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## Title 30 — Mineral Resources

### Chapter V — Bureau of Ocean Energy Management, Department of the Interior

#### Subchapter B — Offshore

#### Part 586 Alternate Uses of Existing Facilities on the Outer Continental Shelf

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## PART 586—ALTERNATE USES OF EXISTING FACILITIES ON THE OUTER CONTINENTAL SHELF

**Authority:** 43 U.S.C. 1337.

**Source:** 88 FR 6468, Jan. 31, 2023, unless otherwise noted.

### Subpart A—General Provisions

#### § 586.100 Authority.

The authority for this part derives from subsection 8 of the Outer Continental Shelf Lands Act (OCS Lands Act) (43 U.S.C. 1337). The Secretary of the Interior delegated to the Bureau of Ocean Energy Management (BOEM) the authority to regulate activities under section 1337(p)(1)(D) of OCS Lands Act.

#### § 586.101 What is the purpose of this part?

The purpose of this part is to:

- (a) Establish procedures for issuance and administration of right-of-use and easement (RUE) grants for the alternate use of existing OCS facilities for energy or marine-related purposes;
- (b) Inform you and third parties of your obligations when you undertake activities authorized in this part; and
- (c) Ensure that activities involving the alternate use of OCS facilities for energy or marine-related purposes are conducted in a safe and environmentally sound manner, in conformance with the requirements of subsection 8(p) of the OCS Lands Act, other applicable laws and regulations, and the terms of your Alternate Use RUE grant.
- (d) This part will not convey access rights for oil, gas, or other minerals.

## § 586.102 What activities does this part regulate?

- (a) This part provides the general provisions for authorizing and regulating activities that use, or propose to use, an existing OCS facility for energy- or marine-related purposes, that are not otherwise authorized under any other part of this subchapter or any other applicable Federal statute. Activities authorized under any other part of this subchapter or under any other Federal law that use (or propose to use) an existing OCS facility are not subject to this part.
- (b) BOEM will issue an Alternate Use RUE for activities authorized under this part.
- (c) At the discretion of the Director, an Alternate Use RUE may:
  - (1) Permit alternate use activities to occur at an existing facility that is currently in use under an approved OCS lease; or
  - (2) Limit alternate use activities at the existing facility until after previously authorized activities at the facility have ceased and the OCS lease terminates.

## § 586.103 What are BOEM's responsibilities under this part?

- (a) BOEM will ensure that any activities authorized in this part are carried out in a manner that provides for:
  - (1) Safety;
  - (2) Protection of the environment;
  - (3) Prevention of waste;
  - (4) Conservation of the natural resources of the OCS;
  - (5) Coordination with relevant Federal agencies (including, in particular, those agencies involved in planning activities that are undertaken to avoid conflicts among users and to maximize the economic and ecological benefits of the OCS, including multifaceted spatial planning efforts);
  - (6) Protection of National security interests of the United States;
  - (7) Protection of the rights of other authorized users of the OCS;
  - (8) A fair return to the United States;
  - (9) Prevention of interference with reasonable uses (as determined by the Secretary or Director) of the exclusive economic zone, the high seas, and the territorial seas;
  - (10) Consideration of the location of and any schedule relating to a grant under this part for an area of the OCS, and any other use of the sea or seabed;
  - (11) Public notice and comment on any proposal submitted for a grant under this part; and
  - (12) Oversight, research, and monitoring of activities authorized by a grant under this part.
- (b) BOEM will require compliance with all applicable laws, regulations, other requirements, and the terms of your grant and approved plans under this part. BOEM will approve, disapprove, or approve with conditions any plans, applications, or other documents submitted to BOEM for approval under the provisions of this part.

- (c) Unless otherwise provided in this part, BOEM may give oral directives or decisions whenever prior BOEM approval is required under this part. BOEM will document in writing any such oral directives within 10 business days.
- (d) BOEM will establish practices and procedures to govern the collection of all payments due to the Federal Government, including any cost recovery fees, rents, operating fees, and other fees or payments. BOEM will do this in accordance with the terms of this part, the grant under this part, and applicable Office of Natural Resources Revenue (ONRR) regulations or guidance.
- (e) BOEM will provide for coordination and consultation with the Governor of any State, the executive of any local government, and the executive of any Indian Tribe that may be affected by a grant issued under this part. BOEM may invite any affected State Governor, representative of an affected Indian Tribe, and affected local government executive to join in establishing a task force or other joint planning or coordination agreement in carrying out our responsibilities under this part.

