

Prelease Permits for Oil, Gas, and Sulphur on the Outer Continental Shelf



U.S. Department of the Interior
Minerals Management Service
Resource Evaluation Division

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By

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Herndon, VA.
March 1998

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in the Outer Continental Shelf (MMS-327)

Permit for Geophysical Exploration for Mineral Resources or Scientific Research
in the Outer Continental Shelf (MMS-328)

Permit for Geological Exploration for Mineral Resources or Scientific Research
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Acronyms

CDP:	Common Depth Point
CFR:	Code of Federal Regulations
COST:	Continental Offshore Stratigraphic Test
DOI:	Department of the Interior
G&G:	Geological and Geophysical
MMS:	Minerals Management Service
OCS:	Outer Continental Shelf
OCSLA:	OCS Lands Act
OCSLAA:	OCS Lands Act Amendments
OMB:	Office of Management and Budget
RE:	Resource Evaluation

Introduction

The Minerals Management Service (MMS) has the major responsibility for administering the Department of the Interior's (DOI) role in activities associated with mineral resource development on the Federal Outer Continental Shelf (OCS). These activities relate to the leasing, exploration, development, production, and royalty management of these mineral resources. The primary responsibility of the MMS Resource Evaluation (RE) Program is to assess the mineral potential of the OCS, predominantly for oil and gas, and to assure the receipt of fair market value for oil and gas leases on the OCS. Title 30 Code of Federal Regulations (CFR) Part 251 referenced in this publication was finalized January 8, 1998. The regulations are revised as needed. This publication only refers to prelease activities on Federal lands. Postlease activities on Federal lands are covered by other Federal regulations, and on State lands by the affected State.

Regulatory Authority

The Outer Continental Shelf Lands Act (OCSLA), (43 U.S.C. 1331 et seq.) is the basis for MMS regulations to administer geological and geophysical (G&G) exploration and scientific research activities in the OCS. Section 11(a) of the OCSLA provides authority for the Secretary of the Interior to permit G&G activities as follows:

"Any agency of the United States and any person authorized by the Secretary may conduct geological and geophysical explorations in the Outer Continental Shelf, which do not interfere with or endanger actual operations under any lease maintained or granted pursuant to this Act, and which are not unduly harmful to aquatic life in such area."

The Code of Federal Regulations provides the details and procedures for prelease G&G activities in Title 30 CFR Part 251. Permitting is covered, as well as inspection, selection, retention of data, and proprietary terms with regard to data release.

From § 251.4: Geological or geophysical exploration for oil, gas, and sulphur may not be conducted on the OCS without an approved permit. Separate permits must be obtained for geological exploration for mineral resources and for geophysical exploration for mineral resources.

Geological or geophysical scientific research related to oil, gas, and sulphur may not be conducted on the OCS without an approved permit or filing of a Notice.

Separate permits must be obtained for geological scientific research and for geophysical scientific research that involve the use of solid or liquid explosives or the drilling of a deep stratigraphic test.

Any other G&G scientific research that the applicant conducts related to oil, gas, and sulphur in the OCS requires the applicant to file a Notice with the Regional Director at least 30 days before beginning. If circumstances preclude a 30-day Notice, the applicant must provide oral Notice and follow up in writing. The applicant must also notify MMS in writing when the work is concluded.

From § 251.5: If the MMS disapproves an application for a permit, the Regional Director will state the reasons for the denial, and will advise the applicant of the changes needed to obtain approval.

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) also applies to the application form for a permit because the application requires information from the prospective permittee. The Office of Management and Budget (OMB) approves this form.

General Background

The Outer Continental Shelf

Description

Offshore drilling takes place on the Outer Continental Shelf. Outer Continental Shelf (OCS) is a legal term created by Federal statute—the OCS Lands Act (OCSLA) and its amendments. The Act defines the OCS as 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), and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control. This Act determines Federal jurisdiction over the OCS.

The 1958 Geneva Convention on the Continental Shelf states that the continental shelf consists of those submerged offshore areas lying seaward of the territorial sea to a depth of 200 meters and beyond that area to that depth which admits of mineral exploitation of natural resources. The terms Outer Continental Shelf and Continental Shelf are **not** synonymous.

