laboratory services (excluding research work) | Hour or unit. |
| Shore base production facilities | Volume. |
| Shore base support facilities | Wells. |
| E. Miscellaneous: | |
| Drill pipe | Foot or day. |
| Casing setting tools | Day. |
| Well testing equipment | Day. |

Equipment and facilities that are not listed shall be charged on a basis consistent with the nature of the use.

(2) In lieu of charges in paragraph (g)(1) of this section, the lessee may elect to use average commercial rates prevailing in the vicinity of the NPSL project area less 20 percent. For automotive equipment, the lessee may elect to use rates established by the ONRR Director. For other equipment for which no commercial rate exists, the lessee shall submit the basis for determining such costs to the ONRR Director for approval.

(h) *Damages and losses to NPSL property.* All costs necessary for the repair or replacement of NPSL property made necessary because of damages or losses incurred by fire, flood, storm, theft, accident, or other causes not covered by insurance, except those resulting from lessee's negligence or willful misconduct may be charged to the NPSL capital account. Any settlement received from an insurance carrier should be credited to NPSL operations when received.

(i) *Taxes.* All taxes, except income taxes, profit share payments, and taxes based upon income, that are assessed or levied upon or in connection with NPSL operations and which have been paid by the lessee are allowable. Allowed taxes shall include, but not be limited to, production, severance, excise, ad valorem, and mineral taxes.

(j) *Insurance.* (1) Net premiums paid for insurance required to be carried for NPSL operations are allowable. For NPSL operations in which the lessee may act as self-insurer for Workmen's Compensation and Employer's Liability, the lessee may include the risk under its self-insurance program in providing coverage under State and Federal laws and charge NPSL operations at lessee's cost not to exceed manual rates.

(2) NPSL operations shall be credited for all reimbursements for costs of damage to NPSL property or personal injury. Reimbursements for damaged NPSL property shall be credited as follows:

(i) If the damaged NPSL property is replaced or repaired, to the NPSL capital account charged for the cost of replacement or repair; or

(ii) If the damaged NPSL property is not replaced or repaired, to the NPSL capital account except that if the cost of the property originally qualified for the allowance for capital recovery in §1220.020, the credit shall be calculated pursuant to §1220.021(a)(3).

(k) *Communications.* Costs of leasing, acquiring, installing, operating, repairing and maintaining communication systems, including radio, microwave facilities, and computer production controls for the NPSL operations are allowable. If communication facilities systems serving the NPSL tract serve operations and/or facilities outside the NPSL project area, charges to NPSL operations shall be made as provided in paragraph (g) of this section or shall be allocated to NPSL operations in accordance with §1220.014.

(l) *Ecological and environmental.* Costs incurred in the NPSL project area as a result of statutory regulations for archeological and geophysical surveys relative to identification and protection of cultural resources and other environmental or ecological surveys required by the Bureau of Land Management or other regulatory authority, may be charged to the NPSL capital account. Also, the costs to provide or have available pollution containment and removal equipment, including payments to organizations and/or funds which provide equipment and/or assistance in the event of oil spills or other environmental damage are allowable. The costs of actual control and cleanup of oil spills and resulting responsibilities required by applicable laws and regulations are allowable, except that a charge shall not be allowed for any such costs attributable to the lessee's negligence or willful misconduct.

(m) *Dry or bottom hole contributions.* The costs of dry or bottom hole contributions made to obtain information about the structure or other characteristics of the geology underlying the NPSL tract are allowable.

(n) *Abandonment costs.* Actual costs incurred in the plugging of wells, dismantling of platforms and other facilities and in the restoration of the NPSL project area shall be charged to the NPSL capital account only when incurred (*i.e.*, not on an accrual basis), except that costs incurred after the cessation of production shall not be charged to the NPSL capital account. Abandonment costs in excess of offsetting revenues shall not form the basis of any claim against the United States.

(o) *Other costs.* Any other costs not covered in paragraphs (a)-(n) of this section and not disallowed by §1220.013 that are incurred by the lessee in the necessary and proper conduct of NPSL operation and are approved by the ONRR Director, are allowable. Approval of a plan of development and production for the NPSL tract by the BOEM Director shall be considered sufficient approval for these other costs provided they are separately identified in said plan of development and production. Such separate identification shall note the nature of these other costs and may include an estimate of their magnitude. Any cost approvals under this paragraph for which the specific amounts have not been itemized are presumed to be approved provided they fall within the limits for a prudent operator. Approval of costs under this paragraph shall be approval solely for the purposes of determining allowable costs and shall not preclude a subsequent adjustment at audit of the amount of such costs.

