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Title 30 —Mineral Resources
Chapter II —Bureau of Safety and Environmental Enforcement, Department of the Interior
Subchapter B —Offshore

Part 285 Renewable Energy and Alternate Uses of Existing Facilities on the Outer Continental Shelf

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PART 285—RENEWABLE ENERGY AND ALTERNATE USES OF EXISTING FACILITIES ON THE OUTER CONTINENTAL SHELF

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

Source: 88 FR 6413, Jan. 31, 2023, unless otherwise noted.

Subpart A—General Provisions

§ 285.100 Authority.

The authority for this part derives from the Outer Continental Shelf Lands Act (OCS Lands Act) (43 U.S.C. 1337). The Secretary of the Interior delegated to the Bureau of Safety and Environmental Enforcement (BSEE) the authority to regulate certain activities. These regulations specifically apply to activities that:

(a) Produce or support production, transportation, or transmission of energy from sources other than oil and gas; or

(b) Use, for energy-related purposes or for other authorized marine-related purposes, facilities currently or previously used for activities authorized under the OCS Lands Act.

§ 285.101 What is the purpose of this part?

The purpose of this part is to:

(a) Inform you and third parties of your obligations when you undertake activities authorized in this part and 30 CFR parts 585 and 586; and

(b) Ensure that renewable energy activities on the OCS and 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 lease, ROW grant, RUE grant, or Alternate Use RUE grant.

§ 285.102 What are BSEE's responsibilities under this part?

(a) BSEE will ensure that any activities authorized in this part and 30 CFR parts 585 and 586 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 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; and

(8) Oversight, inspection, research, monitoring, and enforcement of activities authorized by a lease or grant issued under 30 CFR parts 585 or 586.

(b) BSEE will require compliance with all applicable laws, regulations, other requirements, and the terms of your lease or grant issued under 30 CFR parts 585 or 586, and approved plans. BSEE will approve, disapprove, or approve with conditions any applications or other documents submitted to BSEE for approval under the provisions of this part.

(c) Unless otherwise provided in this part, BSEE may give oral directives or decisions whenever prior BSEE approval is required under this part. BSEE will document in writing any such oral directives within 10 business days.

(d) BSEE will establish practices and procedures to govern the collection of all payments due under this part to the Federal Government, including any cost recovery fees and other fees or payments. BSEE will do this in accordance with the terms of this part, the leasing notice, the lease or grant under 30 CFR parts 585 or 586, and applicable Office of Natural Resources Revenue (ONRR) regulations or guidance.

§ 285.103 When may BSEE prescribe or approve departures from the regulations in this part?

(a) BSEE may prescribe or approve departures from the provisions of this part when departures are necessary because the applicable provision(s) as applied to a specific circumstance:

(1) Are impractical or unduly burdensome and the departure is necessary to achieve the intended objectives of the renewable energy program;

(2) Fail to conserve the natural resources of the OCS;

(3) Fail to protect life (including human and wildlife), property, or the marine, coastal, or human environment; or

(4) Fail to 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.

[88 FR 6413, Jan. 31, 2023, as amended at 89 FR 42713, May 15, 2024]

§ 285.104 [Reserved]

§ 285.105 What are my responsibilities under this part?

As a lessee, applicant, operator, or holder of a ROW grant, RUE grant, or 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, notices, modifications, and supplemental information to BSEE as required by this part;

(c) Follow up, in writing, any oral request or notification you made, within 3 business days;

(d) Comply with all applicable laws and regulations, the terms of your lease or grant under 30 CFR part 585 or 586, reports, notices, and approved plans prepared under this part, 30 CFR part 585 or 586, and any conditions imposed by BOEM or BSEE through its review of any of these reports, notices, and approved plans, as provided in this part *or in* 30 CFR part 585 or 586;

(e) Make all applicable payments on time;

(f) Comply with the DOI's nonprocurement 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 BSEE representatives, within the time specified by BSEE, 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.

[88 FR 6413, Jan. 31, 2023, as amended at 89 FR 42713, May 15, 2024]

§§ 285.106-285.109 [Reserved]

§ 285.110 How do I submit applications, reports, or notices required by this part?

Unless otherwise stated, you must submit one electronic copy of all plans, applications, reports, or notices required by this part to BSEE. BSEE will inform you if it requires paper copies of specific documents. Unless stated otherwise, documents should be submitted to the relevant contacts listed on the BSEE website. [89 FR 42713, May 15, 2024]

§ 285.111 When and how does BSEE charge me processing fees on a case-by-case basis?

(a) BSEE 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.

(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 BSEE.

(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 BSEE-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.

§ 285.112 Definitions.

Terms used in this part have the meanings as defined in this section: P>*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 title or other applicable law.

Alternate Use RUE means a right-of-use and easement issued for activities authorized under subpart J of this part or part 586.

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 the Bureau of Ocean Energy Management of the Department of the Interior.

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

Certified Verification Agent (CVA) means an individual or organization, experienced in the design, fabrication, and installation of offshore marine facilities or structures, who will conduct specified third-party reviews, inspections, and verifications in accordance with this part.

Commercial activities means, under renewable energy leases and grants, all activities associated with the generation, storage, or transmission of electricity or other energy product from a renewable energy project on the OCS, and for which such electricity or other energy product is intended for distribution, sale, or other commercial use, except for electricity or other energy product distributed or sold pursuant to technology-testing activities on a limited lease. This term also includes activities associated with all stages of development, including initial site characterization and assessment, facility construction, and project decommissioning.

Commercial lease means a lease issued under 30 CFR part 585 that specifies the terms and conditions under which a person can conduct commercial activities.

Commercial operations means the generation of electricity or other energy product for commercial use, sale, transmission, or distribution from a commercial lease.

Critical Safety Systems and Equipment means safety systems and equipment designed to prevent or ameliorate fires, spillages, or other major accidents that could result in harm to health, safety, or the environment in the area of your facilities.

Decommissioning means removing BOEM and BSEE approved facilities and returning the site of the lease or grant to a condition that meets the requirements under subpart I of this part.

Director means the Director of the Bureau of Safety and Environmental Enforcement (BSEE), of the U.S. Department of the Interior, or an official authorized to act on the Director's behalf.

Fabrication means the cutting, fitting, welding, or other assembly of project elements.

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.

Grant means a right-of-way, right-of-use and easement, or alternate use right-of-use and easement issued under the provisions of 30 CFR parts 585 or 586.

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 this part or 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.

Limited lease means a lease issued under 30 CFR part 585 that specifies the terms and conditions under which a person may conduct activities on the OCS that support the production of energy, but do not result in the production of electricity or other energy product for sale, distribution, or other commercial use exceeding a limit specified in the lease.

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 lease or grant issued under 30 CFR parts 585 or 586. The operator may be a lessee, grant holder, or a contractor designated by the lessee or holder of a grant issued under 30 CFR parts 585 or 586.

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 a lease ROW, RUE, or Alternate Use RUE on which the activities authorized under this part or 30 CFR parts 585 or 586 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 Design Envelope (PDE) means a reasonable range of design parameters proposed in a lessee's plan for components of the project, such as type, dimensions, and number of wind turbine generators; foundation type; location of the export cable route; location of an onshore substation; location of the grid connection point; and construction methods and timing.

Project easement means an easement to which, upon approval of your Construction and Operations Plan (COP) or General Activities Plan (GAP), you are entitled as part of the lease for the purpose of installing, gathering, transmission, and distribution cables, pipelines, and appurtenances on the OCS as necessary for the full enjoyment of the lease.

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 or project area. It does not include administrative fees such as those assessed for cost recovery, civil penalties, and forfeiture of financial assurance.

Right-of-use and easement (RUE) grant means an easement issued by BOEM under 30 CFR parts 585 or 586 that authorizes use of a designated portion of the OCS to support activities on a lease or other use authorization for renewable energy activities. The term also means the area covered by the authorization.

Right-of-way (ROW) grant means an authorization issued by BOEM under 30 CFR part 585 to use a portion of the OCS for the construction and use of a cable or pipeline for the purpose of gathering, transmitting, distributing, or otherwise transporting electricity or other energy product generated or produced from renewable energy, but does not constitute a project easement under 30 CFR part 585. The term also means the area covered by the authorization.

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.

Site assessment activities means those initial activities conducted to assess an area on the OCS, such as resource assessment surveys (e.g., meteorological and oceanographic) or technology testing, involving the installation of bottom-founded facilities.

We, us, and *our* refer to the Bureau of Safety and Environmental Enforcement of the Department of the Interior, or its possessive, depending on the context.

You and *your* means an applicant, lessee, the operator, or designated operator, ROW grant holder, RUE grant holder, or Alternate Use RUE grant holder under 30 CFR parts 585 or 586, 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.

[88 FR 6413, Jan. 31, 2023, as amended at 89 FR 42713, May 15, 2024]

§ 285.113 How will data and information obtained by BSEE under this part be disclosed to the public?

(a) BSEE 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) BSEE 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 by the following schedule to determine whether release at that time will result in substantial competitive harm or disclosure of trade secrets.

If you have a . . .	Then BSEE will review data and information for possible release:
(1) Commercial lease	At the earlier of: (i) 3 years after the commencement of commercial operations; or (ii) 3 years after the lease terminates.
(2) Limited lease	At 3 years after the lease terminates.
(3) ROW or RUE grant	At the earliest of: (i) 10 years after the approval of the grant; (ii) Grant termination; or (iii) 3 years after the completion of construction activities.

(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.

[88 FR 6413, Jan. 31, 2023, as amended at 89 FR 42714, May 15, 2024]

§ 285.114 Paperwork Reduction Act statements—information collection.

(a) The Office of Management and Budget (OMB) has approved the information collection requirements in 30 CFR part 285 under 43 U.S.C. 1331 *et seq.* and assigned OMB Control Number 1014-0034. 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 BSEE uses the information.

(b) Respondents are primarily renewable energy applicants, lessees, ROW grant holders, RUE grant holders, 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 Safety and Environmental Enforcement, 45600 Woodland Road, Sterling, VA 20166.