**§ 586.104 When may BOEM prescribe or approve departures from the regulations in this part?**

- (a) BOEM may prescribe or approve departures from these regulations when departures are necessary to:
  - (1) Facilitate the appropriate activities on a grant under this part;
  - (2) Conserve natural resources;
  - (3) Protect life (including human and wildlife), property, or the marine, coastal, or human environment; or
  - (4) Protect sites, structures, or objects of historical or archaeological significance.
- (b) Any departure approved under this section and its rationale must:
  - (1) Be consistent with subsection 8(p) of the OCS Lands Act;
  - (2) Protect the environment and the public health and safety to the same degree as if there was no approved departure from the regulations;
  - (3) Not impair the rights of third parties; and
  - (4) Be documented in writing.

**§ 586.105 What are my responsibilities under this part?**

As an applicant, operator, or holder of an Alternate Use RUE grant, you must:

- (a) Design your projects and conduct all activities in a manner that ensures safety and will not cause undue harm or damage to natural resources, including their physical, atmospheric, and biological components to the extent practicable; and take measures to prevent unauthorized discharge of pollutants including marine trash and debris into the offshore environment.
- (b) Submit requests, applications, plans, notices, modifications, and supplemental information to BOEM as required by this part;
- (c) Follow-up, in writing, any oral request or notification you made, within 3 business days;
- (d) Comply with the terms, conditions, and provisions of all reports and notices submitted to BOEM, and of all plans, revisions, and other BOEM approvals, as provided in this part;
- (e) Make all applicable payments on time;

- (f) Comply with the DOI's non-procurement debarment regulations at 2 CFR part 1400;
- (g) Include the requirement to comply with 2 CFR part 1400 in all contracts and transactions related to a lease or grant under this part;
- (h) Conduct all activities authorized by the lease or grant in a manner consistent with the provisions of subsection 8(p) of the OCS Lands Act;
- (i) Compile, retain, and make available to BOEM representatives, within the time specified by BOEM, any data and information related to the site assessment, design, and operations of your project; and
- (j) Respond to requests from the Director in a timely manner.

### § 586.106 What happens if I fail to comply with this part?

- (a) BOEM may take appropriate corrective action under this part if you fail to comply with applicable provisions of Federal law, the regulations in this part, other applicable regulations, any order of the Director, the provisions of a grant issued under this part, or the requirements of an approved plan or other approval under this part.
- (b) BOEM may issue to you a notice of noncompliance if we determine that there has been a violation of the regulations in this part, any order of the Director, or any provision of your grant or other approval issued under this part. When issuing a notice of noncompliance, BOEM will serve you at your last known address.
- (c) A notice of noncompliance will tell you how you failed to comply with this part or any order of the Director, and/or the provisions of your grant or other approval, and will specify what you must do to correct the noncompliance and the time limits within which you must act.
- (d) Failure of an operator or grant holder to take the actions specified in a notice of noncompliance issued under this part within the time limit specified provides the basis for cancellation of the grant by the Secretary (§ 586.216).
- (e) BOEM may assess civil penalties, as authorized by section 24 of the OCS Lands Act, if you fail to comply with any provision of this part or any term of a grant or order issued under the authority of this part, after notice of such failure and expirations of any reasonable period allowed for corrective action. Civil penalties will be determined and assessed in accordance with the procedures set forth in 30 CFR part 550, subpart N.
- (f) You may be subject to criminal penalties as authorized by section 24 of the OCS Lands Act.

### § 586.107 Who can hold a grant under this part?

- (a) You may hold a grant under this part if you can demonstrate that you have the technical and financial capabilities to conduct the activities authorized by the grant and you are a(n):
  - (1) Citizen or national of the United States;
  - (2) Alien lawfully admitted for permanent residence in the United States as defined in 8 U.S.C. 1101(a)(20);
  - (3) Private, public, or municipal corporations organized under the laws of any State of the United States, the District of Columbia, or any territory or insular possession subject to U.S. jurisdiction;
  - (4) Association of such citizens, nationals, resident aliens, or corporations;
  - (5) Executive agency of the United States as defined in section 105 of Title 5 of the U.S. Code;

- (6) State of the United States; or
- (7) Political subdivision of a State of the United States.
- (b) You may not hold a grant under this part or acquire an interest in a grant under this part if:
  - (1) You or your principals are excluded or disqualified from participating in transactions covered by the Federal non-procurement debarment and suspension system (2 CFR part 1400), unless BOEM explicitly has approved an exception for this transaction;
  - (2) BOEM determines or has previously determined after notice and opportunity for a hearing that you or your principals have failed to meet or exercise due diligence under any OCS lease or grant; or
  - (3) BOEM determines or has previously determined after notice and opportunity for a hearing that you:
    - (i) Remained in violation of the terms and conditions of any lease or grant issued under the OCS Lands Act for a period extending longer than 30 days (or such other period allowed for compliance) BSEE directed you to comply; and
    - (ii) You took no action to correct the noncompliance within that time period.