(p) *Other credits.* Credit shall be given to the NPSL capital account, depending on when it is incurred, for NPSL property leased or used in non-NPSL operations, for the sale of information derived from test wells and G & G, and for any and all amounts earned or otherwise due lessee as a result of NPSL operations.

[45 FR 36800, May 30, 1980. Redesignated at 48 FR 1182, Jan. 11, 1983, and at 48 FR 35642, Aug. 5, 1983, as amended at 67 FR 19112, Apr. 18, 2002; 75 FR 61087, Oct. 4, 2010]

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§1220.012 Overhead allowance.

(a) During the capital recovery period the overhead allowance shall be calculated on a percentage basis at the rate of 4 percent of allowable direct and allocable joint costs charged to the NPSL capital account, exclusive of costs specified in paragraph (c) of this section. This overhead allowance shall be debited to the NPSL capital account in accordance with §1220.021(b)(2).

(b) For each month after the end of the capital recovery period, an overhead allowance shall be calculated on a percentage basis at the rate of 10 percent of allowable direct and allocable joint costs charged to the NPSL capital account, exclusive of costs specified in paragraph (c) of this section. This overhead allowance shall be debited to the NPSL capital account in accordance with §1220.021(c)(2).

(c) Overhead shall not be charged on the value of:

- (1) Lease rental (§1220.011(a));
- (2) Contract services (§1220.011(e));
- (3) Taxes (§1220.011(i));

(4) Re-injected hydrocarbons, originally produced from the NPSL tract, that are charged under §1220.011(c); and

(5) Credits for materiel charged under §1220.011(c) that are salvaged, returned, or used for the benefit of non-NPSL operations.

[45 FR 36800, May 30, 1980, as amended at 75 FR 61087, Oct. 4, 2010]

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§1220.013 Unallowable costs.

The following costs shall not be charged as direct or joint costs to NPSL operations:

- (a) Bonus payments to the United States;
- (b) Interest (except as permitted under §1220.011(g));

(c) Depreciation, depletion, amortization, or any other charge for capital recovery for materiel charged to the NPSL capital account under §1220.011(c), except as explicitly provided by the allowance for capital recovery calculated according to §1220.020;

- (d) The cost of taking inventory;
- (e) Research and development costs;
- (f) The following legal expenses:

- (1) The costs of litigation against the Federal government;
- (2) Fines or penalties levied by any Federal agency;

(3) Settlement of claims or other litigation resulting from the lessee's violation of regulatory requirements or negligence; and

(4) The cost of the lessee's legal staff or expense of outside attorneys, except as explicitly allowed under §1220.011(f);

(g) The following employee relocation costs (whether incurred by the employee or the lessee):

- (1) Loss on the sale of a home;
- (2) Purchase price of a home in the new location;
- (3) Payments for employee income taxes incident to reimbursed relocation costs; and

(4) Any relocation cost in connection with an employee move that is for the primary benefit of the lessee's non-NPSL operations;

- (h) The lessee's own cost of administering employee benefit plans;
- (i) The cost of acquiring or constructing shore base facilities and real property improvements that are charged to NPSL operations on a rental basis under §1220.011(g);
- (j) Rentals on any facilities, the investment costs of which have been charged either directly or as allocable joint costs, to the NPSL capital account; and
- (k) Pre-NPSL expenditures.

[45 FR 36800, May 30, 1980, as amended at 75 FR 61087, Oct. 4, 2010]

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§1220.014 Allocation of joint costs and credits.

(a) Joint costs shall be grouped in cost pools for allocation to NPSL and non-NPSL operations in reasonable proportion to the beneficial or causal relationships which exist between a specific cost pool and the operations. That portion of a joint cost pool that may be allocated to NPSL operations is called an allocable joint cost.

(b) The following allocation principles apply in allocating joint costs:

(1) *G & G*. *G & G* shall be allocated on a line mile per tract basis.

(2) *Wages and salaries*. Wages and salaries that are not charged as direct on the basis of time spent on a particular job shall be allocated on a reasonable and equitable basis.

(3) *Compensated personal absence, payroll taxes and personal expenses*. These items shall be allocated on the same basis as wages and salaries.