(e) BSEE is collecting this information for the reasons given in the following table:

30 CFR 285 subpart and title	Reasons for collecting information and how used
(1) Subpart A—General Provisions	To inform BSEE 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 D—Lease and Grant Administration	To ensure compliance with regulations pertaining to a lease or grant, and suspension of leases and grants.
(3)Subpart F—Information Requirements	To enable BSEE to comply with Federal laws to ensure the safety of the environment on the OCS.
(4) Subpart G—Facility Design, Fabrication, and Installation	To enable BSEE to review the final design, fabrication, and installation of facilities on a lease or grant to ensure that these facilities are designed, fabricated, and installed according to appropriate standards in compliance with BSEE provisions, and where applicable, the approved plan.
(5) Subpart H—Environmental and Safety Management, Inspections, and Facility Assessments for Activities Conducted Under SAPs, COPs, and GAPs	To ensure that lease and grant operations are conducted in a manner that is safe and protects the environment. To ensure compliance with other Federal laws, these regulations, the lease or grant, and approved plans.
(6) Subpart I—Decommissioning	To determine that decommissioning activities comply with regulatory requirements and approvals. To ensure that site clearance and platform or pipeline removal are properly performed to protect marine life and the environment and do not conflict with other users of the OCS.
(7) Subpart J—Rights of Use and Easement for Energy- and Marine- Related Activities Using Existing OCS Facilities	To enable BSEE to review information regarding the design, installation, and operation of RUEs on the OCS, to ensure that RUE operations are safe and protect the human, marine, and coastal environment. To ensure compliance with other Federal laws, these regulations, the RUE grant, and where applicable, the approved plan.

[88 FR 6413, Jan. 31, 2023; 88 FR 54880, Aug. 14, 2023]

§ 285.115 Documents incorporated by reference.

Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved incorporation by reference (IBR) material is available for inspection at BSEE and at the National Archives and Records Administration (NARA). Contact BSEE at: BSEE, 45600 Woodland Road, Sterling, Virginia 20166, phone: 703-787-1665. For information on the availability of this material at NARA, visit *www.archives.gov/federal-register/cfr/ibr-locations.html* or email *fr.inspection@nara.gov*. The material is available from the American Petroleum Institute (API), 200 Massachusetts Avenue NW, Suite 1100, Washington, DC 20001-5571; phone (202) 682-8000; website: *www.api.org* or *https://publications.api.org*.

(a) API RP 2A-WSD, Recommended Practice for Planning, Designing and Constructing Fixed Offshore Platforms—Working Stress Design; Twenty-first Edition, December 2000; Errata and Supplement 1, December 2002; Errata and Supplement 2, September 2005; Errata and Supplement 3, October 2007. IBR approved for § 285.825(a), (b).

(b) [Reserved]

§ 285.116 Requests for information on the state of the offshore renewable energy industry.

BSEE may publish a request for information (RFI) in the FEDERAL REGISTER to solicit information from industry, State and local agencies, federally recognized Tribes, and other interested entities for evaluating the offshore renewable energy industry, including the identification of potential challenges or obstacles to its continued development. An RFI may relate to the identification of environmental, technical, regulatory, or economic matters that promote or detract from continued development of renewable energy technologies on the OCS. BSEE may use the information received to refine its renewable energy program, including to facilitate OCS renewable energy development in a safe and environmentally responsible manner and to ensure a fair return to the United States for use of the OCS.

[89 FR 42714, May 15, 2024]

§ 285.117 Severability.

If a court holds any provisions of this subpart or their applicability to any persons or circumstances invalid, the remainder of the provisions and their applicability to any persons or circumstances will not be affected.

[89 FR 42714, May 15, 2024]

§ 285.118 What are my appeal rights?

(a) Any party adversely affected by a final decision issued by BSEE under this part may appeal that decision to the Interior Board of Land Appeals (IBLA), under 30 CFR part 290 and 43 CFR part 4, subpart E.

(b) Any final decision will remain in full force and effect during the pendency of an appeal unless a stay is granted pursuant to 43 CFR part 4.

[89 FR 42714, May 15, 2024]

Subparts B and C [Reserved]

Subpart D—Lease and Grant Administration

NONCOMPLIANCE AND CESSATION ORDERS

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

(a) BSEE 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 lease or grant issued under 30 CFR parts 585 or 586, or the requirements of an approved plan or other approval under this part or 30 CFR parts 585 or 586.

(b) BSEE 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 lease, grant or other approval issued under this part or 30 CFR parts 585 or 586. When issuing a notice of noncompliance, BSEE will serve you at your last known address.

(c) A notice of noncompliance will tell you how you failed to comply with this part, any order of either Director, and/or the provisions of your lease, 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 a lessee, operator, or grant holder under this part to take the actions specified in a notice of noncompliance within the time limit specified provides the basis for BSEE to issue a cessation order as provided in § 285.401, and/or a cancellation of the lease or grant as provided in § 285.437.

(e) If BSEE determines that any incident of noncompliance poses an imminent threat of serious or irreparable 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, BSEE may include with its notice of noncompliance an order directing you to take immediate remedial action to alleviate threats and to abate the violation and, when appropriate, a cessation order.

(f) BSEE may assess civil penalties, as authorized by section 24 of the OCS Lands Act and as determined under the procedures set forth in 30 CFR part 250, subpart N, if you fail to comply with any provision of this part, or any term of a lease, grant, or order issued under the authority of this part:

(1) After notice of such failure and expiration of any reasonable period allowed for corrective action; or

(2) BSEE determines that the failure constitutes, or constituted, a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), property, or the marine, coastal, or human environment.

(g) You may be subject to criminal penalties as authorized by section 24 of the OCS Lands Act.

[88 FR 6413, Jan. 31, 2023, as amended at 89 FR 42714, May 15, 2024]

§ 285.401 When may BSEE issue a cessation order?

(a) BSEE may issue a cessation order during the term of your lease or grant when you fail to comply with an applicable law; regulation; order; or provision of a lease, grant, plan, or BSEE or BOEM approval. Except as provided in § 285.400(e), BSEE will allow you a period of time to correct any noncompliance before issuing an order to cease activities.

(b) A cessation order will set forth what measures you are required to take, including reports you are required to prepare and submit to BSEE, to receive approval to resume activities on your lease or grant.

§ 285.402 What is the effect of a cessation order?

(a) Upon receiving a cessation order, you must cease all activities on your lease or grant, as specified in the order. BSEE may authorize certain activities during the period of the cessation order.

(b) A cessation order will last for the period specified in the order or as otherwise specified by BSEE. If BSEE determines that the circumstances giving rise to the cessation order cannot be resolved within a reasonable time period, the Secretary may initiate cancellation of your lease or grant, as provided in § 285.437.

(c) A cessation order does not extend the term of your lease or grant for the period you are prohibited from conducting activities.

(d) You must continue to make all required payments on your lease or grant during the period a cessation order is in effect.

§ 285.403-285.405 [Reserved]

RESPONSIBILITY FOR FULFILLING OBLIGATIONS

§ 285.406 Who is responsible for fulfilling lease and grant obligations?

(a) When you are not the sole lessee or grantee, you and your co-lessee(s) or co-grantee(s) are jointly and severally responsible for fulfilling your obligations under the lease or grant and the provisions of this part or 30 CFR parts 585 or 586, unless otherwise provided in this part.

(b) If your designated operator fails to fulfill any of your obligations under the lease or grant and this part or 30 CFR parts 585 or 586, BSEE may require you or any or all of your co-lessees or co-grantees to fulfill those obligations or other operational obligations under the OCS Lands Act, the lease, grant, or the regulations.

(c) Whenever the regulations in this part or 30 CFR parts 585 or 586 require the lessee or grantee to conduct an activity in a prescribed manner, the lessee or grantee and operator (if one has been designated) are jointly and severally responsible for complying with the regulations.

§ 285.407-285.414 [Reserved]

LEASE OR GRANT SUSPENSION

§ 285.415 What is a lease or grant suspension?

(a) A suspension is an interruption of the term of your lease or grant that may occur as ordered by BSEE, as provided in § 285.417; or as approved or ordered by BOEM, as provided in 30 CFR 585.416 and 585.417.

(b) A suspension extends the expiration date for the relevant period of your lease or grant for the length of time the suspension is in effect.

(c) Activities may not be conducted on your lease or grant during the period of a suspension except as expressly authorized under the terms of the suspension.

[88 FR 6413, Jan. 31, 2023, as amended at 89 FR 42714, May 15, 2024]

§ 285.416 [Reserved]

§ 285.417 When may BSEE order a suspension?

(a) BSEE may order a suspension under the following circumstances:

(1) When necessary to comply with judicial decrees prohibiting some or all activities under your lease; or

(2) When continued activities pose an imminent threat of serious or irreparable 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.

(b) If BSEE orders a suspension under paragraph (a)(2) of this section, and if you wish to resume activities, we may require you to conduct a site-specific study that evaluates the cause of the harm, the potential damage, and the available mitigation measures. Other requirements and actions may occur:

(1) You may be required to pay for the study;

(2) You must furnish an electronic copy of the study and results to BSEE pursuant to § 285.110;

(3) We will make the results available to other interested parties and to the public; and

(4) We will use the results of the study and any other information that become available:

(i) To decide if the suspension order can be lifted; and

(ii) To determine any actions that you must take to mitigate or avoid any 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.

[88 FR 6413, Jan. 31, 2023, as amended at 89 FR 42714, May 15, 2024]

§ 285.418 How will BSEE issue a suspension?

(a) BSEE will issue a suspension order orally or in writing.

(b) BSEE will send you a written suspension order as soon as practicable after issuing an oral suspension order.

(c) The written order will explain the reasons for its issuance and describe the effect of the suspension order on your lease or grant and any associated activities. BSEE may authorize certain activities during the period of the suspension, as set forth in the suspension order.

§ 285.419 What are my immediate responsibilities if I receive a suspension order?

