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[Proposed Rules]
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DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 256

RIN 1010-AC49

Leasing of Sulphur or Oil and Gas in the Outer Continental Shelf--Bonus Payments with Bids

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Proposed rule.

SUMMARY: We are revising the current rule to allow us to require a specific payment method for 1/5 of the bonus payment due when we hold a sale to lease Federal offshore Outer Continental Shelf (OCS) lands. The current rule does not give us the authority to require bidders to use any single method for submitting 1/5 bonus payments with OCS bids. As electronic commerce becomes more efficient, reliable, and economical, we need to be able to require bidders to use automated payment methods when they are appropriate. This revision will allow us to require a specific form of bonus payment on a sale-by-sale basis to reduce the administrative burdens for both Government and industry.

DATES: We will consider all comments we receive by April 30, 1999. We will begin reviewing comments then and may not fully consider comments we receive after April 30, 1999.

ADDRESSES: If you wish to comment, you may submit your comments (three copies) by mail or hand-carry to the Department of the Interior; Minerals Management Service; Mail Stop 4024; 381 Elden Street; Herndon,

Virginia 20170-4817; Attention: Rules Processing Team.

FOR FURTHER INFORMATION CONTACT: Jan Arbegast, Program Analyst, at (703) 787-1227.

SUPPLEMENTARY INFORMATION: The Federal Government has been receiving bonus bid payments to acquire leases offered at OCS lease sales since the mid-1950s. Prospective bidders submit the required 1/5 bonus payment in the form of a check or bank draft, which accompanies a sealed bid on a specific offshore tract of land. Since August 1997, we have offered prospective bidders the option of using electronic funds transfer (EFT) to submit their 1/5 bonus payment rather than a check or bank draft. As technology has progressed and as banking transactions become routinely automated, we need to have in place a rule that allows us to require automated payment such as EFT or other methods that may be more efficient. This revision allows flexibility so that we can require the specific method of bonus payment that is most efficient and administratively advantageous to the Government and industry.

Procedural Matters

Public Comments Procedure

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by the law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Federalism (Executive Order (E.O.) 12612)

In accordance with E.O. 12612, the rule does not have significant Federalism implications. A Federalism assessment is not required.

Takings Implications Assessment (E.O. 12630)

In accordance with E.O. 12630, the rule does not have significant Takings Implications. A Takings Implication Assessment is not required.

Regulatory Planning and Review (E.O. 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget under E.O. 12866.

(1) This rule will not have an effect of \$100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

Ultimately, this rule is administratively advantageous to prospective bidders on the OCS. It will save time and paperwork in their bid-preparation process and will also use current technology, improving efficiency both for industry and the Government.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. Using EFT is common practice in private industry. Through the use of electronic commerce, we reduce the number of transactions required by bidders. This does not interfere with other agencies' actions.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. This

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rule has no effect on these programs or rights of the programs' recipients.

(4) This rule does not raise novel legal or policy issues. As previously stated, the intent of this rule is to give the Government flexibility in requiring a specific form of bonus payment, including EFT. It is commonplace in private industry and creates no novel policy issues.

Civil Justice Reform (E.O. 12988)

In accordance with E.O. 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of Secs. 3(a) and 3(b)(2) of the Order.

National Environmental Policy Act (NEPA)

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the NEPA of 1969 is not required.

Paperwork Reduction Act (PRA) of 1995

This regulation does not require information collection, and a submission under the PRA is not required.

Regulatory Flexibility Act (RFA)

The Department certifies that this document will not have a significant economic effect on a substantial number of small entities under the RFA. (5 U.S.C. 601 et seq.). This revised rule does not have a significant effect on a substantial number of small entities. We are revising this rule to allow us the flexibility to select the method for a prospective bidder at an OCS lease sale to submit a bonus payment by the most efficient method. If we select EFT for the method of submitting bonus payments, any small company has access to a commercial bank that routinely uses EFT. All current lessees must transmit the remaining 80 percent of their bonus payment and their first year rental payment via EFT. The regulation has been effective since 1984. This should not be a significant burden. The cost for establishing an account for a small company should be nominal. The bank will charge a fee per wire transfer which may be as high as \$30, but if a company has a large volume of wire transfers, the bank may only charge about a dollar or less per wire transfer. In the worst case scenario, if 30 small companies (average for recent sales) bid at \$30 per EFT wire transfer, to total cost for all small companies for a typical sale is \$900.