(4) *Transportation costs*. Transportation costs for employees that are not charged direct shall be allocated on the same basis as their wages and salaries.

(c) Joint credits shall be allocated in the same manner as joint costs.

(d) When the NPSL is made a part of a unit, the allowed costs shall be charged to the NPSL capital account on the basis specified in the unit operating agreement as approved by the BSEE Director. Revenues and other credits shall be made to the NPSL accounts on the same basis as specified in the approved operating agreement. Joint costs of an NPSL and a non-NPSL tract that are adjacent to one another and are on the same structure shall be allocated on a basis approved by the BSEE Director.

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§1220.015 Pricing of materiel purchases, transfers, and dispositions.

(a)(1) *Purchased materiel*. Except as provided in paragraph (a)(2)(i) of this section, materiel purchased for use in NPSL operations shall be charged to NPSL operations at the price paid, after deduction of any discounts received. Should any purchased materiel be defective or returned to a vendor for other reasons, the credit shall be allocated to NPSL operations when received by the lessee in accordance with §1220.011(c)(3).

(2) *Transferred and disposal materiel*. An item of materiel, which is acquired by the lessee for use in NPSL operations by means other than purchase or disposed of by any means, shall be priced according to this subparagraph:

(i) *Condition A (new) materiel*. (A) Tubular goods, except line pipe, shall be priced at the current market price in effect on date of movement on a minimum carload or barge load weight basis, regardless of quantity transferred, equalized to the lowest published price "free on board" (f.o.b.)

railway receiving point or recognized barge terminal nearest the NPSL tract where such materiel is normally available.

(B) *Line pipe.* (1) Movement of less than 30,000 pounds shall be priced at the current price in effect at date of movement, as listed by a reliable supply store nearest the NPSL tract where such materiel is normally available.

(2) Movement of 30,000 pounds or more shall be priced under the provisions for tubular goods pricing in paragraph (a)(2)(i)(A) of this section.

(C) Other materiel shall be priced at the current price in effect at date of movement, as listed by a reliable supply store or f.o.b. railway receiving point nearest the NPSL tract where such materiel is normally available.

(ii) *Condition B (good used) materiel.* Materiel in sound and serviceable condition and suitable for reuse without reconditioning:

(A) Materiel transferred to the NPSL project area shall be priced at 75 percent of current Condition A price.

(B) Materiel transferred from the NPSL project area shall be priced:

(1) At 75 percent of current Condition A price, if the materiel was originally charged to NPSL operations as Condition A materiel, or

(2) At 65 percent of current Condition A price, if the materiel was originally charged to NPSL operations as Condition B materiel at 75 percent of current Condition A price.

(iii) *Conditions C and D (other used) materiel*—(A) *Condition C.* Materiel that is not in sound and serviceable condition and not suitable for its original function until after reconditioning shall be priced at 50 percent of current Condition A price.

(B) *Condition D.* Materiel no longer suitable for its original purposes but suitable for some other purpose shall be priced on a basis commensurate with its use and comparable with that of materiel normally used for such other purpose. If the materiel has no alternative use it should be priced at prevailing prices as scrap.

(iv) *Obsolete materiel.* Materiel that is serviceable and usable for its original function and has a value less than Condition A, B, or C materiel may be valued at a price agreed to by the Director. Such price should be the equivalent of the value of the service rendered by such materiel.

(b) *Pricing conditions.* (1) Loading and unloading costs shall be charged at a rate of 15 cents per hundred weight, or such other rate as may be set by the ONRR Director, on all tubular goods movements, in lieu of loading/unloading costs sustained, when the actual hauling costs of such tubular goods is equalized under provisions of §1220.011(d).

(2) Materiel involving erection costs shall be charged at the applicable percentage of the current knocked-down price of new materiel.

(c) When materiel subject to paragraphs (a)(2) (ii) and (iii) of this section is transferred, the cost of reconditioning shall be borne by the receiving party.

[45 FR 36800, May 30, 1980, as amended at 75 FR 61087, Oct. 4, 2010]

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§1220.020 Calculation of the allowance for capital recovery.

(a) For purposes of this section, the cost base for the allowance for capital recovery in a particular month shall consist of the sum of:

(1) All allowable direct and allocable joint costs chargeable to the NPSL capital account during the month less any costs specified in §1220.012(c); plus

(2) The value of contract services chargeable to the NPSL capital account during the month pursuant to §1220.011(e); plus

(3) The capital recovery period overhead allowance, calculated in accordance with §1220.012(a), that is chargeable to the NPSL capital account for the month; less

(4) Production revenues and other credits received during the month.

