DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 260

RIN 1010–AC94

Outer Continental Shelf Oil and Gas Leasing—Clarifying Amendments

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: This rule clarifies amendments to regulations on Outer Continental Shelf (OCS) bidding systems. The amendments make explicit that water depth and production timing on leases issued after 2000 and located in a field with leases issued earlier do not result in any modifications in the way we determine the royalty suspension volume (RSV) available to a field's eligible leases issued between 1996 and 2000. Specifically, this rule clarifies that RSV production from a lease issued after 2000 that is part of a field that was granted royalty relief under the Deep Water Royalty Relief Act (DWRRA) counts toward the total eligible field relief.

EFFECTIVE DATE: October 15, 2002.

FOR FURTHER INFORMATION CONTACT: Marshall Rose, Economics Division, (703) 787–1536.

SUPPLEMENTARY INFORMATION: On February 12, 2002, we published a proposed rule (67 FR 6454) that added clarifying amendments to the regulations on OCS Oil and Gas Leasing under 30 CFR 260.114 and 260.124. The minor changes we make here to those final regulations affect persons acquiring or holding deepwater oil and gas leases under 43 U.S.C. 1337(a).

The intent of the DWRRA was to grant one maximum royalty suspension volume per field to jump start development of technology and resource production in the deepwater Gulf of Mexico. We have been implementing the DWRRA to be consistent with that intent by stipulating that production from all leases that were issued with royalty suspension volume terms on a field counts against the volume on which royalties are suspended for that field. Wording in the current regulation says that only production occurring after an eligible lease (one issued from 1996 through 2000 with royalty suspension terms) starts production, counts against the royalty suspension volume for the field. After the five-year window (1996 through 2000) covered by the DWRRA, we exercised our discretionary authority to issue leases, which we call royalty suspension leases (RS leases), with a definite but smaller royalty suspension volume independent of field status. Though it is unlikely, a newer RS lease could begin production before any older eligible lease on the same field. To account for that possibility, we need to change the regulation in two places to ensure that the total royalty suspension volume on a field does not surpass the levels set by Congress in the DWRRA.

In 30 CFR 260.114(d), we adjust the scope of the field subject to rules governing use of the field's royalty suspension volume so that it can consist of more than eligible (DWRRA-era) leases. We do this by striking the qualifying phrase ''consisting only of eligible leases'' from the reference to the kind of field on which production from an eligible lease establishes the field's royalty suspension volume. We continue the practice of not counting against the field's royalty suspension volume any production from a lease on the field that was not issued with royalty suspension terms. In the same subparagraph, we also add a phrase to specify that the water depth of the deepest eligible lease on the field when an eligible lease starts production determines the size of the field's royalty suspension volume.

We change 30 CFR 260.124(b)(1) by striking the word ''remaining'' from the phrase describing the situation in which the production on an RS lease that is subject to royalty suspension counts as part of the field's royalty *suspension* volume. This change ensures that all such production on an RS lease issued with a definite royalty suspension volume (after the five-year DWRRA window), not just production occurring after an eligible lease starts production, counts as part of the field's royalty suspension volume.

For example, suppose a field consists of five eligible leases and one RS lease and the RS lease has a 10-million-barrel royalty suspension volume. The RS lease begins production first and goes through its entire royalty suspension volume. When an eligible lease begins production thereafter and the field is in a water depth that has a royalty suspension volume of 87.5 million barrels, the royalty suspension volume remaining on the field is 77.5 million barrels. This results because the RS lease has already taken its 10 million barrels of royalty suspension. Thus, the field can produce royalty-free up to 87.5, not 97.5, million barrels.

This final rule makes this situation clear, so that there will be no basis to misinterpret or contest the royalty suspension volume available to eligible leases on the field.

Response to Comments

We received two comments from one oil and gas company in response to our request for written comments on our proposed rulemaking. Copies of all written comments we received are available on our Web site at *http://www.mms.gov/federalregister/PublicComments/rulecomm.htm.*

Comment: The first comment suggested the rule apply only to leases issued after the final rule takes effect.

Response: The implication is that the eligible leases, later followed by RS leases issued prior to this rule, may have been acquired under the assumption that any RS lease production occurring before eligible lease production would not count against the field's RSV. However, it was fully explained in the final rule we published on January 16, 1998 (63 FR 2626), that royalty relief applies to the field upon which the leases issued under the DWRRA reside. Certainly, during this time it was envisioned that leases would be issued after 2000 that could be placed on a field that already received royalty relief. It was always intended, and we thought clear in our regulations, that all such leases, plus those issued under the DWRRA, would have to share the relief volume set forth in the DWRRA intended for new fields.