Figure 1 shows a generalized profile of the continental shelf. It includes land; waterline; the submerged continental margin, which in most cases slopes gently seaward; the continental slope with steeper gradients; the continental rise; and the seabed.

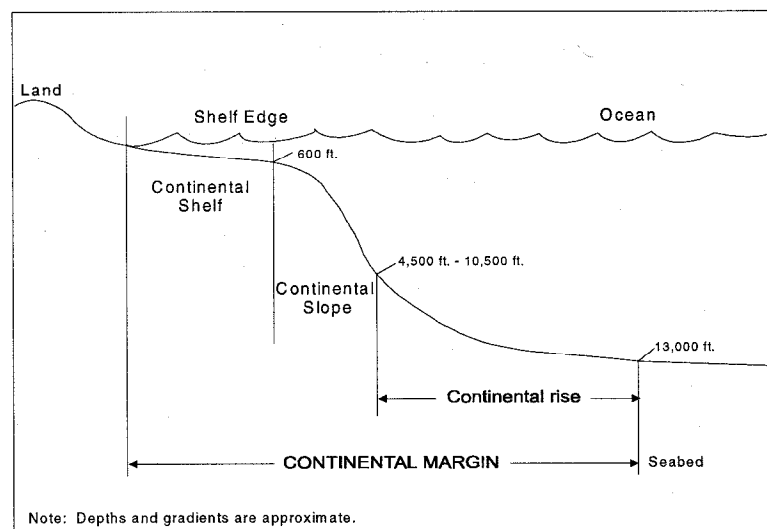


Figure 1. Generalized Profile of the Continental Shelf

Geophysical and Geological Data and Data Collection

To manage the resources on the OCS, the MMS first must estimate the amount and location of the resources. To locate and develop these resources, industry must obtain the same information. Since these resources lie below the seafloor, gaining needed information about them is both difficult and expensive. Two categories of data, geophysical and geological, provide the needed information.

Geophysical Data

Until recently, most geophysical data collected on the OCS were from 2-dimensional (2-D) or common depth point (CDP) seismic surveys. In the past few years, more and more data acquired on the OCS are 3-dimensional (3-D) data. These data are acquired from shipboard by generating acoustic waves and directing them at the seafloor. The acoustic waves are reflected off the seafloor and subsequent sedimentary layers at varying depths. These reflected sound waves are detected by hydrophones located on or near the surface of the water and transmitted through cables back to the ship as electrical signals. Processing the signals recorded on board the ship is a technically complex process, and much of it is carried out later at computer centers onshore. This processing ultimately produces correlated seismic sections (fig. 2). Navigation data on magnetic tape provide the digital locations of the survey. Geophysicists and geologists interpret and correlate these seismic sections. Some of these correlations indicate structural (fig. 3) and/or stratigraphic traps (fig. 4) that may be areas of potential petroleum accumulation.

In addition to seismic surveys, MMS and industry have utilized magnetic and gravity surveys. A magnetic survey provides measurements of the magnetic field or its components (such as the vertical component) at a series of different locations over an area of interest, usually with the objective of locating concentrations of magnetic anomalies or of determining depth to basement. Differences from the earth's total magnetic field are attributed to variations in the distribution of materials having different magnetic susceptibility and perhaps also remanent magnetization. Aeromagnetic data consist of magnetic measurements made from an aircraft and offer measurements of larger areas, indicating basin extent.

A gravity survey produces measurements of the gravitational field at a series of different locations over an area of interest. The objective in exploration work is to map density differences that may indicate different rock types. Gravity data usually are displayed as anomaly maps.

Geological Data

Geological data include stratigraphic test wells, bottom samples, and shallow coring. These data are useful in determining the general geology of an area and in determining whether the right types of rocks exist for petroleum formation and accumulation.

Shallow test drilling may require the gathering and submission of geophysical information and data to determine shallow structural detail across and in the vicinity of the proposed test. Other information and data may include, but are not limited to, seismic, bathymetric side-scan sonar and magnetometer information, across and in the vicinity of the proposed test. Penetration into the seabottom is limited to depths of less than 500 feet (152 meters).