### § 586.108 How do I show that I am qualified to be a grant holder?

- (a) You must demonstrate your technical and financial capability to construct, operate, maintain, and terminate/decommission projects for which you are requesting authorization. Documentation can include:
  - (1) Descriptions of international or domestic experience with renewable energy projects or other types of electric-energy-related projects; and
  - (2) information establishing access to sufficient capital to carry out development.
- (b) An individual must submit a written statement of citizenship status attesting to U.S. citizenship. It does not need to be notarized nor give the age of individual. A resident alien may submit a photocopy of the U.S. Citizenship and Immigration Services form evidencing legal status of the resident alien.
- (c) A corporation or association must submit evidence, as specified in the table in paragraph (d) of this section, acceptable to BOEM that:
  - (1) It is qualified to hold grants under this part;
  - (2) It is authorized to conduct business under the laws of its State;
  - (3) It is authorized to hold grants on the OCS under the operating rules of its business; and
  - (4) The persons holding the titles listed are authorized to bind the corporation or association when conducting business with BOEM.
- (d) Acceptable evidence under paragraph (c) of this section includes, but is not limited to the following:

Requirements to qualify to hold grants on the OCS:	Corp.	Ltd. prtnsp.	Gen. prtnsp.	LLC	Trust
(1) Original certificate or certified copy from the State of	XX				

Requirements to qualify to hold grants on the OCS:	Corp.	Ltd. prtnsp.	Gen. prtnsp.	LLC	Trust
incorporation stating the name of the corporation exactly as it must appear on all legal documents.					
(2) Certified statement by Secretary/Assistant Secretary over corporate seal, certifying that the corporation is authorized to hold OCS grants.	XX				
(3) Evidence of authority of titled positions to bind corporation, certified by Secretary/Assistant Secretary over corporate seal, including the following:	XX				
(i) Certified copy of resolution of the board of directors with titles of officers authorized to bind corporation.					
(ii) Certified copy of resolutions granting corporate officer authority to issue a power of attorney.					
(iii) Certified copy of power of attorney or certified copy of resolution granting power of attorney.					
(4) Original certificate or certified copy of partnership or organization paperwork registering with the appropriate State official.		XX	XX	XX	
(5) Copy of articles of partnership or organization evidencing filing with appropriate Secretary of State, certified by Secretary/Assistant Secretary of partnership or member or manager of LLC.		XX	XX	XX	
(6) Original certificate or certified copy evidencing State where partnership or LLC is registered. Statement of authority to hold OCS leases, certified by Secretary/Assistant Secretary, OR original paperwork registering with the appropriate State official.		XX	XX	XX	
(7) Statements from each partner or LLC member indicating the following:		XX	XX	XX	
(i) If a corporation or partnership, statement of State of organization and authorization to hold OCS grants, certified by Secretary/Assistant Secretary over corporate seal, if a corporation.					
(ii) If an individual, a statement of citizenship.					
(8) Statement from general partner, certified by Secretary/Assistant Secretary that:		XX			
(i) Each individual limited partner is a U.S. citizen and;					
(ii) Each corporate limited partner or other entity is incorporated or formed and organized under the laws of a U.S. State or territory.					
(9) Evidence of authority to bind partnership or LLC, if not specified in partnership agreement, articles of organization, or LLC regulations, <i>i.e.</i> , certificates of authority from		XX	XX	XX	

Requirements to qualify to hold grants on the OCS:	Corp.	Ltd. prtnsp.	Gen. prtnsp.	LLC	Trust
Secretary/Assistant Secretary reflecting authority of officers.					
(10) Listing of members of LLC certified by Secretary/Assistant Secretary or any member or manager of LLC.				XX	
(11) Copy of trust agreement or document establishing the trust and all amendments, properly certified by the trustee with reference to where the original documents are filed.					XX
(12) Statement indicating the law under which the trust is established and that the trust is authorized to hold OCS grants.					XX

- (e) A local, State, or Federal executive entity must submit a written statement that:
- (1) It is qualified to hold grants under this part; and
  - (2) The person(s) acting on behalf of the entity is authorized to bind the entity when conducting business with us.
- (f) BOEM may require you to submit additional information at any time considering your bid or request for a noncompetitive grant.

### **§ 586.109 When must I notify BOEM if an action has been filed alleging that I am insolvent or bankrupt?**

You must notify BOEM within 3-business days after you learn of any action filed alleging that you are insolvent or bankrupt.