Moreover, any RS lease production is royalty free up to the lease-specific royalty suspension volume with which it was issued. Only the maximum royalty suspension volume available for eligible leases is affected, and these eligible leases were acquired before we introduced the concept of an RS lease. Thus, for these reasons, the manner in which we treat RS lease production could not have affected bidder's assumptions under which eligible leases were acquired.

Comment: The second comment requested confirmation that if an eligible lease produces before an RS lease on a field with an RS lease and five existing eligible leases, then the RS lease is still eligible to receive its volume suspension, as stipulated in the lease agreement.

Response: This final rule keeps § 260.124(b)(2) as originally written and, thus, does not change the aforementioned circumstance. RS leases get their full royalty suspension volume regardless of what eligible leases do. Such RS lease production does count against the field's suspension volume and, hence, may affect the royalty relief available to eligible leases if total production on the leases exceeds the field's royalty suspension volume.

Procedural Matters

Regulatory Planning and Review (Executive Order 12866)

According to the criteria in Executive Order 12866, this rule is not a significant regulatory action. The Office of Management and Budget (OMB) makes the final determination under Executive Order 12866.

a. This rule will not have an annual economic effect of $100 million or adversely affect an economic sector, jobs, the environment or other units of government. This action avoids confusion and possible conflict in the rare situation when a deepwater RS lease, that happens to be in a field with deepwater eligible leases, is the first lease to produce in the field. This event should be rare because the eligible leases pre-date the RS lease, meaning the eligible leases were deemed the better prospect, and their owners have had more time to explore and develop their potential. Further, the royalty status only of production that occurs probably 10 or more years after the start of production on the field would be affected by this rare event because of the large size of the field suspension volumes relative to annual production on typical leases. Finally, any royalty-free production shifted from the eligible leases to the RS lease on the one or two fields where this event may occur would total only about $20 to $30 million, only a portion of which would occur in any one year.

b. This rule will not create inconsistencies with other agencies' actions because there are no changes in requirements from the existing rule.

c. This rule is an administrative change that will not affect entitlements, grants, user fees, loan programs, or their recipients. This rule has no effect on these programs or rights of the programs' recipients.

d. This rule will not raise novel legal or policy issues. This action protects the original intent of the DWRRA, should a rare and unlikely situation arise. We propose to handle this situation in a manner that is parallel to our established treatment of the same field when the normal situation of the eligible lease starting producing first occurs.

Regulatory Flexibility (RF) Act

The Department certifies that this document will not have a significant economic effect on a substantial number of small entities under the RF Act (5 U.S.C. 601 *et seq.*). The provisions of this rule will not have a significant economic effect on offshore lessees and operators, including those that are classified as small businesses. The rule will limit automatic royalty relief to deepwater fields to the amount established by the DWRRA, regardless of the water depth and production timing of RS leases on the field. New regulatory provisions will rarely apply and when they do will affect firms, large and small, the same way. Firm size should have no effect on whether RS or eligible leases on the same field start production first.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MMS, call toll-free (888) 734–3247. You may comment to the Small Business Administration without fear of retaliation. Disciplinary action for retaliation by an MMS employee may include suspension or termination from employment with the Department of the Interior.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the SBREFA. This rule:

a. Does not have an annual effect on the economy of $100 million or more. The proposed rule closes a possible loophole, the use of which may never be attempted. Even if a situation were to arise where this provision applies, the amount of royalties involved is a small fraction of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Oil prices are not based on the production from any one region, but are based on worldwide production and demand at any point in time. While gas prices are more localized, they correlate to oil prices. The rule does not change any existing leasing policies, so it should not cause prices to increase.

c. Does not have significant adverse effects on competition, employment, investment, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises. Leasing on the United States OCS is limited to residents of the United States or companies incorporated in the United States. This rule does not change that requirement, so it does not change the ability of United States firms to compete in any way.

Paperwork Reduction Act (PRA)

The revisions do not contain any information collection requirements subject to the PRA. We will not submit a form OMB 83–I to OMB for review and approval under section 3507(d) of the PRA.

Federalism (Executive Order 13132)

According to Executive Order 13132, this rule does not have Federalism implications. This rule does not substantially and directly affect the relationship between the Federal and State Governments. This rule may affect the collection of royalty revenues from lessees in the deepwater Gulf of Mexico, all of which is outside State jurisdiction. States have no role in this activity with or without this rule. This rule does not impose costs on States or localities. States and local governments play no part in the administration of the deepwater royalty relief programs.

Takings Implications Assessment (Executive Order 12630)

According to Executive Order 12630, the rule does not have significant Takings implications. A Takings Implication Assessment is not required because the rule would not take away or restrict a bidders right to acquire OCS leases.