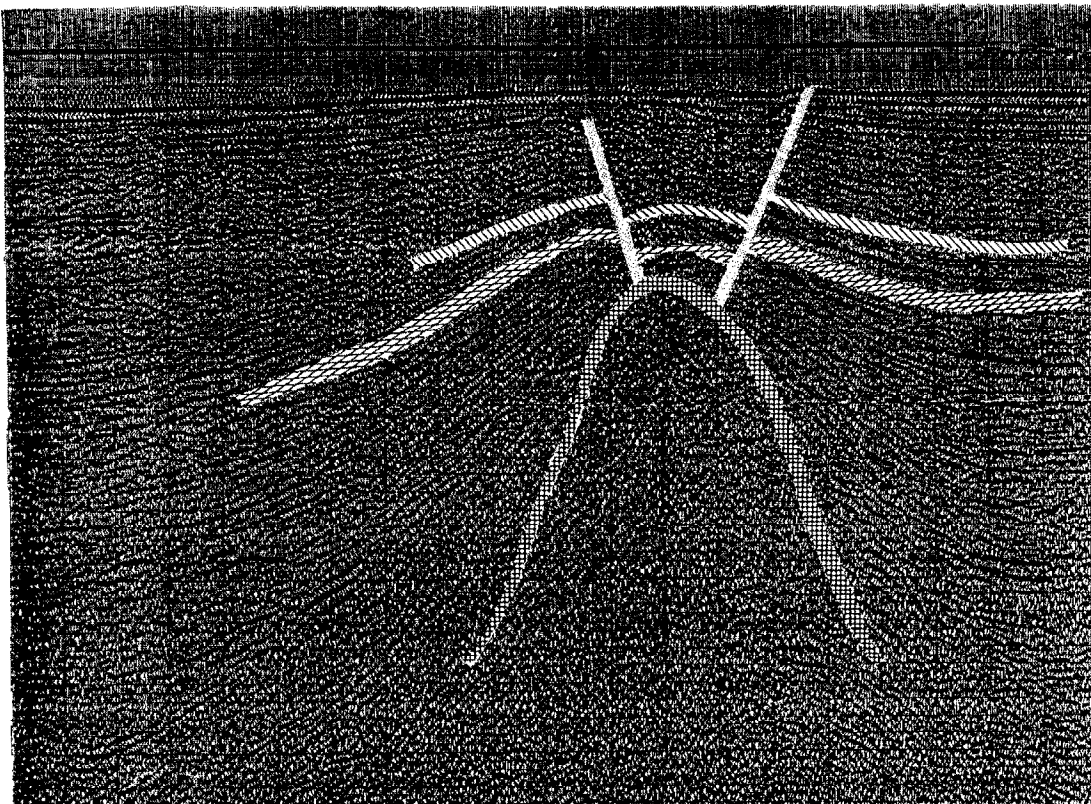


Figure 2. Correlated seismic section

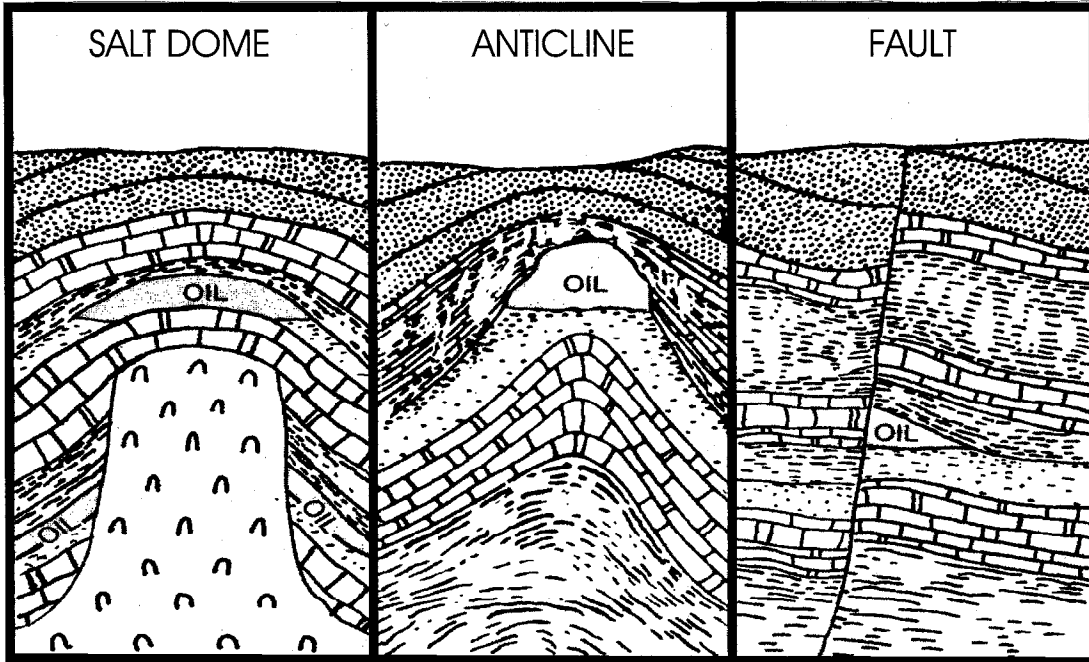


Figure 3. Structural Traps

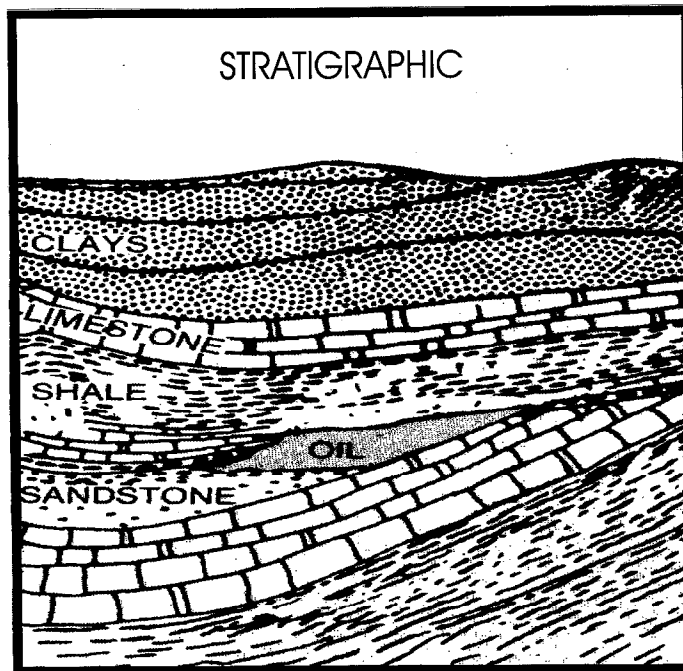


Figure 4. Stratigraphic Traps

Deep stratigraphic test wells, commonly known as continental offshore stratigraphic test (COST) wells, involve the penetration into the seabottom of more than 500 feet (152 meters). They are drilled to determine the geological character of rock strata. These tests, which may be more than 20,000 feet (6,096 meters) deep, provide information that can be used by the Government and industry to evaluate tracts to be offered in a lease sale. An operator may set up a group that shares drilling costs. These wells are drilled in accordance with MMS regulations. Before approval for drilling, the applicant submits a Drilling Plan and Environmental Report, and sometimes the requirement includes a study of archaeological resources.

Resource Evaluation Program

The Resource Evaluation (RE) Program consists primarily of three major components:

(1) geological and geophysical (G&G) data acquisition, evaluations, and analyses; (2) resource, economic, and engineering evaluation analyses; and (3) reserve inventory and analyses. Through these program components, the overall primary objectives of the RE Program are:

- To provide sound analytical and technical support to the offshore program, including postlease regulatory activities, so that all activities can be carried out effectively and efficiently.
- To identify areas favorable for the accumulation of hydrocarbons and to provide information on the distribution of offshore resources and the hydrocarbon potential of the OCS.
- To acquire and analyze scientific data and information to develop a basic knowledge of the geologic history and its effect on hydrocarbon generation, distribution, and accumulation on the OCS.
- To provide scientific data and information concerning offshore lands to assure that an adequate database is available to the Secretary to make informed decisions regarding the stewardship of the OCS.
- To provide estimates of undiscovered mineral resources, exploration and development scenarios, and economic parameters and statistical data to assess the impacts of the objectives of the OCS Lands Act Amendments (OCSLAA).
- To develop and maintain an accurate database of estimates for proved and unproved oil and gas reserves and an inventory of hypothetical and speculative oil and gas resources.
- To provide resource economic evaluations and bid adequacy determinations for blocks bid upon in lease sales to assure that the Government receives fair market value for leased offshore lands.