### **§ 586.110 When must I notify BOEM of mergers, name changes, or changes of business form?**

You must notify BOEM in writing of any merger, name change, or change of business form. You must notify BOEM as soon as practicable following the merger, name change, or change in business form, but no later than 120 days after the earliest of either the effective date, or the date of filing the change or action with the Secretary of the State or other authorized official in the State of original registry.

### **§ 586.111 How do I submit plans, applications, or notices required by this part?**

- (a) You must submit all plans, applications, or notices required by this part to BOEM at the following address: Office of Renewable Energy Programs, 45600 Woodland Road, Sterling, VA 20166.
- (b) Unless otherwise stated, you must submit one paper copy and one electronic copy of all plans, applications, or notices required by this part.



## § 586.112 When and how does BOEM charge me processing fees on a case-by-case basis?

- (a) BOEM will charge a processing fee on a case-by-case basis under the procedures in this section with regard to any application or request under this part if we decide at any time that the preparation of a particular document or study is necessary for the application or request and it will have a unique processing cost, such as the preparation of an environmental assessment (EA) or environmental impact statement (EIS).
  - (1) Processing costs will include contract oversight and efforts to review and approve documents prepared by contractors, whether the contractor is paid directly by the applicant or through BOEM.
  - (2) We may apply a standard overhead rate to direct processing costs.
- (b) We will assess the ongoing processing fee for each individual application or request according to the following procedures:
  - (1) Before we process your application or request, we will give you a written estimate of the proposed fee based on reasonable processing costs.
  - (2) You may comment on the proposed fee.
  - (3) You may:
    - (i) Ask for our approval to perform, or to directly pay a contractor to perform, all or part of any document, study, or other activity according to standards we specify, thereby reducing our costs for processing your application or request; or
    - (ii) Ask to pay us to perform, or contract for, all or part of any document, study, or other activity.
  - (4) We will then give you the final estimate of the processing fee amount with payment terms and instructions after considering your comments and any BOEM-approved work you will do.
    - (i) If we encounter higher or lower processing costs than anticipated, we will re-estimate our reasonable processing costs following the procedures in paragraphs (b)(1) through (4) of this section, but we will not stop ongoing processing unless you do not pay in accordance with paragraph (b)(5) of this section.
    - (ii) Once processing is complete, we will refund to you the amount of money that we did not spend on processing costs.
  - (5)
    - (i) Consistent with the payment and billing terms provided in the final estimate, we will periodically estimate what our reasonable processing costs will be for a specific period and will bill you for that period. Payment is due to us 30 days after you receive your bill. We will stop processing your document if you do not pay the bill by the date payment is due.
    - (ii) If a periodic payment turns out to be more or less than our reasonable processing costs for the period, we will adjust the next billing accordingly or make a refund. Do not deduct any amount from a payment without our prior written approval.
  - (6) You must pay the entire fee before we will issue the final document or take final action on your application or request.

- (7) You may appeal our estimated processing costs in accordance with the regulations in 43 CFR part 4. We will not process the document further until the appeal is resolved, unless you pay the fee under protest while the appeal is pending. If the appeal results in a decision changing the proposed fee, we will adjust the fee in accordance with paragraph (b)(5)(ii) of this section. If we adjust the fee downward, we will not pay interest.

## § 586.113 Definitions.

Terms used in this part have the meanings as defined in this section:

**Affected local government** means with respect to any activities proposed, conducted, or approved under this part, any locality—

- (1) That is, or is proposed to be, the site of gathering, transmitting, or distributing electricity or other energy product, or is otherwise receiving, processing, refining, or transshipping product, or services derived from activities approved under this part;
- (2) That is used, or is proposed to be used, as a support base for activities approved under this part; or
- (3) In which there is a reasonable probability of significant effect on land or water uses from activities approved under this part.

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

- (1) That is, or is proposed to be, the site of gathering, transmitting, or distributing energy or is otherwise receiving, processing, refining, or transshipping products, or services derived from activities approved under this part;
- (2) That is used, or is scheduled to be used, as a support base for activities approved under this part; or
- (3) In which there is a reasonable probability of significant effect on land or water uses from activities approved under this part.

**Alternate Use** refers to the energy- or marine-related use of an existing OCS facility for activities not otherwise authorized by this part.

**Alternate Use RUE** means a right-of-use and easement issued for activities authorized under this part.

**Archaeological resource** means any material remains of human life or activities that are at least 50 years of age and that are of archaeological interest (*i.e.*, which are capable of providing scientific or humanistic understanding of past human behavior, cultural adaptation, and related topics through the application of scientific or scholarly techniques, such as controlled observation, contextual measurement, controlled collection, analysis, interpretation, and explanation).