You must comply with the terms of a suspension order upon receipt and take any action prescribed within the time set forth therein.

§ 285.420 What effect does a suspension order have on my payments?

If BSEE orders a suspension, as provided in § 285.417, BOEM may waive or defer your payment obligations during the suspension. BOEM's decision to waive or defer payments will depend on the reasons for the suspension, including your responsibility for the circumstances necessitating a suspension.

[88 FR 6413, Jan. 31, 2023, as amended at 89 FR 42714, May 15, 2024]

§ 285.421 How long will a suspension be in effect?

A suspension will be in effect for the period specified by BSEE. If BSEE determines that the circumstances giving rise to a suspension ordered under § 285.417 cannot be resolved within 5 years, the Secretary may initiate cancellation of the lease or grant, as provided in § 285.437.

§§ 285.422-285.432 [Reserved]

LEASE OR GRANT TERMINATION

§ 285.433 What must I do after my lease or grant terminates?

(a) After your lease or grant terminates, you must:

(1) Make all payments due; and

(2) Perform any other outstanding obligations under the lease or grant within 6 months.

(b) Within 2 years following termination of a lease or grant, you must remove or dispose of all facilities, installations, and other devices permanently or temporarily attached to the seabed on the OCS in accordance with your Plan approved by BOEM under 30 CFR part 585, subpart F, and your application approved by BSEE under subpart I of this part.

(c) If you fail to comply with your approved decommissioning plan or application:

(1) BOEM may call for the forfeiture of your financial assurance; and

(2) You remain liable for removal or disposal costs and responsible for accidents or damages that might result from such failure.

§§ 285.434-285.436 [Reserved]

LEASE OR GRANT CANCELLATION

§ 285.437 When can my lease or grant be canceled?

(a) The Secretary will cancel any lease or grant issued under 30 CFR parts 585 or 586 upon proof that it was obtained by fraud or misrepresentation, and after notice and opportunity to be heard has been afforded to the lessee or grant holder.

(b) The Secretary may cancel any lease or grant issued under 30 CFR parts 585 or 586 when:

(1) The Secretary determines after notice and opportunity for a hearing that, with respect to the lease or grant that would be canceled, the lessee or grantee has failed to comply with any applicable provision of the OCS Lands Act or these regulations; any order of the Director; or any term, condition or stipulation contained in the lease or grant, and that the failure to comply continued 30 days (or other period BSEE specifies) after you receive notice from BSEE. The Secretary will mail a notice by registered or certified letter to the lessee or grantee at its record post office address;

(2) Required by national security or defense; or

(3) The Secretary determines after notice and opportunity for a hearing that continued activity under the lease or grant:

(i) Would 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;

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

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

Subpart E [Reserved]

Subpart F—Information Requirements

§§ 285.600-285.601 [Reserved]

§ 285.602 What records must I maintain?

Until BOEM releases your financial assurance under 30 CFR 585.534, you must maintain and provide to BSEE, upon request, all data and information related to compliance with the required terms and conditions of your lease, grant, reports submitted under this part and approved plans.

[89 FR 42715, May 15, 2024]

§§ 285.603-285.613 [Reserved]

ACTIVITIES UNDER AN APPROVED SAP

§ 285.614 When may I begin conducting activities under my approved SAP?

(a) You may begin conducting the activities approved in your SAP following BOEM approval of your SAP.

(b) If you are installing a facility or a combination of facilities deemed by BOEM to be complex or significant, as provided in 30 CFR 585.613(a)(1), you must comply with the requirements of subpart G of this part and submit the Safety Management System (SMS) description required by § 285.810 before construction may begin.

[88 FR 6413, Jan. 31, 2023, as amended at 89 FR 42715, May 15, 2024]

§ 285.615 What other reports or notices must I submit to BSEE under my approved SAP?

(a) You must notify BSEE in writing within 30 days of completing installation activities approved in your SAP.

(b) You must submit a certification of compliance annually (or other frequency as determined by BOEM) with those terms and conditions of your SAP that BOEM identifies under 30 CFR 585.613(e)(1). Together with your certification, you must submit:

(1) Summary reports that show compliance with the terms and conditions which require certification; and

(2) A statement identifying and describing any mitigation measures and monitoring methods and their effectiveness. If you identified measures that were not effective, you must include your recommendations for new mitigation measures or monitoring methods.

§§ 285.616-285.630 [Reserved]

ACTIVITIES UNDER AN APPROVED COP

§ 285.631 When must I initiate activities under an approved COP?

After your COP is approved, you must commence construction by the date given in the construction schedule required by 30 CFR 585.626(b)(21), and included as a part of your approved COP, unless BOEM approves a deviation from your schedule.

§ 285.632 What documents must I submit before I may construct and install facilities under my approved COP?

(a) You must submit to BSEE the documents listed in the following table:

Document:	Requirements are found in:
(1) Facility Design Report	§ 285.701
(2) Fabrication and Installation Report	§ 285.702

(b) You must submit your safety management system, as required by § 285.810.

(c) These activities must fall within the scope of your approved COP. If they do not fall within the scope of your approved COP, you will be required to submit a revision to your COP, under 30 CFR 585.634, for BOEM approval before commencing the activity.

§ 285.633 How do I comply with my COP?

(a) You must submit a certification of compliance annually (or other frequency as determined by BOEM) with certain terms and conditions of your COP that BOEM identifies. Together with your certification, you must submit:

(1) Summary reports that show compliance with the terms and conditions which require certification; and

(2) A statement identifying and describing any mitigation measures and monitoring methods, and their effectiveness. If you identified measures that were not effective, then you must make recommendations for new mitigation measures or monitoring methods.

(b) As provided at § 285.105(i), BSEE may require you to submit any supporting data and information.

§§ 285.634-285.635 [Reserved]

§ 285.636 What notices must I provide BSEE following approval of my COP?

You must notify BSEE in writing of the following events, within the time periods provided:

(a) No later than 30 days after commencing activities associated with the placement of facilities on the lease area under a Fabrication and Installation Report.

(b) No later than 30 days after completion of construction and installation activities under a Fabrication and Installation Report.

(c) At least 7 days before commencing commercial operations.

§ 285.637 When may I commence commercial operations on my commercial lease?

(a) If you are conducting activities on your lease that do not require a FERC license (*i.e.,* wind power projects), then you may commence commercial operations after:

(1) You submit information consistent with § 285.702(c) and (d) for facilities installed prior to commencing commercial operations;

(2) Your CVA submits the project verification report, as described in § 285.708(a)(5), including information required by § 285.708(b)(1), or interim report(s), as described in § 285.712(a) for facilities installed prior to commencing commercial operations;

(3) Your CVA submits the Critical Safety Systems and Equipment commissioning records, as described in § 285.708(a)(6) or interim report(s), as described in § 285.712(a), for facilities installed prior to commencing commercial operations; and

(4) BSEE has not notified you of any objections to the submittals in paragraphs (a)(1) and (3) of this section within the timeframes in §§ 285.700(d) and 285.712(a), as applicable. You may continue commercial operations while BSEE reviews your submittals.

(b) To continue commercial operations as additional facilities complete commissioning, you must submit information in paragraphs (a)(1) and (3) of this section for facilities installed after commercial operations have commenced.

(c) You must notify BSEE within 10 business days after you commence commercial operations.

[89 FR 42715, May 15, 2024]

§ 285.638 What must I do upon completion of my commercial operations as approved in my COP or FERC license?

(a) Upon completion of your approved activities under your COP, you must decommission your project as set forth in subpart I of this part. You must submit your decommissioning application as provided in §§ 285.905 and 285.906.

(b) Upon completion of your approved activities under your FERC license, the terms of your FERC license will govern your decommissioning activities.

[88 FR 6413, Jan. 31, 2023, as amended at 89 FR 42715, May 15, 2024]

§§ 285.639-285.649 [Reserved]

ACTIVITIES UNDER AN APPROVED GAP

§ 285.650 When may I begin conducting activities under my GAP?

After BOEM approves your GAP, you may begin conducting the approved activities that do not involve a project easement or the construction of facilities on the OCS that BOEM has deemed to be complex or significant.

§ 285.651 When may I construct complex or significant OCS facilities on my limited lease or any facilities on my project easement proposed under my GAP?

If you are applying for a project easement, or installing a facility or a combination of facilities on your limited lease deemed by BOEM to be complex or significant, as provided in 30 CFR 585.648(a)(1), you also must comply with the requirements of subpart G of this part and submit your safety management system description required by § 285.810 before construction may begin.

§ 285.652 [Reserved]

§ 285.653 What other reports or notices must I submit to BSEE under my approved GAP?

(a) You must notify BSEE in writing within 30 days after completing installation activities approved in your GAP

(b) You must annually (or other frequency as determined by BOEM) submit a certification of compliance with those terms and conditions of your GAP that BOEM identifies under 30 CFR 585.648(e)(1). Together with your certification, you must submit:

(1) Summary reports that show compliance with the terms and conditions which require certification; and

(2) A statement identifying and describing any mitigation measures and monitoring methods and their effectiveness. If you identified measures that were not effective, you must include your recommendations for new mitigation measures or monitoring methods.

§§ 285.654-285.659 [Reserved]

Subpart G—Facility Design, Fabrication, and Installation

REPORTS

§ 285.700 What reports must I submit to BSEE before installing facilities described in my approved SAP, COP, or GAP?

(a) You must submit the following reports to BSEE before installing facilities described in your approved COP (30 CFR 585.632(a)) and, when required by 30 CFR part 585, in your approved SAP (30 CFR 585.614(b)) or GAP (30 CFR 585.651):

(1) A Facility Design Report (FDR); and

(2) A Fabrication and Installation Report (FIR).