(b) If the cost base for a month is greater than zero (that is, if the sum of the charges specified in paragraphs (a) (1) through (3) of this section exceeds the value of production revenues and other credits), the allowance for capital recovery shall be calculated by multiplying the cost base by the capital recovery factor, and shall be debited to the NPSL capital account as specified in §1220.021(b).

(c) If the cost base for a month is less than zero, the allowance for capital recovery for the NPSL capital account shall be calculated by multiplying the resulting negative cost base by the capital recovery factor. The negative product of this calculation shall be debited to the NPSL capital account as specified in §1220.021(b).

(d) No allowance for capital recovery shall be calculated on the charges or credits related to any time period after the end of the capital recovery period.

[45 FR 36800, May 30, 1980, as amended at 75 FR 61087, Oct. 4, 2010]

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§1220.021 Determination of net profit share base.

(a) During each month of the lease term, the NPSL capital account shall be:

(1) Debited with allowable direct and allocable joint costs;

(2) Credited with an amount reflecting the production revenues for the month, calculated in accordance with §1260.110(b) of this title.

(3) Credited with amounts properly credited back to the NPSL capital account as specified in §1220.011(p). Credits associated with charges to the NPSL capital account during the capital recovery period, however, shall first be increased by the value of the credit multiplied by the recovery factor, before crediting that sum to the NPSL capital account.

(b) At the end of each month of the lease term during the capital recovery period:

(1) The transactions specified in paragraph (a) of this section shall be made to the NPSL capital account.

(2) The capital recovery period overhead allowance shall be calculated in accordance with §1220.012(a) and debited to the NPSL capital account.

(3) The allowance for capital recovery shall be calculated in accordance with §1220.020 and the allowance debited (or the negative allowance debited, as appropriate) to the NPSL capital account. (A debit entry of a negative allowance for capital recovery shall have the same effect as a credit entry of the absolute value of the allowance for capital recovery.)

(4) The balance in the NPSL capital account shall be calculated. If, as a result of the accounting transactions described in paragraphs (b) (1) through (3) of this section, there is a credit balance in the NPSL capital account, the capital recovery period will be considered terminated as of this month. The credit balance will be forwarded to the next month, which will be the first month for which a profit share payment is due.

(c) At the end of each month of the lease term following the end of the capital recovery period:

(1) The transaction specified in paragraph (a) of this section shall be made to the NPSL capital account.

(2) An overhead allowance shall be calculated in accordance with §1220.012(b) and debited to the NPSL capital account.

(3) The balance in the NPSL capital account shall be calculated.

(d) If, as a result of the accounting transactions described in paragraph (c) of this section, there is a credit balance in the NPSL capital account, this credit balance is the net profit share base for that month. The opening debit and credit balances in the NPSL capital account for any month following a month in which there is a credit balance in the NPSL capital account (except as provided in paragraph (b)(4)) of this section shall be zero.

(e) If, as a result of the accounting transactions described in paragraph (b) or (c) of this section, there is a debit balance in the NPSL capital account, this debit balance shall be the opening debit balance in the NPSL capital account for the following month.

(f) Any credit balance in the NPSL capital account shall become the net profit share base as described in this section. Any debit balance in the NPSL capital account shall be maintained only insofar as necessary for the determination of profit share payments. Such debit balance shall not represent a claim against the United States.

[45 FR 36800, May 30, 1980. Redesignated at 48 FR 1182, Jan. 11, 1983, and at 48 FR 35642, Aug. 5, 1983, and amended at 55 FR 1210, Jan. 12, 1990; 75 FR 61087, Oct. 4, 2010]

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§1220.022 Calculation of net profit share payment.

The net profit share payment shall be calculated by multiplying the net profit share base calculated in accordance with §1220.021 by the net profit share rate. The net profit share payment shall be paid to the United States in accordance with §1220.031.

[45 FR 36800, May 30, 1980, as amended at 75 FR 61087, Oct. 4, 2010]

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§1220.030 Maintenance of records.