**BOEM** means Bureau of Ocean Energy Management of the Department of the Interior.

**BSEE** means Bureau of Safety and Environmental Enforcement of the Department of the Interior.

**Decommissioning** means removing BOEM and BSEE approved facilities and returning the site of the grant to a condition that meets the requirements of this part.

**Director** means the Director of the Bureau of Ocean Energy Management (BOEM), of the Department of the Interior, or an official authorized to act on the Director's behalf.

**Facility** means an installation that is permanently or temporarily attached to the seabed of the OCS. Facilities include any structures; devices; appurtenances; gathering, transmission, and distribution cables; pipelines; and permanently moored vessels. Any group of OCS installations interconnected with walkways, or any group of installations that includes a central or primary installation with one or more satellite or secondary installations, is a single facility. BOEM and BSEE may decide that the complexity of the installations justifies their classification as separate facilities.

**Governor** means the Governor of a State or the person or entity lawfully designated by or under State law to exercise the powers granted to a Governor.

**Grant** means an alternate use right-of-use and easement issued under the provisions of this part.

**Human environment** means the physical, social, and economic components, conditions, and factors that interactively determine the state, condition, and quality of living conditions, employment, and health of those affected, directly or indirectly, by activities occurring on the OCS.

**Lease** means an agreement authorizing the use of a designated portion of the OCS for activities allowed under 30 CFR part 585. The term also means the area covered by that agreement, when the context requires.

**Lessee** means the holder of a lease, a BOEM-approved assignee, and, when describing the conduct required of parties engaged in activities on the lease, it also refers to the operator and all persons authorized by the holder of the lease or operator to conduct activities on the lease.

**Income**, unless clearly specified to the contrary, refers to the money received by the project owner or holder of the lease or grant issued under this part. The term does not mean that project receipts exceed project expenses.

**Marine environment** means the physical, atmospheric, and biological components, conditions, and factors that interactively determine the productivity, state, condition, and quality of the marine ecosystem. These include 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.

**Natural resources** include, without limiting the generality thereof, renewable energy, oil, gas, and all other minerals (as defined in section 2(q) of the OCS Lands Act), and marine animal and marine plant life.

**Operator** means the individual, corporation, or association having control or management of activities on the grant under this part. The operator may be a grant holder or a contractor designated by the holder of a grant under this part.

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

**Person** means, in addition to a natural person, an association (including partnerships and joint ventures); a Federal agency; a State; a political subdivision of a State; a Native American Tribal government; or a private, public, or municipal corporation.

**Project**, for the purposes of defining the source of revenues to be shared, means an Alternate Use RUE on which the activities authorized under this part are conducted on the OCS. The term “project” may be used elsewhere in this rule to refer to these same authorized activities, the facilities used to conduct these activities, or to the geographic area of the project, *i.e.*, the project area.

**Project area** means the geographic surface leased, or granted, for the purpose of a specific project. If OCS acreage is granted for a project under some form of agreement other than a lease (i.e., a ROW, or RUE, or Alternate Use RUE issued under this part or 30 CFR part 585), the Federal acreage granted would be considered the project area.

**Renewable Energy** means energy resources other than oil and gas and minerals as defined in 30 CFR part 580. Such resources include, but are not limited to, wind, solar, and ocean waves, tides, and current.

**Revenues** mean bonuses, rents, operating fees, and similar payments made in connection with a project. It does not include administrative fees such as those assessed for cost recovery, civil penalties, and forfeiture of financial assurance.

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

**Significant archaeological resource** means an archaeological resource that meets the criteria of significance for eligibility for listing in the National Register of Historic Places, as defined in 36 CFR 60.4 or its successor.

**We, us, and our** refer to the Bureau of Ocean Energy Management of the Department of the Interior, or its possessive, depending on the context.

**You** and *your* means an applicant, the operator or designated operator of an Alternate Use RUE, or an Alternate Use RUE grant holder under this part, or the designated agent of any of these, or the possessive of each, depending on the context. The terms *you* and *your* also include contractors and subcontractors of the entities specified in the preceding sentence.

## **§ 586.114 How will data and information obtained by BOEM under this part be disclosed to the public?**

- (a) BOEM will make data and information available in accordance with the requirements and subject to the limitations of the Freedom of Information Act (FOIA) (5 U.S.C. 552) and the regulations contained in 43 CFR part 2.
- (b) BOEM will not release such data and information that we have determined is exempt from disclosure under exemption 4 of FOIA. We will review such data and information and objections of the submitter to determine whether release at that time will result in substantial competitive harm or disclosure of trade secrets.
- (c) After considering any objections from the submitter, if we determine that release of such data and information will result in:
  - (1) No substantial competitive harm or disclosure of trade secrets, then the data and information will be released.
  - (2) Substantial competitive harm or disclosure of trade secrets, then the data and information will not be released at that time but will be subject to further review every 3 years thereafter.