(b) You may submit separate FDRs and FIRs for integrated asset packages unless otherwise agreed to by BSEE (*e.g.,* wind turbine generator (WTG), offshore substation/electrical service platform, array cables, export cables, and seabed preparation). If you submit separate FDRs and FIRs by integrated asset packages, you must:

(1) Ensure FDR(s) and FIR(s) for integrated asset package(s) are complete (e.g., the WTG package includes the RNA, blades, tower, foundation, and transition piece, if applicable);

(2) Explain to BSEE how all FDR(s) and FIR(s) for integrated asset packages will function together effectively in an integrated manner in accordance with your project design; and

(3) Demonstrate that such integration has been verified by your CVA.

(c) You may submit your FDRs and FIRs before or after SAP, COP, or GAP approval.

(d) Subject to the requirements in paragraph (b) of this section, you may commence fabrication and installation of the facilities on the OCS as described in each report:

(1) If BSEE deems your report submitted before SAP, COP, or GAP approval and notifies you of its non-objection to the FDR and FIR or does not respond with objections within 60 business days of SAP, COP, or GAP approval; or

(2) If BSEE deems your report submitted after SAP, COP, or GAP approval and notifies you of its non-objection to the FDR and FIR or does not respond with objections within 60 business days of the report being deemed submitted.

(e) You may commence procurement of discrete parts of the project that are commercially available in standardized form and type-certified components, or fabrication activities that do not take place on the OCS (e.g., manufacturing), prior to the submittal of the reports required under paragraph (a) of this section or any plans required under 30 CFR parts 585 and 586. The procurement and fabrication of facility components allowed under this section are subject to verification and certification by your CVA, and BSEE may object to the installation of said components on the OCS if it considers that the components or their fabrication are inconsistent with accepted industry or engineering standards, the approved SAP, COP, or GAP, the FDR or FIR, or BSEE's regulations.

(f) If BSEE has objections, we will notify you in writing within 60 business days of the report being deemed submitted. Following initial notification of any objections, BSEE may follow up with written correspondence detailing its objections to the report and requesting that certain actions be undertaken. You cannot commence fabrication or installation activities on the OCS that are addressed in such reports until you resolve all objections to BSEE's satisfaction.

[89 FR 42715, May 15, 2024]

§ 285.701 What must I include in my Facility Design Report?

(a) Your Facility Design Report provides specific details of the design of any facilities, including cables and pipelines that are outlined in your BOEM-approved SAP, COP, or GAP. Your Facility Design Report must demonstrate that your design conforms to your responsibilities listed in § 285.105(a). You must include the following items in your Facility Design Report:

Required documents	Required contents
(1) Cover letter	(i) Proposed facility designations: (ii) Lease, ROW grant or RUE grant number; (iii) Area; name and block numbers; and (iv) The type of facility.

Required documents	Required contents
(2) Location plat	(i) Latitude and longitude coordinates, Universal Mercator grid-system coordinates, State plane coordinates in the Lambert or Transverse Mercator Projection System; (ii) Distances in feet from the nearest block lines. These coordinates must be based on the NAD (North American Datum) 83 datum plane coordinate system; and (iii) The location of any project easements.
(3) Front, Side, and Plan View drawings	(i) Facility dimensions and orientation; (ii) Elevations relative to Mean Lower Low Water; and (iii) Pile sizes and penetration.
(4) Complete set of structural drawings	The approved for construction fabrication drawings should be submitted including, e.g., (i) Cathodic protections systems; (ii) Jacket design; (iii) Pile foundations; (iv) Mooring, tendon and tethering systems; (v) Foundations and anchoring systems; and (vi) Associated cable and pipeline designs.
(5) Summary of environmental data used for design	A summary of the environmental data used in the design or analysis of the facility. Examples of relevant data include information on: (i) Extreme weather; (ii) Seafloor conditions; and (iii) Waves, wind, current, tides, temperature, snow and ice effects, marine growth, and water depth.
(6) Summary of the engineering design data	(i) Loading information (*e.g.,* live, dead, environmental); (ii) Structural information (*e.g.,* design-life; material types; cathodic protection systems; design criteria; fatigue life; jacket design; deck design; production component design; foundation pilings and templates, and mooring, tethering or tendon systems; fabrication and installation guidelines); (iii) Location of foundation boreholes and foundation piles; (iv) Foundation information (e.g., soil stability, design criteria); and (v) For a floating facility, structural integrity, stability, and ballast information. This includes foundations, piles, templates, anchors or anchor systems, mooring, tethering and tendon systems.
(7) A complete set of design calculations	Self-explanatory.
(8) Project-specific studies used in the facility design or installation	All studies pertinent to facility design or installation, e.g., oceanographic and soil reports including the results of the survey required in 30 CFR 585.610(b), 585.626(b), or 585.645(b).

Required documents	Required contents
(9) Description of the loads imposed on the facility	(i) Loads imposed by the jacket; (ii) Decks; (iii) Production components; (iv) Foundations, foundation pilings and templates, and anchoring systems; and (v) Mooring, tendon or tethering systems.
(10) Geotechnical reports	Reports and supporting data from geotechnical surveys, *in situ* explorations, laboratory tests, analyses, burial or drivability assessments, and recommended design parameters.
(11) Design Standards	The industry standards you will apply to ensure the facilities are designed to meet § 285.105.
(12) Critical Safety Systems and Equipment	A risk assessment that identifies the Critical Safety Systems and Equipment and a description of the identified Critical Safety System and Equipment.
(13) Other information	Additional information required by BSEE.

(b) For any floating facility, your design must meet the requirements of the U.S. Coast Guard for structural integrity and stability (*e.g.*, verification of center of gravity) as listed in paragraph (a)(6)(v) of this section. The design must also consider:

(1) Foundations, foundation pilings and templates, and anchoring systems; and

(2) Mooring, tendon, or tethering systems.

(c) You must submit your FDR to BSEE pursuant to § 285.110 and provide the location of records, as required in § 285.714(c).

(d) If you are required to use a CVA, the FDR must include the following certification statement with accompanying justification: "The design of this structure has been certified by a BSEE-approved CVA to be in accordance with accepted engineering practices and the approved SAP, GAP, or COP, as applicable, and has been designed to provide for safety. The certified design and as-built plans and specifications will be on file at [provide location]."

[88 FR 6413, Jan. 31, 2023, as amended at 89 FR 42715, May 15, 2024]

§ 285.702 What must I include in my Fabrication and Installation Report?

(a) Your Fabrication and Installation Report must describe how your facilities will be fabricated and installed in accordance with the design criteria identified in the Facility Design Report; your BOEM-approved SAP, COP, or GAP; and generally accepted industry standards and practices. Your Fabrication and Installation

Report must demonstrate how your facilities will be fabricated and installed in a manner that conforms to your responsibilities listed in § 285.105(a). You must include the following items in your Fabrication and Installation Report:

Required documents	Required contents
(1) Cover letter	(i) Proposed facility designation, lease, ROW grant, or RUE grant number; (ii) Area, name, and block number; and (iii) The type of facility.
(2) Schedule	Fabrication and installation schedule information.
(3) Fabrication information	The industry standards you will use to ensure the facilities are fabricated to the design criteria identified in your Facility Design Report.
(4) Installation process information	Details associated with the deployment activities, equipment, and materials, including onshore and offshore equipment and support, and anchoring and mooring patterns.
(5) Federal, State, and local permits (*e.g.,* EPA, Army Corps of Engineers)	Either one copy of the permit or information on the status of the application.
(6) Quality assurance	Certificates ensuring adherence to a nationally or internationally recognized quality assurance standard. Alternate means of compliance must be approved on a case-by-case basis.
(7) Environmental information	Information about: (i) Water discharge; (ii) Waste disposal; (iii) Vessel information; (iv) Onshore waste receiving treatment or disposal facilities; and (v) If you submitted this data as part of your SAP, COP, or GAP, you may incorporate the information by reference.
(8) Commissioning procedures for Critical Safety Systems and Equipment	Original equipment manufacturer procedures or other BSEE accepted engineering practices for commissioning of Critical Safety Systems and Equipment as identified in § 285.701(a)(12).
(9) Project easement	Information about installation of any cables, pipelines, or facilities. Information on burial methods and vessels.
(10) Other information	Additional information required by BSEE.

(b) You must submit your FIR to BSEE pursuant to § 285.110.

(c) You must provide the location of records, as required in § 285.714(c).

(d) If you are required to use a CVA, the FIR must include the following certification statement with accompanying justification: "The fabrication and installation of this structure has been certified by a BSEE-approved CVA to be in accordance with accepted engineering practices, the FDR, and the approved SAP, GAP, or COP, as applicable. The certified design and as-built plans and specifications will be on file at [provide location]."

[88 FR 6413, Jan. 31, 2023, as amended at 89 FR 42716, May 15, 2024]

§ 285.703 What reports must I submit for project modifications and repairs?

(a) You must submit a Project Modification or Repair Report to BSEE in which you certify that major repairs and major modifications of renewable energy structures and crucial components to a completed project conform to accepted engineering practices.

(1) A "major repair" is a corrective action involving structural members affecting the structural integrity of all or a portion of the facility or substantial repair of a Critical Safety Systems and Equipment, including those identified in your FDR.

(2) A "major modification" is an alteration involving structural members affecting the structural integrity of all or a portion of the facility or substantial alteration of Critical Safety Systems and Equipment, including those as identified in your FDR.

(b) The report must also identify the location of all records pertaining to the major repairs or major modifications, as required in § 285.714(c).

(c) If you are required to use a CVA, the report described in paragraph (a) of this section must include the following certification statement with accompanying justification: "The [major modification or major repair] of this [structure or Critical Safety Systems and Equipment] has been certified by a BSEE-approved CVA to be in accordance with accepted engineering practices, the FDR, and the approved SAP, GAP, or COP as applicable."

[88 FR 6413, Jan. 31, 2023, as amended at 89 FR 42717, May 15, 2024]

§ 285.704 After receiving the FDR, FIR, or project verification reports, what will BSEE do?

(a) ***Determine whether the report is deemed submitted.*** Within 20 business days after receiving your proposed FDR, FIR, or project verification report, BSEE will review your submission. BSEE will deem your FDR, FIR, or project verification report submitted if BSEE determines it is sufficiently complete and accurate to fulfill the applicable requirements of § 285.701, § 285.702, or § 285.712.