(a) Each lessee subject to this part 1220 shall establish and maintain such records as are necessary to determine for each NPSL:

(1) The volume and disposition of all oil and gas production saved, removed or sold for each month;

(2) The value of all oil and gas production saved, removed or sold for each month;

(3) The amount and description of costs and credits to the NPSL capital account;

(4) The amount and description of all costs of acquisition, construction, and operation of equipment and facilities furnished by the lessee and charged to the NPSL capital account under §1220.011(g). Such records shall include worksheets or other documents that indicate the method used to calculate the amount of each charge made under §1220.011(g);

(5) The cumulative balance of costs and credits to the NPSL capital account; and

(6) The inventory of materiel.

(b) The ledger cards showing the charges and credits to the NPSL capital account shall be maintained until thirty-six months after the cessation of NPSL operations by the lessee. All other documents, journals and records shall be maintained for thirty-six months from the due date or date of mailing of the statement of account on an NPSL, whichever comes later, except that nothing in these regulations shall limit the time of investigation or the need to produce records when prima facie evidence of fraud or willful misconduct is obtained with respect to the government's interest in the NPSL.

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§1220.031 Reporting and payment requirements.

(a) Each lessee subject to this part shall file an annual report during the period from issuance of the NPSL until the first month in which production revenues are credited to the NPSL capital account. Such report shall list the costs incurred, including allowances applied, credits received, and the balance of the NPSL capital account. Not later than 60 days after the end of the first month in which production revenues are credited to the NPSL capital account, a final report relating to the period shall be filed.

(b) Beginning with the first month in which production revenues are credited to the NPSL capital account, each lessee subject to this part 1220 shall file a report for each NPSL, not later than 60 days following the end of each month, containing the following information for the month for which the report is filed:

- (1) The volume and disposition of all oil and gas production saved, removed or sold;
- (2) The production revenue;
- (3) The amount and description of all costs and credits to the NPSL capital account;
- (4) The balance of the NPSL capital account; and

(5) The net profit share base and net profit share payment due the United States and the monthly profit share of the lessee.

(c) Each lessee subject to this part 1220 shall submit, together with the report required by paragraph (b) of this section, any net profit share payment due the United States for the period covered by the report.

(d) Each lessee subject to this part 1220 shall file a report not later than 90 days after each inventory is taken, reporting the controllable materiel on hand, acquired, transferred or used.

(e) Each lessee subject to this part 1220 shall file a final report, not later than 60 days following the cessation of production, together with the appropriate net profit share payment, indicating the remaining balance and costs and credits to the NPSL capital account for the period.

(f) Reports required by this section shall be filed with the ONRR Director, either separately or as part of the reports that are currently filed.

(g) Interest shall be calculated at the prevailing rate or rates as published in the Bulletin to the Department of the Treasury Fiscal Requirement Manual, in effect for the period or periods over which the net profit share payment is owed, compounded monthly, on the amount of a net profit share payment, from the due date (60 days following the end of each month for which the payment was due) of a net profit share payment until such payment is received by the United States.

[45 FR 36800, May 30, 1980, as amended at 75 FR 61087, Oct. 4, 2010]

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§1220.032 Inventories.

(a) The lessee is responsible for NPSL materiel and shall make proper and timely cost and credit notations for all materiel movements affecting NPSL property. The lessee shall provide only such materiel as may be required for immediate use or is consistent with practical, efficient, and economical operations. The accumulation of surplus stocks shall be avoided by proper materiel control, inventory and purchasing. The lessee shall make timely disposition of idle and surplus materiel through sale.

(b) At reasonable intervals, but at least once every three years, inventories of controllable materiel shall be taken by the lessee. Written notice of intention to take inventory shall be given by the lessee at least 30 days before any inventory is to be taken so that the BOEM Director may be represented at the taking of inventory. Failure of the BOEM Director to be represented at an inventory shall bind the BOEM Director to accept the inventory taken by the lessee, except in the case of willful misrepresentation or fraud.

(c) Inventory shall be valued with any generally accepted accounting method used by the lessee to value the same materiel for financial or income tax reporting purposes, provided that the method is consistently applied throughout the life of the materiel.

(d) Reconciliation shall be made of a physical inventory with the NPSL capital account by the lessee, and a list of overages and shortages shall be available to the BOEM Director for audit as provided in §1220.033. Inventory adjustments of controllable materiel shall be made by the lessee to the NPSL capital account for overages and shortages. Controllable materiel removed from physical inventory that has not been credited to NPSL operations under §1220.015(a)(2) shall be credited to NPSL operations at its original value, except that when the cost of the materiel originally qualified for the allowance for capital recovery in §1220.020, the credit shall be calculated pursuant to §1220.021 (a)(3).