## **§ 586.115 Paperwork Reduction Act statements—information collection.**

- (a) The Office of Management and Budget (OMB) has approved the information collection requirements in this part under 44 U.S.C. 3501, *et seq.*, and assigned OMB Control Number 1010-0176. The table in paragraph (e) of this section lists the subparts in the rule requiring the information and its title, summarizes the reasons for collecting the information, and summarizes how BOEM uses the information.

- (b) Respondents are primarily Alternate Use RUE grant holders and operators. The requirement to respond to the information collection in this part is mandated under subsection 8(p) of the OCS Lands Act. Some responses are also required to obtain or retain a benefit, or may be voluntary.
- (c) The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) requires us to inform the public that an agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.
- (d) Comments regarding any aspect of the collections of information under this part, including suggestions for reducing the burden, should be sent to the Information Collection Clearance Officer, Bureau of Ocean Energy Management, 45600 Woodland Road, Sterling, VA 20166.
- (e) BOEM is collecting this information for the reasons given in the following table:

<b>30 CFR 586 subpart and title</b>	<b>Reasons for collecting information and how used</b>
(1) Subpart A—General Provisions	To inform BOEM of actions taken to comply with general operational requirements on the OCS. To ensure that operations on the OCS meet statutory and regulatory requirements, are safe and protect the environment, and result in diligent development on OCS leases.
(2) Subpart B—Issuance of Alternate Use RUEs for Energy- and Marine-Related Activities Using Existing OCS Facilities	To enable BOEM to review information regarding the design, installation, and operation of Alternate Use RUEs on the OCS, to ensure that Alternate Use RUE operations are safe and protect the human, marine, and coastal environment. To ensure adherence with other Federal laws, these regulations, the Alternate Use RUE grant, and, where applicable, the approved plan.

## **§§ 586.116-586.117 [Reserved]**

### **§ 586.118 What are my appeal rights?**

- (a) Any party adversely affected by a BOEM official's final decision or order issued under the regulations of this part may appeal that decision or order to the Interior Board of Land Appeals. The appeal must conform with the procedures found in part 590 of this chapter and in 43 CFR part 4, subpart E. Appeal of a final decision for bid acceptance is covered under paragraph (c) of this section.
- (b) A decision will remain in full force and effect during the period in which an appeal may be filed and during an appeal, unless a stay is granted pursuant to 43 CFR part 4.
- (c) Our decision on a bid is the final action of the Department, except that an unsuccessful bidder may apply for reconsideration by the Director.
  - (1) A bidder whose bid we reject may file a written request for reconsideration with the Director within 15 days of the date of the receipt of the notice of rejection, accompanied by a statement of reasons, with one copy to us. The Director will respond in writing either affirming or reversing the decision.

- (2) The delegation of review authority given to the Office of Hearings and Appeals does not apply to decisions on high bids for leases or grants under this part.

## **Subpart B—Issuance of Alternate Use RUEs for Energy- and Marine-Related Activities Using Existing OCS Facilities**

### **REQUESTING AN ALTERNATE USE RUE**

#### **§ 586.200 What must I do before I request an Alternate Use RUE?**

If you are not the owner of the existing facility on the OCS and the lessee of the area in which the facility is located, you must contact the lessee and owner of the facility and reach a preliminary agreement as to the proposed activity for the use of the existing facility.

#### **§ 586.201 How do I request an Alternate Use RUE?**

To request an Alternate Use RUE, you must submit to BOEM all of the following:

- (a) The name, address, email address, and phone number of an authorized representative.
- (b) A summary of the proposed activities for the use of an existing OCS facility, including:
  - (1) The type of activities that would involve the use of the existing OCS facility;
  - (2) A description of the existing OCS facility, including a map providing its location on the lease block;
  - (3) The names of the owner of the existing OCS facility, the operator, the lessee, and any owner of operating rights on the lease at which the facility is located;
  - (4) A description of additional structures or equipment that will be required to be located on or in the vicinity of the existing OCS facility in connection with the proposed activities;
  - (5) A statement indicating whether any of the proposed activities are intended to occur before existing activities on the OCS facility have ceased; and
  - (6) A statement describing how existing activities at the OCS facility will be affected if proposed activities are to occur at the same time as existing activities at the OCS facility.
- (c) A statement affirming that the proposed activities sought to be approved under this subpart are not otherwise authorized by other provisions in this subchapter or any other Federal law.
- (d) Evidence that you meet the requirements of § 586.107, as required by § 586.108.
- (e) The signatures of the applicant, the owner of the existing OCS facility, and the lessee of the area in which the existing facility is located.