(b) ***Identify problems and deficiencies.*** If BSEE determines that your submission has not met the conditions in paragraph (a) of this section, BSEE will notify you of the problem or deficiency within 20 business days after BSEE receives your FDR, FIR, or project verification report. BSEE will not deem your FDR, FIR, or project verification report submitted until you have corrected all problems or deficiencies identified in the notice.

(c) ***Notify you when the report is deemed submitted.*** BSEE will notify you when the FDR, FIR, or project verification reports are deemed submitted. If BSEE has not notified you within 20 business days that your report has problems or deficiencies, it is deemed submitted. Until your report is deemed submitted, the time period in § 285.700(d) does not begin running.

[89 FR 42717, May 15, 2024]

CERTIFIED VERIFICATION AGENT

§ 285.705 When must I use a Certified Verification Agent (CVA)?

(a) Unless BSEE waives this requirement under paragraph (c) of this section, you must use one or more CVAs to review and verify your FDRs, FIRs, and the Project Modification and Repair Reports.

(b) The purpose of a CVA is to:

(1) Ensure that your facilities are designed, fabricated, and installed in conformance with accepted engineering practices and the FDR(s) and FIR(s); and that the design of the facilities is suitable for the location where they will be installed;

(2) Ensure Critical Safety Systems and Equipment are commissioned in accordance with the procedures identified in § 285.702(a)(8);

(3) Ensure that major repairs and major modifications are completed in conformance with accepted engineering practices; and

(4) Provide BSEE and you with reports of all incidents that affect the facility design, fabrication, and installation, including commissioning of Critical Safety Systems and Equipment, for the project and its components.

(c) BSEE may waive in whole or in part the requirement that you use a CVA if you can demonstrate the following:

If you demonstrate that . . .	Then BSEE may waive the requirement for a CVA for the following:
(1) The facility design conforms to a standard design that has been used successfully in a similar environment, and the installation design conforms to accepted engineering practices	The design of your structure(s).
(2) The relevant fabricator has successfully fabricated similar facilities, and the facility will be fabricated in conformance with accepted engineering practices and to a nationally or internationally recognized quality assurance standard	The fabrication of your structure(s).
(3) The installation company has successfully installed similar facilities in a similar offshore environment, and your structures will be installed in conformance with accepted engineering practices	The installation of your structure(s).
(4) Major repairs or major modifications will be completed in conformance with accepted engineering practices and to a nationally or internationally	The major repair or major modification

If you demonstrate that . . .	Then BSEE may waive the requirement for a CVA for the following:
recognized quality assurance standard	on your structure(s).

(d) You must submit a request to waive, in whole or in part, the requirement to use a CVA to BSEE in writing.

(1) BSEE will review your request to waive, in whole or in part, the use of the CVA and notify you of its decision.

(2) If BSEE does not waive, in whole or in part, the requirement for a CVA, you may file an appeal under § 285.118.

(3) If BSEE waives, in whole or in part, the requirement that you use a CVA, your project engineer must perform the same duties and responsibilities as would have the CVA, except as otherwise provided. You must submit the project engineer's qualifications to BSEE as a part of your waiver request to demonstrate that your project engineer is a professional engineer with relevant experience and expertise in the facilities they will be verifying/certifying.

[89 FR 42717, May 15, 2024]

§ 285.706 How do I nominate a CVA for BSEE approval?

(a) A CVA must be nominated by the lessee and approved by BSEE before conducting any verification or certification activities for which they have been nominated. If you intend to use multiple CVAs, you must nominate a general project CVA who will manage the overall project verification and certification approach and who will ensure consistency and oversight among the CVAs, especially in transition areas between different CVAs. The general project CVA must be nominated no later than COP submission.

(b) For each CVA that you nominate, you must submit to BSEE a list of documents used in your design that you will forward to the CVA and a qualification statement that includes the following:

(1) Previous experience in third-party verification or experience in the design, fabrication, installation, or major modification of offshore energy facilities;

(2) Technical capabilities of the individual or the primary staff for the specific project, including relevant professional licenses, certifications, and accreditations;

(3) Size and type of organization or corporation;

(4) In-house availability of, or access to, appropriate technology (including computer programs, hardware, and testing materials and equipment);

(5) Ability to perform the CVA functions for the specific project considering current commitments;

(6) Previous experience with BOEM and BSEE requirements and procedures, if any; and

(7) The scope and level of work to be performed by the CVA, including all relevant reports and facilities that the CVA will verify or certify.

(c) Individuals or organizations acting as CVAs must not function in any capacity that will create a conflict of interest or the appearance of a conflict of interest. The CVA must not have prepared, or been directly involved in, any work related to the preparation of design, fabrication, installation, modification, or repair plans for which they will provide verification or certification services.

(d) The verification and certification must be conducted by or under the direct supervision of a registered professional engineer.

(e) BSEE will approve or disapprove your CVA as part of BOEM's review of your COP or, when required, of your SAP or GAP.

(f) You must nominate a new CVA for BSEE approval if the previously approved CVA:

(1) Is no longer able to serve in a CVA capacity for the project; or

(2) No longer meets the requirements for a CVA set forth in this subpart.

[88 FR 6413, Jan. 31, 2023, as amended at 89 FR 42717, May 15, 2024]

§ 285.707 What are the CVA's primary duties for facility design review?

If you are required to use a CVA:

(a) The CVA must use good engineering judgment and practices in conducting an independent assessment of the design of the facility. The CVA must verify to BSEE that the facility is designed to withstand the environmental and functional load conditions appropriate for the intended service life at the proposed location and has been designed to minimize risk to personnel as required by § 285.105(a).

(b) The CVA must conduct an independent assessment of all proposed:

(1) Planning criteria;

(2) Operational requirements;

(3) Environmental loading data;

(4) Load determinations;

(5) Stress analyses;

(6) Material designations;

(7) Soil and foundation conditions;

(8) Safety factors;

(9) Risk assessments supporting the design for human safety and how the results are used in the design; and

(10) Other pertinent parameters of the proposed design.

(c) For any floating facility, the CVA or project engineer must also verify that any requirements of the U.S. Coast Guard for structural integrity and stability (e.g., verification of center of gravity), have been met. The CVA must also consider:

(1) Foundations, foundation pilings and templates, and anchoring systems; and

(2) Mooring, tendon or tethering systems.

[88 FR 6413, Jan. 31, 2023, as amended at 89 FR 42718, May 15, 2024]

§ 285.708 What are the CVA's or project engineer's primary duties for fabrication and installation review?

(a) The CVA or project engineer must do all of the following:

(1) Use good engineering judgment and practice in conducting an independent assessment of the fabrication and installation activities and of the commissioning of Critical Safety Systems and Equipment;

(2) Monitor the fabrication and installation of the facility and the commissioning of Critical Safety Systems and Equipment as required by paragraph (b) of this section;

(3) Make periodic onsite inspections while fabrication is in progress and verify the items required by § 285.709;

(4) Make periodic onsite inspections while installation is in progress and satisfy the requirements of § 285.710;

(5) Certify in Project Verification Reports that project components are fabricated and installed in accordance with accepted engineering practices and to a nationally or internationally recognized quality assurance standard or to an equivalent alternate means of quality assurance considered on a case-by-case basis, your BOEM-approved SAP, COP, or GAP (as applicable), and your FIR. If multiple CVAs are involved in your project, the general project CVA must submit the final report containing such certification for the project. The Project Verification Report must identify the location of all records pertaining to facility fabrication and installation as required in § 285.714(c);

(6) Provide records documenting that Critical Safety Systems and Equipment are commissioned in accordance with the procedures identified in § 285.702(a)(8); and

(7) Identify the location of all records pertaining to commissioning of Critical Safety Systems and Equipment, as required in § 285.714(c).

(b) To comply with paragraphs (a)(4) and (5) of this section, the CVA or project engineer must monitor the fabrication and installation of the facility and the commissioning of Critical Safety Systems and Equipment to certify that they have been built and installed according to your FDRs and FIRs.

(1) If the CVA or project engineer finds that either fabrication and installation procedures or Critical Safety Systems and Equipment commissioning procedures, or both, have been changed or design specifications have been modified, the CVA or project engineer must inform you and BSEE; and

(2) If you accept the modifications, you must also inform BSEE.

[89 FR 42718, May 15, 2024]

§ 285.709 When conducting onsite fabrication inspections, what must the CVA or project engineer verify?

(a) To comply with § 285.708(a)(3), the CVA or project engineer must make periodic onsite inspections while fabrication is in progress and must verify the following fabrication items, as appropriate:

(1) Quality control by lessee (or grant holder) and builder;

(2) Fabrication site facilities;

(3) Material quality and identification methods;

(4) Fabrication procedures specified in your FIRs and adherence to such procedures;

(5) Welder and welding procedure qualification and identification;

(6) Structural tolerances specified, and adherence to those tolerances;

(7) Nondestructive examination requirements and evaluation results of the specified examinations;

(8) Destructive testing requirements and results;

(9) Repair procedures;

(10) Installation of corrosion-protection systems and splash-zone protection;

(11) Erection procedures to ensure that overstressing of structural members does not occur;

(12) Alignment procedures;

(13) Dimensional check of the overall structure, including any turrets, turret-and-hull interfaces, any mooring line and chain and riser tensioning line segments, and tendon or tethering systems; and

(14) Status of quality-control records at various stages of fabrication.

(b) For any floating facility, the CVA or project engineer must also verify that any requirements of the U.S. Coast Guard for structural integrity and stability (e.g., verification of center of gravity) have been met. The CVA or project engineer must also consider:

(1) Foundations, foundation pilings and templates, and anchoring systems; and

(2) Mooring, tendon, or tethering systems.

[89 FR 42719, May 15, 2024]

§ 285.710 When conducting onsite installation inspections, what must the CVA or project engineer do?