Permits for Oil, Gas, and Sulphur on the OCS

Overview of the Permit Process

The major goal of acquiring and analyzing G&G data is to identify areas and tracts that have potential for the occurrence of oil, gas, and/or sulphur. The data acquired form the basis for mapping and evaluating the potential quantity and distribution of offshore resources and for assuring receipt of fair market value for lands leased.

Industry collects prelease G&G data in compliance with permits issued through the OCS RE Program. Pursuant to conditions of the permit and Title 30 Code of Federal Regulations (CFR) Part 251, the processed data are selectively acquired by the MMS to directly support evaluation required throughout the leasing process. The MMS acquires various prelease G&G data previously mentioned. In addition to prelease data, the MMS also acquires postlease G&G data from industry such as well logs, sample cores, and high-resolution seismic data. Both prelease and postlease data are carefully interpreted to determine the areas of hydrocarbon potential, to locate and map geologic structures capable of trapping hydrocarbons, and to establish values for the geologic parameters necessary for resource assessment and economic evaluation to support leasing decisions. Industry also uses postlease data to avoid shallow hazards, rig site selection, etc.

Seismic data constitute the primary information base required for much of the effort in the area identification and evaluation process. The existing seismic data in a given planning area are not only used for evaluations related to a specific sale but are supplemented with new or additional data and used for later sales in the same planning area.

For the MMS, the requirement for permits began even before the enactment of the OCS Lands Act Amendment of 1978. One of the resultant regulations is 30 CFR Part 251, appendix 3.

For the permittee, the process begins with the decision to conduct prelease geological or geophysical exploration for mineral resources or to conduct geological or geophysical scientific research on the OCS. The next step is to apply for a permit or file a Notice.

General Requirements for Permits and Notices

Both permits and Notices for scientific research authorize G&G data collection on the OCS. Permits and Notices include several general requirements.

Permits are required before geological or geophysical exploration for mineral resources may be conducted on the OCS unless these activities are conducted under a lease. Separate permits are required for G&G exploration.

Similarly, permits and/or Notices are required before geological or geophysical scientific research can be conducted on the OCS unless these activities are conducted under an active lease. A separate permit must be obtained for geological and for geophysical scientific research that involve the use of solid or liquid explosives, the drilling of a deep stratigraphic test, and developing data and information for proprietary use or sale.

Activities conducted under permits or Notices should not do any of the following: cause harm or damage to aquatic life; cause pollution; or create hazardous or unsafe conditions. Nor should activities interfere with or harm other uses of the area or disturb archaeological resources. Drilling activities must use the best and safest technologies that the Director determines to be economically feasible.

Persons conducting activities under permits must immediately report certain situations to the Director. These situations include: (1) the detection of hydrocarbon occurrences; (2) an encounter with environmental hazards that pose an imminent threat to life and property; or (3) that adversely affect the environment, aquatic life, archaeological resources, or other uses of the area in which exploration or scientific research is conducted. During the term of the permit, permittees submit status reports according to the schedule in the permit and a final report at the termination of the permit.

Permits

Over the years, the appearance of the permit forms has changed, but the required information has stayed much the same. Some of the details have changed over time to conform to the changes in the regulations. Essential items include the name(s) of the person(s) involved in the exploration or research along with the address(es), the location in the OCS where the permittees would carry out their activities, and the dates they start and stop.

Appendix 1 contains a copy of each of the three forms that comprise a permit set. As can be seen, these forms are an Application for Permit to Conduct Geological or Geophysical Exploration for Mineral Resources or Scientific Research in the OCS (Form MMS-327), Permit Form for Geophysical Exploration for Mineral Resources or Scientific Research in the OCS (Form MMS-328), and Permit Form for Geological Exploration for Mineral Resources or Scientific Research in the OCS (Form MMS-329). The MMS will make these forms and the Stipulations available on the Internet.

Notices for Scientific Research

Persons may only conduct G&G scientific research related to oil, gas, and sulphur in the OCS after obtaining an MMS-approved permit or filing a Notice. The regulation states that persons must obtain a permit if the research involves using solid or liquid explosives or drilling a deep stratigraphic test, or developing data and information for proprietary use or sale.