Energy Supply, Distribution, or Use (Executive Order 13211)

This rule is not a significant rule and is not subject to review by OMB under Executive Order 12866. This clarification rule does not have a significant effect on energy supply, distribution, or use because it reduces uncertainty in a rare circumstance relating to the order of drilling of different vintages of leases on a deepwater field having royalty relief. Greater certainty about how a particular sequence of drilling affects both the fields' and leases' applicable RSVs serves to focus lessee effort towards solving development and production challenges rather than to contesting the ultimate size of an already generous RSV awarded to them.

Unfunded Mandates Reform Act (UMRA)

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments. The rule describes the policies for OCS leases issued with different royalty suspension amounts that happen to be on the same field. A statement containing additional UMRA (2 U.S.C. 1531 *et seq.*) information is not required.

Civil Justice Reform (Executive Order 12988)

According to Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

National Environmental Policy Act (NEPA) of 1969

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the NEPA is not required.

Government-to-Government Relationship with Tribes

According to the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951) and 512 DM 2, we have determined that there are no effects from this action on federally recognized Indian tribes.

List of Subjects for 30 CFR Part 260

Bidding system, Continental shelf, Oil and gas leasing, Reporting requirements, Restricted joint bidder, Royalty suspension.

Dated: August 29, 2002.

Rebecca W. Watson,

Assistant Secretary—Land and Minerals Management.

For the reasons stated in the preamble, the Minerals Management Service (MMS) amends 30 CFR part 260 as follows:

PART 260—OUTER CONTINENTAL SHELF OIL AND GAS LEASING

1. The authority citation for part 260 continues to read as follows:

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

Subpart B—[Amended]

2. In § 260.114, paragraph (d) is revised to read as follows:

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

* * * * *

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

* * * * *

3. In § 260.124, paragraph (b)(1) is revised to read as follows:

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

* * * * *

(b) * * *

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

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 220

[0720–AA67]

Collection From Third Part Payers of Reasonable Charges for Health Care Services

AGENCY: Office of the Assistant Secretary of Defense (Health Affairs), DoD.

ACTION: Final rule.

SUMMARY: This final rule implements provisions of the National Defense Authorization Act for Fiscal Year 2000, which amended the statutory obligation of the third payers to replace the ''reasonable cost'' basis of the Third Party Collection Program with a ''reasonable charge'' basis, and also authorized methods to be used for the computation of reasonable charges. DoD is adopting the ''reasonable charge'' basis and generally will use CHAMPUS payment rates as the reasonable charges under the Program. This rule also implements Section 732 of the National Defense Authorization Act for Fiscal Year 2002. This section specifically addresses the charging of fees for care to civilians who are not covered beneficiaries.

EFFECTIVE DATE: This rule is effective October 1, 2002.

FOR FURTHER INFORMATION CONTACT: Lt Col Linnes Chester, Uniform Business Office, Office of the Assistant Secretary of Defense (Health Affairs), TRICARE Management Activity, Resource Management, 5111 Leesburg Pike, Suite 810, Falls Church, VA 22041–3206, (703) 681–8910.

SUPPLEMENTARY INFORMATION: In keeping with our intention to adopt a rate structure more consistent with the civilian health insurance industry practice, this rule adopts an itemized methodology for outpatient services.

Our analysis indicates that the transition from reasonable costs to reasonable charges will most likely not increase the amount of money collected for the services provided. We undertook an analysis comparing our current rate structure based on cost data with the charges based on the CHAMPUS Maximum Allowable Charge (CMAC) rates. An initial sample of 500 patient encounters was obtained from Military Treatment Facilities across all three Services from various regions. These patient encounters were priced with the national average CMAC pricing scale as well as the current all-inclusive methodology. The average of both pricing schemes found the totals to be within a ten-dollar range of each other. Thus, we anticipate billing at approximately the same aggregate level. The benefit of the change in methodology is that each bill will be much more appropriate for the actual services provided to the patient and will be itemized in the manner to which the health insurance industry is accustomed. Therefore, although it is not based on actual DoD costs (because our cost accounting systems do not have patient level specification), we believe adoption of the CMAC rates is more representative of actual costs specific to the services provided to a patient than is our current aggregated clinic visit rate.

The format of line-item charges will more closely resemble that currently used by facilities of the Department of Veterans Affairs.

This approach is also consistent with the newly enacted 10 U.S.C. 1079b, which reaffirms the authority of the Secretary of Defense to ''implement procedures under which a military medical treatment facility may charge civilians who are not covered beneficiaries (or their insurers) fees representing the costs, as determined by the Secretary, of trauma and other medical care provided to such civilians.'' It is the Secretary's determination that the CHAMPUS payment rates best represent the costs of providing care to all patients in Military Treatment Facilities.