This rule only affects lessees on the OCS. We use Standard Industry Code 1381, Drilling Oil and Gas Wells, to characterize this group. There are 1,380 firms that drill oil and gas wells onshore and offshore. Of these, approximately 130 companies who are offshore lessees/operators need to follow our rule. According to Small Business Administration (SBA) estimates, 39 companies qualify as large firms and 91 as small firms. The SBA defines a small business as having either (a) annual revenues of \$5 million or less for exploration service and field service companies, or (b) less than 500 employees for drilling companies and for companies that extract oil, gas, or natural gas liquids.

The rule gives us the flexibility to select the most efficient method for a bidder at an OCS lease sale to submit a bonus payment. We believe this efficiency is realized by both bidders and MMS. When using EFT, a bidder will need to advise its commercial bank to submit its bonus payment via EFT, which is now commonplace. When using EFT, the bidder will contact the MMS Royalty Management Office designated in the final sale notice for the proposed lease sale.

If EFT is used, overall lessee (prospective bidder's) costs will decrease as well as bid preparation time. This is not a major rule. The cost of implementation should be minimal, regardless of company size.

Since one EFT transaction can be used per sale, and it costs \$30 for the wire transfer compared to the administrative costs of preparing a cashier's check for each bid, there is little doubt that using EFT is more cost effective and more efficient.

The rule should not affect the price that a company will charge for its product or service. It should increase efficiency and decrease administrative burden. The rule should not cause any company to go out of business. In fact, this rule will give the MMS the ability to establish on a sale-by-sale basis, the most efficient and effective payment method for both MMS and industry. If EFT is used, hundreds of dollars in staff time may be saved by the MMS and industry.

Some small companies may consider a change in the method by which they submit bids at lease sales to be significant (from paper check to EFT). Other companies may think the change is trivial. Several small companies may experience a short-term effect as they revise current business practices. The rule should not have a significant economic effect on any company qualified to participate in OCS lease sales.

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.

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. This rule will increase the efficiency and reduce the administrative burden of both the Government and private industry.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. This rule will decrease costs and time for prospective bidders preparing for bid submission. It will reduce the Government's administrative burden as well. If EFT is used, the Government and industry will save potentially hundreds of dollars in bid preparation time and administrative costs. Since one EFT transaction can be used per sale, and it costs \$30 for the wire transfer compared to the administrative costs of preparing a cashier's check for each bid, there is little doubt that using EFT is more cost effective and more efficient.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or ability of U.S.-

based enterprises to compete with foreign-based enterprises. The rule will increase productivity, innovation, and ability of U.S.-based enterprises.

Unfunded Mandate Reform Act (UMRA) of 1995

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 or the private sector. A statement containing the information required by the UMRA. (2 U.S.C. 1531 et seq.) is not required.

List of Subjects in 30 CFR Part 256

Administrative practice and procedure, Continental shelf, Environmental protection, Government contracts, Intergovernmental relations, Oil and gas exploration, Public lands-

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mineral resources, Public lands-rights-of-way, Reporting and recordkeeping requirements, Surety bonds.

Dated: March 23, 1999.

Sylvia V. Baca,

Acting Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, Minerals Management Service (MMS) proposes to amend 30 CFR part 256 as follows:

PART 256--LEASING OF SULPHUR OR OIL AND GAS IN THE OUTER CONTINENTAL SHELF

1. The authority citation for part 256 continues to read as follows:

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

2. In Sec. 256.46, revise paragraph (b) to read as follows:

Sec. 256.46 Submission of bids.

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(b) MMS requires a deposit for each bid. The notice of sale will

specify the bid deposit amount and method of payment.

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