(a) To comply with § 285.708(a)(4), the CVA or project engineer must make periodic onsite inspections while installation is in progress and must, as appropriate, verify, witness, survey, or check the installation and commissioning of items required by this section.

(b) The CVA or project engineer must verify, as appropriate, all of the following:

(1) Loadout and initial flotation procedures;

(2) Towing operation procedures to the specified location, including a review of the towing records;

(3) Launching and uprighting activities;

(4) Submergence activities;

(5) Pile or anchor installations;

(6) Installation of mooring, tendon, and tethering systems;

(7) Final deck and component installations;

(8) Installation at the locations set forth in your FDR(s) and FIR(s); and

(9) Commissioning of Critical Safety Systems and Equipment.

(c) For a fixed or floating facility, the CVA or project engineer must verify that proper procedures were used during the following:

(1) The loadout of the jacket, decks, piles, or structures from each fabrication site;

(2) The actual installation of the facility or major modification and the related installation activities; and

(3) Commissioning of Critical Safety Systems and Equipment.

(d) For a floating facility, the CVA or project engineer must verify structural integrity, stability, and ballast, and that proper procedures were used during the following:

(1) The loadout of the facility;

(2) The installation of foundation pilings and templates, and anchoring systems; and

(3) The installation of the mooring and tethering and tendon systems.

(e) The CVA or project engineer must conduct an onsite inspection of the installed facility as approved in your CVA scope of work.

(f) The CVA or project engineer must make periodic onsite inspections to witness the commissioning of Critical Safety Systems and Equipment in order to verify that:

(1) The Critical Safety Systems and Equipment function as designed; and

(2) The final commissioning Critical Safety Systems and Equipment records are complete.

(g) The CVA or project engineer must spot-check the equipment, procedures, and recordkeeping as necessary to determine compliance with the applicable documents incorporated by reference and the regulations under this part.

[89 FR 42719, May 15, 2024]

§ 285.711 [Reserved]

§ 285.712 What are the CVA's or project engineer's reporting requirements?

(a) The CVA or project engineer must prepare and submit to you and BSEE all reports and records required by this subpart. The CVA or project engineer must also submit interim reports to you and BSEE, as requested by BSEE. BSEE will review and respond within 30 days.

(b) For each report required by this subpart, the CVA or project engineer must submit the final report to BSEE pursuant to § 285.110. In each report, the CVA or project engineer must:

(1) Give details of how, by whom, and when the CVA or project engineer activities were conducted;

(2) Describe the CVA's or project engineer's activities during the verification process;

(3) Summarize the CVA's or project engineer's findings; and

(4) Provide any additional comments that the CVA or project engineer deems necessary.

(5) Summarize any issues with the design and any incidents during facility fabrication and installation, or Critical Safety System and Equipment commissioning, and how those issues were resolved.

[88 FR 6413, Jan. 31, 2023, as amended at 89 FR 42717, May 15, 2024]

§ 285.713 [Reserved]

§ 285.714 What records relating to FDRs, FIRs, and Project Modification and Repair Reports must I keep?

(a) Until BOEM releases your financial assurance under 30 CFR 585.534, you must compile, retain, and make available to BSEE, within the time specified by BSEE, all of the following:

(1) The as-built drawings;

(2) The design assumptions and analyses;

(3) A summary of the fabrication and installation examination records;

(4) The records of the commissioning of Critical Safety Systems and Equipment;

(5) The inspection results from the inspections and assessments required by §§ 285.820 through 285.825; and

(6) Records of repairs not covered in the inspection report submitted under § 285.824(b)(3).

(b) You must record and retain the original material test results of all primary structural materials during all stages of construction until BOEM releases your financial assurance under 30 CFR 585.534. Primary material is material that, should it fail, would lead to a significant reduction in facility safety, structural reliability, or operating capabilities. Items such as steel brackets, deck stiffeners and secondary braces or beams would not generally be considered primary structural members (or materials).

(c) You must provide BSEE with the location of these records, as required in §§ 285.701(c) and (d), 285.702(c) and (d), 285.703(b), and 285.708(a)(5) and (7).

[88 FR 6413, Jan. 31, 2023, as amended at 89 FR 42717, May 15, 2024]

Subpart H—Environmental and Safety Management, Inspections, and Facility Assessments for Activities Conducted Under SAPs, COPs and GAPs

§ 285.800 How must I conduct my activities to comply with safety and environmental requirements?

(a) You must conduct all activities on your lease or grant under this part in a manner that conforms with your responsibilities in § 285.105(a), and using:

(1) Trained personnel; and

(2) Technologies, precautions, and techniques that will not cause undue harm or damage to natural resources, including their physical, atmospheric, and biological components.

(b) You must certify compliance with those terms and conditions identified in your approved SAP, COP, or GAP, as required under § 285.615(b), § 285.633(a), or § 285.653(b).

§ 285.801 How must I conduct my approved activities to protect marine mammals, threatened and endangered species, and designated critical habitat?

You must comply with all measures required under 30 CFR 585.701.

§ 285.802 What must I do if I discover a potential archaeological resource while conducting my approved activities?

You must comply with all measures required under 30 CFR 585.702.

§ 285.803 How must I conduct my approved activities to protect essential fish habitats identified and described under the Magnuson-Stevens Fishery Conservation and Management Act?

You must comply with all measures required under 30 CFR 585.703.

§§ 285.804-285.809 [Reserved]

Safety Management Systems

§ 285.810 When must I submit a Safety Management System (SMS) and what must I include in my SMS?

You are required to use a Safety Management System (SMS) for activities conducted on the OCS to develop or operate a lease, from met buoy placement and site assessment work through decommissioning, and to provide your SMS to BSEE upon request. You must also submit a detailed description of the SMS with your COP (as provided in 30 CFR 585.627(d)) and, when required by this part, your SAP (as provided in § 285.614(b)) or GAP (as provided in § 285.651). Your SMS must address:

(a) How you will ensure the safety of your personnel or anyone else on or near your facilities, such as:

(1) Health and safety risks that anyone on your facilities or engaged in lease activities are likely to face during activities covered by the SMS;

(2) Policies and strategies that will be used to control such risks;

(3) Procedures and nationally or internationally recognized standards that will be followed to ensure the safety of the activities covered by the SMS;

(4) Methods that will be used to monitor the implementation of the SMS and maintain the safety of activities covered by the SMS, including management of change and stop work practices; and

(5) Procedures for personnel to report unsafe work conditions both to the lessee or its designated operator and to BSEE.

(b) Remote monitoring, control, and shut down capabilities, such as:

(1) Aspects of operations and mechanical and structural integrity that will be monitored remotely;

(2) Circumstances under which remote monitoring will be activated and how it will be maintained;

(3) Maintenance of the security of the remote sensing and control capabilities;

(4) Monitoring of conditions if remote sensing equipment fails; and

(5) Conditions that will result in the shutdown of one or more facilities.

(c) Emergency response procedures, such as:

(1) Types of incidents to be addressed (*e.g.,* serious injury to workers during maintenance, unexploded ordnance encountered during construction, damage due to hurricane or allision by vessels or aircraft, unauthorized access into remote monitoring capabilities, evacuation, and search and rescue);

(2) Potential response activities, including U.S. Coast Guard (USCG), other government agencies, and contractor support, for each category of incident;

(3) Management controls, authorities, and reporting to be employed for each response;

(4) Locations from which emergency response will be controlled; and

(5) Resources available to assist in the response.

(d) Fire suppression equipment, such as a description of how and when it will be used, if needed.

(e) How and when you will test your SMS, such as:

(1) Plans, processes, and schedules for:

(i) Self or third-party auditing of the SMS; and

(ii) Regular testing of certain SMS components, including remote shutdown capabilities and emergency response readiness; and

(2) Corrective action processes to improve the effectiveness of your SMS based on the results of audits, tests, investigations of incidents (including near-misses), feedback from the field, and other information sources.

(f) How you will ensure personnel who conduct activities on your facilities are properly trained and have the capability to safely perform duties, such as:

(1) Required training for personnel who conduct activities on your facilities; and

(2) Required knowledge and skills to ensure that personnel perform duties safely for the duration of activities.

[89 FR 42720, May 15, 2024]

§ 285.811 Am I required to obtain a certification of my SMS?

You are not required to obtain a certification that your SMS meets acceptable health and safety standards (*e.g.,* ANSI/ASSP Z10.0, API RP 75, ISO 45001) from a recognized accreditation organization. However, BSEE will consider such certification in determining the frequency and scope of SMS-related inspections that it conducts under this subpart, as well as the scope and nature of its oversight over any audit-induced corrective actions.

[89 FR 42720, May 15, 2024]

§ 285.812 How must I implement my SMS?

(a) Your SMS must be functional before you begin, and must remain functional while you perform, any activity on the OCS pursuant to a lease, including met buoy placement and site assessment work, or for any activities described in your approved SAP, COP, or GAP. You must conduct all activities described in your approved SAP, COP, or GAP in accordance with the SMS you described under § 285.810.

(b) You must regularly demonstrate to BSEE that your SMS is being implemented effectively by submitting the following to BSEE in accordance with § 285.110:

(1) By March 31st of each year, summarize safety and work hour performance data for the prior calendar year in which you conducted site assessment, construction, operations, or decommissioning activities in accordance with your lease terms, using a form available on the BSEE website; and

(2) Once every 3 years and upon BSEE's request, provide a report to BSEE summarizing the results of your most recent SMS audit, corrective actions implemented or being implemented as a result of that audit, and an updated description of your SMS highlighting changes that were made since the last such submission to BSEE.

[89 FR 42720, May 15, 2024]

Maintenance and Shutdowns

§ 285.813 When do I have to report removing equipment from service?

(a) The removal of any equipment from service may result in BSEE applying remedies, as provided in this part, when such equipment is necessary for implementing your approved plan. Such remedies may include an order from BSEE requiring you to replace or remove such equipment or facilities.