Any other G&G scientific research that persons conduct related to oil, gas, and sulphur in the OCS requires one to file a Notice with the Regional Director at least 30 days before beginning. If circumstances preclude a 30-day Notice, one must provide oral notification and followup in writing. Persons must also notify MMS in writing when the work is concluded.

The regulations do not require a special form for Notices as they do for permits. Certain information should be provided: the name of the person, type and manner of research, location designated on a map or chart, the dates for the research activity, the time and manner when the data and information will be made available to the public, etc. Also activities must be coordinated with other organizations, and these will vary from region to region.

Applying for Permits and Filing Notices

Persons who want permits must first obtain an application form. Figure 5 shows the areas encompassed by each region. Each OCS Region keeps a supply of these forms and also the forms will be on the internet. The addresses of the regional offices are as follows:

Minerals Management Service
Alaska OCS Region
Regional Supervisor for
Resource Evaluation
949 East 36th Avenue,
Anchorage, AK 99508-4302

Minerals Management Service
Gulf of Mexico OCS Region
Regional Supervisor for
Resource Evaluation
1201 Elmwood Park Boulevard
New Orleans, LA 70123-2394

Minerals Management Service
Pacific OCS Region
Regional Supervisor for
Resource Evaluation
770 Paseo Camarillo,
Camarillo, CA 93010-6064

Stipulations

While the permit forms are uniform throughout the MMS, the general stipulations vary from region to region. A complete set of the general stipulations is included in appendix 2. The stipulations are revised as needed. There may be a secondary set of stipulations, depending on the area and time of year, specific to an individual permit. For example, in Alaska the permittee is required to provide a final edited digital tape of locations and a final report. These stipulations are included with the applicable permit.

In the Alaska Region, permittees must not operate aircraft at an altitude lower than 1,000 feet (305 meters) when within 500 lateral yds of groups of whales. Helicopters may not hover or circle above such areas or within 500 lateral yds of such areas. Vessels and aircraft should avoid concentrations or groups of whales, especially endangered species such as the humpback whale (fig. 6). Small boats should not be operated at such a speed as to make collisions likely.

In the Atlantic areas, stipulations concerning whales are similar to those of Alaska. In addition, seismic data should not be collected in the areas of the Great South Channel between April 1 and July 15 or whenever the endangered humpback whale (fig. 6), right whale (fig. 7), and fin whales are present. The Great South Channel extends roughly from Cape Porpoise, Maine, to Nantucket Island, Massachusetts. Also, the permittee must avoid disturbing threatened or endangered sea turtles (fig. 8).

In the Gulf of Mexico Region, permittees must also avoid areas critical to endangered/threatened species. These include habitat areas of the endangered whooping cranes and endangered brown pelicans (fig. 9). In the Eastern Gulf of Mexico, MMS restricts onshore support activities to Tampa Bay (including Port Manatee) to protect the endangered Florida manatee. In addition, the MMS requires vessels to remain in the deeper ship channels at low speeds so they cannot harm, harass, or kill the manatees. The least tern, an endangered bird, can be found on both Atlantic and Gulf Coasts.