[45 FR 36800, May 30, 1980, as amended at 75 FR 61087, Oct. 4, 2010]

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§1220.033 Audits.

(a) The accounts of an NPSL lessee or of a contractor of the lessee which are related to NPSL operations shall be subject to audit by DOI or its appointed agent. Where possible, the auditor for DOI shall coordinate audit efforts with other nonoperators, if any. DOI shall have the right to initiate an audit any time within thirty-six months of the due date of the monthly statement that is to be audited or the date that the statement was mailed, whichever is later, provided, however, that audits may not be conducted any more frequently than once every year except upon a showing of fraud or willful misrepresentation.

(b)(1) When nonoperators of an NPSL lease call an audit in accordance with the terms of their operating agreement, the ONRR Director shall be notified of the audit call in the same manner as the operator is notified. DOI may elect to send an auditor with the audit team specified by the nonoperators in lieu of calling for a separate audit by DOI.

(2) If DOI determines to call for an audit, DOI shall notify the lessee of its audit call and set a time and place for the audit. Such a notice shall be sent at least thirty days before the suggested time for the audit to allow the nonoperators to join in DOI's audit in lieu of calling for their own audit. The place for the audit will normally be the place where the lessee maintains its records pertaining to the NPSL lease. The lessee shall send copies of the notice to the nonoperators on the lease. The lessee shall use reasonable effort to notify all nonoperators, but failure to include one or more nonoperators in the notification shall not void the notice.

(3) When DOI calls for an audit, DOI may suggest the date and time when the audit may commence. The estimated duration of the audit may be mentioned to the lessee as well as to the other nonoperators who may elect to supply and auditor for their own audit purposes. The lessee's office where the audit will be held may be named or, if not known, inquired about. If a visit to a field plant or field office is contemplated by the government auditor, such a field trip may be mentioned. If DOI

expresses a desire to review a period on which the thirty-six month time limitation has expired, it is the lessee's prerogative to allow the review or to request that DOI adhere to the time limitation specified in these regulations.

(c)(1) Exceptions to the accounting by the lessee, whether in favor of the government or the lessee, shall be noted in a report to the lessee. The lessee shall have 60 days from the mailing of a notice of exceptions to agree to the adjustments proposed by the DOI auditor or to object to the proposed adjustments. If the lessee accepts the proposed adjustments, the adjustment shall be booked in the month in which the lessee agrees to the adjustment, except where such adjustment would have resulted in a change in any net profit share payment due the United States. In such a case, there shall be a redetermination of the NPSL capital account pursuant to §1220.034.

(2) If the lessee disagrees with the adjustment, the lessee shall have the right to appeal the adjustment to the ONRR Director.

(d) Upon receipt of an agreement by the government auditor that there are no required audit adjustments, upon final determination with respect to any audit adjustment proposed by the government auditor, or upon the lapse of thirty-six months from the due date or date of mailing of the statement of account on an NPSL lease, whichever comes later, the books shall be closed for audit adjustment purposes, except upon a showing of fraud or willful misrepresentation.

(e) Records required to be kept under §1220.030(a) shall be made available for inspection by any authorized agent of DOI at any time during normal business hours upon the request of the ONRR Director or other authorized official.

[45 FR 36800, May 30, 1980, as amended at 75 FR 61087, Oct. 4, 2010]

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§1220.034 Redetermination and appeals.

(a) If, as a result of an inspection of records or an audit under §1220.033, the ONRR Director determines that there is an error in the NPSL capital account or an error in calculating the net profit share payment, whether in favor of the government or the lessee, the ONRR Director shall redetermine the net profit share base and recalculate the net profit share payment due the United States and notify the lessee of the recalculation.

(b) The lessee shall pay any additional amount of net profit share payment owed plus interest, compounded monthly, from the date that the payment was due until the date it is actually paid. Interest shall be calculated at the prevailing rate or rates as published in the Bulletin to the Department of the Treasury Fiscal Requirements Manual, in effect for the period or periods over which the payment is owed.

(c) If the recalculated profit share payment is less than the amount paid the United States, the lessee shall apply such overpayment to the next profit share payment.

(d) Within 30 days after receiving notice of the recalculation as provided in paragraph (a) of this section, the lessee may appeal the decision of the ONRR Director in accordance with the appeals provision of 30 CFR part 1290.

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