#### **§ 586.202 How will BOEM decide whether to issue an Alternate Use RUE?**

- (a) We will consider requests for an Alternate Use RUE on a case-by-case basis. In considering such requests, we will consult with relevant Federal agencies and evaluate whether the proposed activities involving the use of an existing OCS facility can be conducted in a manner that:
  - (1) Ensures safety and minimizes adverse effects to the coastal and marine environments, including their physical, atmospheric, and biological components, to the extent practicable;

- (2) Does not inhibit or restrain orderly development of OCS mineral or energy resources;
  - (3) Avoids serious harm or damage to, or waste of, any natural resource (including OCS mineral deposits and oil, gas, and sulfur resources in areas leased or not leased), any life (including fish and other aquatic life), or property (including sites, structures, or objects of historical or archaeological significance);
  - (4) Is otherwise consistent with subsection 8(p) of the OCS Lands Act; and
  - (5) DOI can effectively regulate.
- (b) Based on the evaluation that we perform under paragraph (a) of this section, BOEM may authorize, reject, or authorize with modifications or stipulations, the proposed activity.

### **§ 586.203 What process will BOEM use for competitively offering an Alternate Use RUE?**

- (a) An Alternate Use RUE must be issued on a competitive basis unless BOEM determines, after public notice of the proposed Alternate Use RUE, that there is no competitive interest.
- (b) We will issue a public notice in the FEDERAL REGISTER to determine if there is competitive interest in using the proposed facility for alternate use activities. BOEM will specify a time period for members of the public to express competitive interest.
- (c) If we receive indications of competitive interest within the published timeframe, we will proceed with a competitive offering. As part of such competitive offering, each competing applicant must submit a description of the types of activities proposed for the existing facility, as well as satisfactory evidence that the competing applicant qualifies to hold a grant on the OCS, as required in §§ 586.107 and 586.108, by a date we specify. We may request additional information from competing applicants, as necessary, to adequately evaluate the competing proposals.
- (d) We will evaluate all competing proposals to determine whether:
  - (1) The proposed activities are compatible with existing activities at the facility; and
  - (2) BOEM and BSEE have the expertise and resources available to regulate the activities effectively.
- (e) We will evaluate all proposals under the requirements of NEPA, CZMA, and other applicable laws.
- (f) Following our evaluation, we will select one or more acceptable proposals for activities involving the alternate use of an existing OCS facility, notify the competing applicants, and submit each acceptable proposal to the lessee and owner of the existing OCS facility. If the lessee and owner of the facility agree to accept a proposal, we will proceed to issue an Alternate Use RUE. If the lessee and owner of the facility are unwilling to accept any of the proposals that we deem acceptable, we will not issue an Alternate Use RUE.

### **§§ 586.204-586.209 [Reserved]**

#### ALTERNATE USE RUE ADMINISTRATION

### **§ 586.210 How long may I conduct activities under an Alternate Use RUE?**

- (a) We will establish on a case-by-case basis, and set forth in the Alternate Use RUE, the length of time for which you are authorized to conduct activities approved in your Alternate Use RUE instrument.

- (b) In establishing this term, BOEM will consider the size and scale of the proposed alternate use activities, the type of alternate use activities, and any other relevant considerations.
- (c) BOEM may authorize renewal of Alternate Use RUEs at its discretion.

### **§ 586.211 What payments are required for an Alternate Use RUE?**

We will establish rental or other payments for an Alternate Use RUE on a case-by-case basis, as set forth in the Alternate Use RUE grant, depending on our assessment of the following factors:

- (a) The effect on the original OCS Lands Act approved activity;
- (b) The size and scale of the proposed alternate use activities;
- (c) The income, if any, expected to be generated from the proposed alternate use activities; and
- (d) The type of alternate use activities.

### **§ 586.212 What financial assurance is required for an Alternate Use RUE?**

- (a) The holder of an Alternate Use RUE will be required to secure financial assurances in an amount determined by BOEM that is sufficient to cover all obligations under the Alternate Use RUE, including decommissioning obligations, and must retain such financial assurance amounts until all obligations have been fulfilled, as determined by BOEM.
- (b) We may revise financial assurance amounts, as necessary, to ensure that there is sufficient financial assurance to secure all obligations under the Alternate Use RUE.
- (c) We may reduce the amount of the financial assurance that you must retain if it is not necessary to cover existing obligations under the Alternate Use RUE.