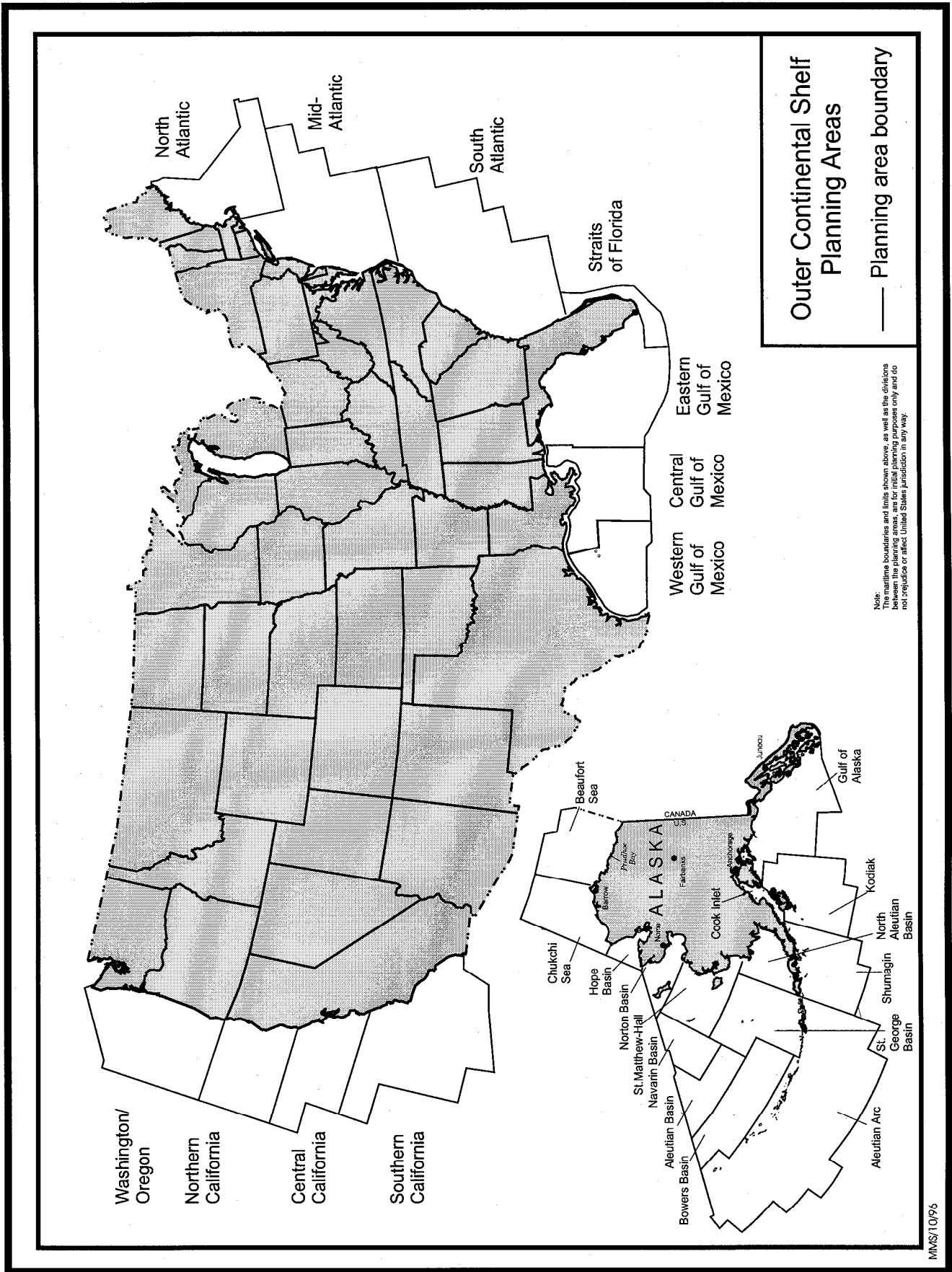


Figure 5. OCS Regions



Figure 6. Humpback Whale



Figure 7. Right Whale

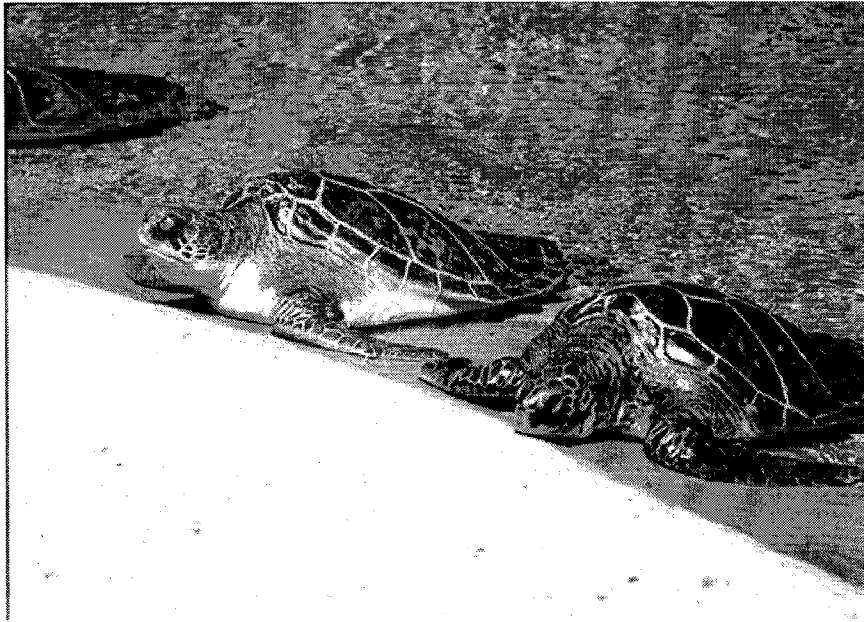


Figure 8. Sea Turtles



Figure 9. Brown Pelican

In all regions, the stipulations contain a list of organizations with which the permittee must coordinate activities.