(b)

(1) You must report within 24 hours when equipment necessary for implementing your approved plan is removed from service for more than 12 hours. If you provide an oral notification, you must submit a written confirmation of this notice within 3-business days, as required by § 285.105(c);

(2) You do not have to report removing equipment necessary for implementing your plan if the removal is part of planned maintenance or repair activities; and

(3) You must notify BSEE when you return the equipment to service.

§ 285.814 [Reserved]

EQUIPMENT FAILURE AND ADVERSE ENVIRONMENTAL EFFECTS

§ 285.815 What must I do if I have facility damage or an equipment failure?

(a) If you have facility damage or the failure of a pipeline, cable, or other equipment necessary for you to implement your approved plan, you must make repairs as soon as practicable. If you have a major repair, you must submit a report to BSEE under § 285.703.

(b) If you are required to report any facility damage or failure under § 285.831, BOEM may require you to revise your SAP, COP, or GAP to describe how you will address the facility damage or failure as required by 30 CFR 585.634 (COP), 585.617 (SAP), or 585.655 (GAP). You must submit a report of the repairs to BSEE, as required in § 285.703.

(c) BSEE may require that you analyze cable, pipeline, or facility damage or failure to determine the cause. If requested by BSEE, you must submit a comprehensive written report of the failure or damage to BSEE as soon as available.

[88 FR 6413, Jan. 31, 2023, as amended at 89 FR 42720, May 15, 2024]

§ 285.816 What must I do if environmental or other conditions adversely affect a cable, pipeline, or facility?

If environmental or other conditions adversely affect a cable, pipeline, or facility so as to endanger the safety or the environment, you must:

(a) Submit a plan of corrective action to BSEE within 30 days of the discovery of the adverse effect.

(b) Take remedial action as described in your corrective action plan.

(c) Submit to the BSEE a report of the remedial action taken within 30 days after completion.

§§ 285.817-285.819 [Reserved]

INSPECTIONS AND ASSESSMENTS

§ 285.820 Will BSEE conduct inspections?

BSEE may inspect OCS facilities and any vessels engaged in activities authorized under this part. When we conduct these inspections, we will:

(a) Verify that you are conducting activities in compliance with subsection 8(p) of the OCS Lands Act; the regulations in this part; the terms, conditions, and stipulations of your lease or grant; approved plans; and other applicable laws and regulations.

(b) Determine whether proper safety equipment has been installed and is operating properly according to your SMS, as required in § 285.810.

[89 42720, May 15, 2024]

§ 285.821 Will BSEE conduct scheduled and unscheduled inspections?

BSEE may conduct both scheduled and unscheduled inspections.

[89 FR 42721, May 15, 2024]

§ 285.822 What must I do when BSEE conducts an inspection?

(a) When BSEE conducts an inspection, you must:

(1) Provide access to all facilities on your lease (including your project easement) or grant and any vessels engaged in activities authorized under this part; and

(2) Make the following available for BSEE to inspect:

(i) The area covered under a lease, ROW grant, or RUE grant;

(ii) All improvements, structures, and fixtures on these areas; and

(iii) All records of design, construction, operation, maintenance, repairs, or investigations on or related to the area.

(b) You must retain the records referenced in paragraph (a)(2)(iii) of this section until BOEM releases your financial assurance under 30 CFR585.534 and provide them to BSEE upon request within the time period specified by BSEE.

(c) You must demonstrate to the inspector how you are in compliance with your safety management system.

[88 FR 6413, Jan. 31, 2023, as amended at 89 FR 42721, May 15, 2024]

§ 285.823 Will BSEE reimburse me for my expenses related to inspections?

Upon request, BSEE will reimburse you for food, quarters, and transportation that you provide for our representatives while they inspect your lease or grant facilities and associated activities. You must send us your reimbursement request within 90 days of the inspection.

§ 285.824 How must I conduct self-inspections?

(a) You must develop a comprehensive self-inspection plan covering all of your facilities. You must keep this self-inspection plan wherever you keep your records and make it available to BSEE upon request. Your self-inspection plan must specify:

(1) The type, extent, and frequency of inspections that you will conduct for both the above-water and the below-water structures of all facilities and pertinent components of the mooring, tendon, or tethering systems for any floating facilities;

(2) How you will monitor the corrosion protections for both above-water and below-water structures; and

(3) How you will fulfill the requirement for annual on-site inspection of all Critical Safety Systems and Equipment.

(b) You must conduct an onsite inspection of each of your facilities at least once a year. This inspection must include, but is not limited to, all Critical Safety Systems and Equipment.

(1) You must develop and retain summary reports for all such inspections for each calendar year. The summary report must note any failures of operability, required maintenance of Critical Safety Systems and Equipment, or required replacement of the Critical Safety Systems and Equipment identified during inspection.

(2) You must retain records of inspections and summary reports for the previous 2 calendar years and make them available to BSEE on request.

(c) You must submit a report annually to BSEE no later than November 1st that must include:

(1) A list of facilities inspected for structural condition and corrosion protection in the preceding 12 months;

(2) The type of inspection employed (*i.e.,* visual, magnetic particle, ultrasonic testing); and

(3) A summary of the inspection indicating what repairs, if any, were needed and the overall structural condition of the facility.

[89 FR 42721, May 15, 2024]

§ 285.825 When must I assess my facilities?

(a) You must perform an assessment of the structure, when needed, based on the platform assessment initiators listed in sections 17.2.1-17.2.5 of API RP 2A-WSD (incorporated by reference, *see* § 285.115).

(b) You must initiate mitigation actions for structures that do not pass the assessment process of API RP 2A-WSD.

(c) You may comply with a later edition of API RP 2A-WSD only if:

(1) You show that complying with the later edition provides a degree of protection, safety, or performance equal to or better than what would be achieved by compliance with the listed edition; and

(2) You obtain the prior written approval for alternative compliance from the authorized BSEE official.

(d) You must perform other assessments as required by BSEE.

§§ 285.826-285.829 [Reserved]

INCIDENT REPORTING AND INVESTIGATION

§ 285.830 What are my incident reporting requirements?

(a) You must report all incidents listed in § 285.831 to BSEE, according to the reporting requirements for these incidents in §§ 285.832 through 285.833.

(b) These reporting requirements apply to incidents that occur on the area covered by your lease or grant and that are related to activities resulting from the exercise of your rights under your lease or grant.

(c) Nothing in this subpart relieves you from providing notices and reports of incidents that may be required by other regulatory agencies.

(d) You must report all spills of oil or other liquid pollutants in accordance with 30 CFR 250.187(d).

[88 FR 6413, Jan. 31, 2023, as amended at 89 FR 42721, May 15, 2024]

§ 285.831 What incidents must I report, and when must I report them?

(a) You must report the following incidents to us immediately via oral communication, and provide a written follow-up report (paper copy or electronically transmitted) within 15-business days after the incident:

(1) Fatalities;

(2) Incidents that require the evacuation of person(s) from the facility to shore or to another offshore facility;

(3) Fires and explosions;

(4) Collisions that result in property or equipment damage greater than $25,000. (Collision means the act of a moving vessel (including an aircraft) striking another vessel, or striking a stationary vessel or object. Property or equipment damage means the cost of labor and material to restore all affected items to their condition before the damage, including, but not limited to, the OCS facility, a vessel, a helicopter, or the equipment. It does not include the cost of salvage, cleaning, dry docking, or demurrage);

(5) Incidents involving structural damage to an OCS facility that is severe enough so that activities on the facility cannot continue until repairs are made;

(6) Incidents involving crane or personnel/material handling activities, if they result in a fatality, injury, structural damage, or significant environmental damage;

(7) Incidents that damage or disable safety systems or equipment (including firefighting systems);

(8) Other incidents resulting in property or equipment damage greater than $25,000; and

(9) Any other incidents involving significant environmental damage, or harm.

(b) You must provide a written report of the following incidents to us within 15 days after the incident:

(1) Any injuries that result in the injured person not being able to return to work or to all of their normal duties the day after the injury occurred; and

(2) All incidents that require personnel on the facility to muster for evacuation for reasons not related to weather or drills.

§ 285.832 How do I report incidents requiring immediate notification?

For an incident requiring immediate notification under § 285.831(a), you must notify BSEE verbally after aiding the injured and stabilizing the situation. Your verbal communication must provide the following information:

(a) Date and time of occurrence;

(b) Identification and contact information for the lessee, grant holder, or operator;

(c) Contractor, and contractor representative's name and telephone number (if a contractor is involved in the incident or injury/fatality);

(d) Lease number, OCS area, and block;

(e) Platform/facility name and number, or cable or pipeline segment number;

(f) Type of incident or injury/fatality;

(g) Activity at time of incident; and

(h) Description of the incident, damage, or injury/fatality.

§ 285.833 What are the reporting requirements for incidents requiring written notification?

(a) For any incident covered under § 285.831, you must submit a written report within 15 days after the incident to BSEE. The report must contain the following information:

(1) Date and time of occurrence;

(2) Identification and contact information for each lessee, grant holder, or operator;

(3) Name and telephone number of the contractor and the contractor's representative, if a contractor is involved in the incident or injury;

(4) Lease number, OCS area, and block;

(5) Platform/facility name and number, or cable or pipeline segment number;

(6) Type of incident or injury;

(7) Activity at time of incident;

(8) Description of incident, damage, or injury (including days away from work, restricted work, or job transfer), and any corrective action taken; and

(9) Property or equipment damage estimate (in U.S. dollars).

(b) You may submit a report or form prepared for another agency in lieu of the written report required by paragraph (a) of this section if the report or form contains all required information.

(c) BSEE may require you to submit additional information about an incident on a case-by-case basis.

Subpart I—Decommissioning

DECOMMISSIONING OBLIGATIONS AND REQUIREMENTS

§ 285.900 Who must meet the decommissioning obligations in this subpart?

(a) Lessees are jointly and severally responsible for meeting decommissioning obligations for facilities on their leases, including all obstructions, as the obligations accrue and until each obligation is met.

(b) Grant holders are jointly and severally liable for meeting decommissioning obligations for facilities on their grant, including all obstructions, as the obligations accrue and until each obligation is met.