### **§ 586.213 Is an Alternate Use RUE assignable?**

- (a) BOEM may authorize assignment of an Alternate Use RUE.
- (b) To request assignment of an Alternate Use RUE, you must submit a written request for assignment that includes the following information:
  - (1) BOEM-assigned Alternate Use RUE number;
  - (2) The names of both the assignor and the assignee, if applicable;
  - (3) The names and telephone numbers of the contacts for both the assignor and the assignee;
  - (4) The names, titles, and signatures of the authorizing officials for both the assignor and the assignee;
  - (5) A statement affirming that the owner of the existing OCS facility and lessee of the lease in which the facility is located approve of the proposed assignment and assignee;
  - (6) A statement that the assignee agrees to comply with and to be bound by the terms and conditions of the Alternate Use RUE;
  - (7) Evidence required by § 586.108 that the assignee satisfies the requirements of § 586.107; and
  - (8) A statement on how the assignee will comply with the financial assurance requirements set forth in the Alternate Use RUE.
- (c) The assignment takes effect on the date we approve your request.



- (d) The assignor is liable for all obligations that accrue under an Alternate Use RUE before the date we approve your assignment request. An assignment approval by BOEM does not relieve the assignor of liability for accrued obligations that the assignee, or a subsequent assignee, fails to perform.
- (e) The assignee and each subsequent assignee are liable for all obligations that accrue under an Alternate Use RUE after the date we approve the assignment request.

### **§ 586.214 When will BOEM suspend an Alternate Use RUE?**

- (a) BOEM may suspend an Alternate Use RUE if:
  - (1) necessary to comply with judicial decrees; or
  - (2) necessary for reasons of national security or defense.
- (b) A suspension will extend the term of your Alternate Use RUE grant for the period of the suspension.

### **§ 586.215 How do I relinquish an Alternate Use RUE?**

- (a) You may voluntarily surrender an Alternate Use RUE by submitting a written request to us that includes the following:
  - (1) The name, address, email address, and phone number of an authorized representative;
  - (2) The reason you are requesting relinquishment of the Alternate Use RUE;
  - (3) BOEM-assigned Alternate Use RUE number;
  - (4) The name of the associated OCS facility, its owner, and the lessee for the lease in which the OCS facility is located;
  - (5) The name, title, and signature of your authorizing official (which must match exactly the name, title, and signature in the BOEM qualification records); and
  - (6) A statement that you will adhere to the decommissioning requirements in the Alternate Use RUE.
- (b) We will not approve your relinquishment request until you have paid all outstanding rentals (or other payments) and fines.
- (c) The relinquishment takes effect on the date we approve your request.

### **§ 586.216 When will an Alternate Use RUE be cancelled?**

The Secretary may cancel an Alternate Use RUE if it is determined, after notice and opportunity to be heard:

- (a) You no longer qualify to hold an Alternate Use RUE;
- (b) You failed to provide any additional financial assurance required by BOEM, replace or provide additional coverage for a de-valued bond, or replace a lapsed or forfeited bond within the prescribed time period;
- (c) Continued activity under the Alternate Use RUE is likely to cause serious harm or damage to natural resources; life (including human and wildlife); property; the marine, coastal, or human environment; or sites, structures, or objects of historical or archaeological significance;
- (d) Continued activity under the Alternate Use RUE is determined to be adversely impacting the original OCS Lands Act approved activities on the existing OCS facility;

- (e) You failed to comply with any of the terms and conditions of your approved Alternate Use RUE or your approved plan; or
- (f) You otherwise failed to comply with applicable laws or regulations.

**§ 586.217 [Reserved]**

**§ 586.218 Who is responsible for decommissioning an OCS facility subject to an Alternate Use RUE?**

- (a) The holder of an Alternate Use RUE is responsible for all decommissioning obligations that accrue following the issuance of the Alternate Use RUE and which pertain to the Alternate Use RUE.
- (b) The lessee under the lease originally issued under 30 CFR chapter V will remain responsible for decommissioning obligations that accrued before issuance of the Alternate Use RUE, as well as for decommissioning obligations that accrue following issuance of the Alternate Use RUE to the extent associated with continued activities authorized under other parts of this title.

**§ 586.219 What are decommissioning requirements for an Alternate Use RUE?**

- (a) Decommissioning requirements will be determined by BOEM and BSEE on a case-by-case basis and will be included in the terms of the Alternate Use RUE.
- (b) Decommissioning activities must be completed within 1 year of termination of the Alternate Use RUE.
- (c) If you fail to satisfy all decommissioning requirements within the prescribed time period, BOEM will call for the forfeiture of your bond or other financial guarantee, and you will remain liable for all accidents or damages that might result from such failure.