(c) If a lessee or grant holder has installed a facility on a lease or grant that was authorized by an authority other than BOEM and that approving authority has imposed a decommissioning obligation, such obligation will substitute for the requirements of this subpart. The decommissioning requirements in this subpart will apply to such a facility if the authorizing agency has not imposed or enforced a decommissioning obligation.

[88 FR 6413, Jan. 31, 2023, as amended at 89 FR 42721, May 15, 2024]

§ 285.901 When do I accrue decommissioning obligations?

You accrue decommissioning obligations when you are or become a lessee or grant holder, and you either install, construct, or acquire by a BOEM-approved assignment a facility, cable, or pipeline, or you create an obstruction to other uses of the OCS.

§ 285.902 What are the general requirements for decommissioning for facilities authorized under my SAP, COP, or GAP?

(a) Except as otherwise authorized under § 285.909, within 2 years following termination of a lease or grant, or earlier if BSEE determines a facility is no longer useful for operations, you must:

(1) Remove or decommission all facilities, projects, cables, pipelines, and obstructions;

(2) Clear the seafloor of all obstructions created by activities on your lease, including your project easement, or grant.

(b) Before decommissioning the facilities under your SAP, COP, or GAP, you must submit a decommissioning application to, and receive approval from, BSEE.

(c) The approval of the decommissioning concept in the SAP, COP, or GAP is not an approval of a decommissioning application. However, you may submit your complete decommissioning application to BSEE simultaneously with the SAP, COP, or GAP, so that it may undergo appropriate technical and regulatory reviews at that time.

(d) Following approval of your decommissioning application, you must submit a decommissioning notice under § 285.908 to BSEE at least 60 days before commencing decommissioning activities.

(e) If you, your subcontractors, or any agent acting on your behalf discovers any archaeological resource while conducting decommissioning activities, you must immediately halt bottom-disturbing activities within 1,000 feet of the discovery and report the discovery to us within 72 hours. BOEM will inform you how to conduct investigations to determine if the resource is significant and how to protect it in accordance with 30 CFR 585.702. You, your subcontractors, or any agent acting on your behalf must keep the location of the discovery confidential and must not take any action that may adversely affect the archaeological resource until we have made an evaluation and told you how to proceed.

(f) Provide BOEM with documentation of any coordination efforts you have made with the affected States, local, and Tribal governments.

[88 FR 6413, Jan. 31, 2023, as amended at 89 FR 42721, May 15, 2024]

§ 285.903 What are the requirements for decommissioning FERC-licensed hydrokinetic facilities?

You must comply with the decommissioning requirements in your BOEM-issued lease. If you fail to comply with the decommissioning requirements of your lease then:

(a) BOEM may call for the forfeiture of your bond or other financial assurance;

(b) You remain liable for removal or disposal costs and responsible for accidents or damages that might result from such failure; and

(c) BSEE may take enforcement action under § 285.400.

§ 285.904 Can I request a departure from the decommissioning requirements?

You may request a departure from the decommissioning requirements under § 285.103.

DECOMMISSIONING APPLICATIONS

§ 285.905 When must I submit my decommissioning application?

You must submit your decommissioning application upon the earliest of the following dates:

(a) Two (2) years before the expiration of your lease.

(b) Ninety (90) days after completion of your commercial activities on a commercial lease.

(c) Ninety (90) days after completion of your approved activities under a limited lease on a ROW grant or RUE grant.

(d) Ninety (90) days after cancellation, relinquishment, or other termination of your lease or grant.

(e) Ninety (90) calendar days after BSEE determines a facility is no longer useful for operations.

[88 FR 6413, Jan. 31, 2023, as amended at 89 FR 42721, May 15, 2024]

§ 285.906 What must my decommissioning application include?

You must provide one paper copy and one electronic copy of the application. Include the following information in the application, as applicable.

(a) Identification of the applicant including:

(1) Lease operator, ROW grant holder, or RUE grant holder;

(2) Address;

(3) Contact person and telephone number; and

(4) Shore base.

(b) Identification and description of the facilities, cables, or pipelines you plan to remove or propose to leave in place, as provided in § 285.909.

(c) A proposed decommissioning schedule for your lease, ROW grant, or RUE grant, including the expiration or relinquishment date and proposed month and year of removal.

(d) A description of the removal methods and procedures, including the types of equipment, vessels, and moorings (*i.e.,* anchors, chains, lines, *etc.*) you will use.

(e) A description of your site clearance activities.

(f) Your plans for transportation and disposal (including as an artificial reef) or salvage of the removed facilities, cables, or pipelines and any required approvals.

(g) A description of those resources, conditions, and activities that could be affected by or could affect your proposed decommissioning activities. The description must be as detailed as necessary to assist BSEE in complying with the NEPA and other relevant Federal laws.

(h) The results of any recent biological surveys conducted in the vicinity of the structure and recent observations of turtles or marine mammals at the structure site.

(i) Mitigation measures you will use to protect archaeological and sensitive biological features during removal activities.

(j) A description of measures you will take to prevent unauthorized discharge of pollutants, including marine trash and debris, into the offshore waters.

(k) A statement of whether or not you will use divers to survey the area after removal to determine any effects on marine life.

§ 285.907 How will BSEE process my decommissioning application?

(a) Based upon your inclusion of all the information required by § 285.906, BSEE will compare your decommissioning application with the decommissioning general concept in your approved SAP, COP, or GAP to determine what technical and environmental reviews are needed.

(b) You will likely have to revise your SAP, COP, or GAP, and BOEM will begin the appropriate NEPA analysis and other regulatory reviews as required, if BSEE determines that your decommissioning application would:

(1) Result in a significant change in the impacts previously identified and evaluated in your SAP, COP, or GAP;

(2) Require any additional Federal permits; or

(3) Propose activities not previously identified and evaluated in your SAP, COP, or GAP.

(c) During the review process, we may request additional information if we determine that the information provided is not sufficient to complete the review and approval process.

(d) Upon completion of the technical and environmental reviews, we may approve, approve with conditions, or disapprove your decommissioning application.

(e) If BSEE disapproves your decommissioning application, you must resubmit your application to address the concerns identified by BSEE.

§ 285.908 What must I include in my decommissioning notice?

(a) The decommissioning notice is distinct from your decommissioning application and may only be submitted following approval of your decommissioning application, as described in §§ 285.905 through 285.907. You must submit a decommissioning notice at least 60 days before you plan to begin decommissioning activities.

(b) Your decommissioning notice must include:

(1) A description of any changes to the approved removal methods and procedures in your approved decommissioning application, including changes to the types of vessels and equipment you will use; and

(2) An updated decommissioning schedule.

(c) BSEE will review your decommissioning notice and may require you to resubmit a decommissioning application if BSEE determines that your decommissioning activities would:

(1) Result in a significant change in the impacts previously identified and evaluated;

(2) Require any additional Federal permits; or

(3) Propose activities not previously identified and evaluated.

FACILITY REMOVAL

§ 285.909 When may facilities remain in place following termination of a lease or grant?

(a) In your decommissioning application, you may request that certain facilities authorized in your lease or grant remain in place for other activities authorized in this part, elsewhere in this subchapter, or by other applicable Federal law.

(b) Except as provided in paragraph (c) of this section, if BOEM authorizes facilities to remain in place, the former lessee or grantee under this part remains jointly and severally liable for decommissioning the facility unless satisfactory evidence is provided to BOEM showing that another party has assumed that responsibility and has secured adequate financial assurances.

(c) In your decommissioning application, identify facilities authorized by BOEM to be converted to an artificial reef or otherwise toppled in place.

§ 285.910 What must I do when I remove my facility?

(a) You must remove all facilities to a depth of 15 feet below the mudline, unless otherwise authorized by BSEE.

(b) Within 60 days after you remove a facility, you must verify to BSEE that you have cleared the site.

§ 285.911 [Reserved]

DECOMMISSIONING REPORT

§ 285.912 After I remove a facility, cable, or pipeline, what information must I submit?

Within 60 days after you remove a facility, cable, or pipeline, you must submit a written report to BSEE that includes the following:

(a) A summary of the removal activities, including the date they were completed;

(b) A description of any mitigation measures you took; and

(c) If you used explosives, a statement signed by your authorized representative that certifies that the types and amount of explosives you used in removing the facility were consistent with those in the approved decommissioning application.

COMPLIANCE WITH AN APPROVED DECOMMISSIONING APPLICATION

§ 285.913 What happens if I fail to comply with my approved decommissioning application?

If you fail to comply with your approved decommissioning plan or application:

(a) BOEM may call for the forfeiture of your bond or other financial assurance;

(b) You remain liable for removal or disposal costs and responsible for accidents or damages that might result from such failure; and

(c) BSEE may take enforcement action under § 285.400.

Subpart J—Rights of Use and Easement for Energy- and Marine-Related Activities Using Existing OCS Facilities

REGULATED ACTIVITIES

§ 285.1000 What activities does this subpart regulate?

This subpart provides the general provisions for 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 subpart.

§§ 285.1001-285.1013 [Reserved]

ALTERNATE USE RUE ADMINISTRATION

§ 285.1014 When will BSEE suspend an Alternate Use RUE?

(a) BSEE may suspend an Alternate Use RUE if:

(1) Necessary to comply with judicial decrees;

(2) Continued activities pursuant to the Alternate Use RUE pose an imminent threat of serious or irreparable 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; or

(3) Operation of the existing OCS facility that is subject to the Alternate Use RUE has been suspended or temporarily prohibited and we have determined that continued activities under the Alternate Use RUE are unsafe or cause undue interference with the operation of the original OCS Lands Act approved activity.

(b) A suspension will extend the term of your Alternate Use RUE grant for the period of the suspension.

§ 285.1015 [Reserved]

§ 285.1016 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.

§ 285.1017 [Reserved]

DECOMMISSIONING AN ALTERNATE USE RUE

§ 285.1018 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.

§ 285.1019 What are the 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.