The Pacific Region is currently changing the process by which it reviews all permit applications for G&G surveys. New stipulations for obtaining G&G permits should be available in the spring of 1998. All permit applicants are advised to contact the Pacific Region 4 to 6 months in advance of their planned start date for operations.

Disclosure of Information and Data to the Public

From § 251.14:

Except as specified in section 30 CFR 251.14 or in 30 CFR parts 250 and 252, if the Regional Director determines any data or information are exempt from public disclosure under paragraph (a) of that section, MMS will not provide the data and information to any State or to the executive of any local government or to the public, unless the permittee and all third parties agree to the disclosure. The MMS will keep confidential the identify of third party recipients of data and information collected under a permit. The MMS will not release the identity unless the permittee and the third parties agree to the disclosure. When the permittee detects any significant hydrocarbon occurrences or environmental hazards on unleased lands during drilling operations, the Regional Director will immediately issue a public announcement. The announcement must further the national interest, but without unduly damaging your competitive position.

The timetable for release of G&G data and information that MMS acquires is included here. The MMS will release data and information that the permittee or a third party submits and MMS retains in accordance with the following: If the data and information are **not** related to a deep stratigraphic test, MMS will release them to the public in accordance with the following table:

If you or a third party submits and MMS retains:	The Regional Director will disclose them to the public:
Geological data and information;	10 years after issuing the permit;
Geophysical data;	50 years after you or a third party submit the data;
Geophysical information.	25 years after you or a third party submit the information.

If the prelease data and information **are** related to a deep stratigraphic test, MMS will release them to the public at the earlier of the following times:

- 25 years after the permittee completes the test; or
- If a lease sale is held after a permittee completes a test well, 60 calendar days after MMS issues the first lease, a portion of which is located within 50 geographic miles (92.7 kilometers) of the test.

Data Acquisition Process

The final products of the activities conducted under permits and Notices are G&G data. These data are valued by the permittee and by MMS because earth scientists can make viable assessments about mineral resources from these data. Figure 10 is a flowchart that shows how the data acquisition process combines with the permit process. As part of the permit process, the regions monitor all activity authorized under permits. Following collection of the G&G data by industry, if the region is interested in the data, the Regional Director can request submission of the data for inspection and/or permanent retention. Alternately, the Regional Director can request that geophysical data be inspected on-site or at MMS premises. Afterwards, the MMS geologists and geophysicists incorporate the data selected for permanent retention into the region's database and begin their analyses. Figure 11 shows how MMS uses its seismic data. Table 1 shows the number of permits issued for geological or geophysical exploration in the OCS.

Reimbursement

The MMS will reimburse the permittee for the reasonable costs attributable to the reproduction of the data and information, provided they delivered the G&G data and information to MMS for the Regional Director to inspect or select and retain.

The MMS will reimburse the permittee for the reasonable costs of processing geophysical information (which does not include cost of data acquisition):

From § 251.13:

“If, at the request of the Regional Director, you processed the geophysical data or information in a form or manner other than that used in the normal conduct of business, or (2) If you collected the information under a permit that MMS issued to you before October 1, 1985, and the Regional Director requests and retains the information.”

First, the permittee must request reimbursement and must identify reproduction and processing costs separately from acquisition costs.

The MMS will not reimburse the permittee for data acquisition costs or for the costs of analyzing or processing geological information or interpreting geological or geophysical information.

After MMS receives the permittee's request for reimbursement and determines that the requested reimbursement is proper, MMS prepares a procurement package, which is forwarded to the appropriate MMS Administrative Service Center. The contracting officers in the service center ensure that the cost of the data is at the permittee's lowest rate or the lowest commercial rate established in the area, whichever is less. The service center then issues a contract or purchase order that authorizes reimbursement.

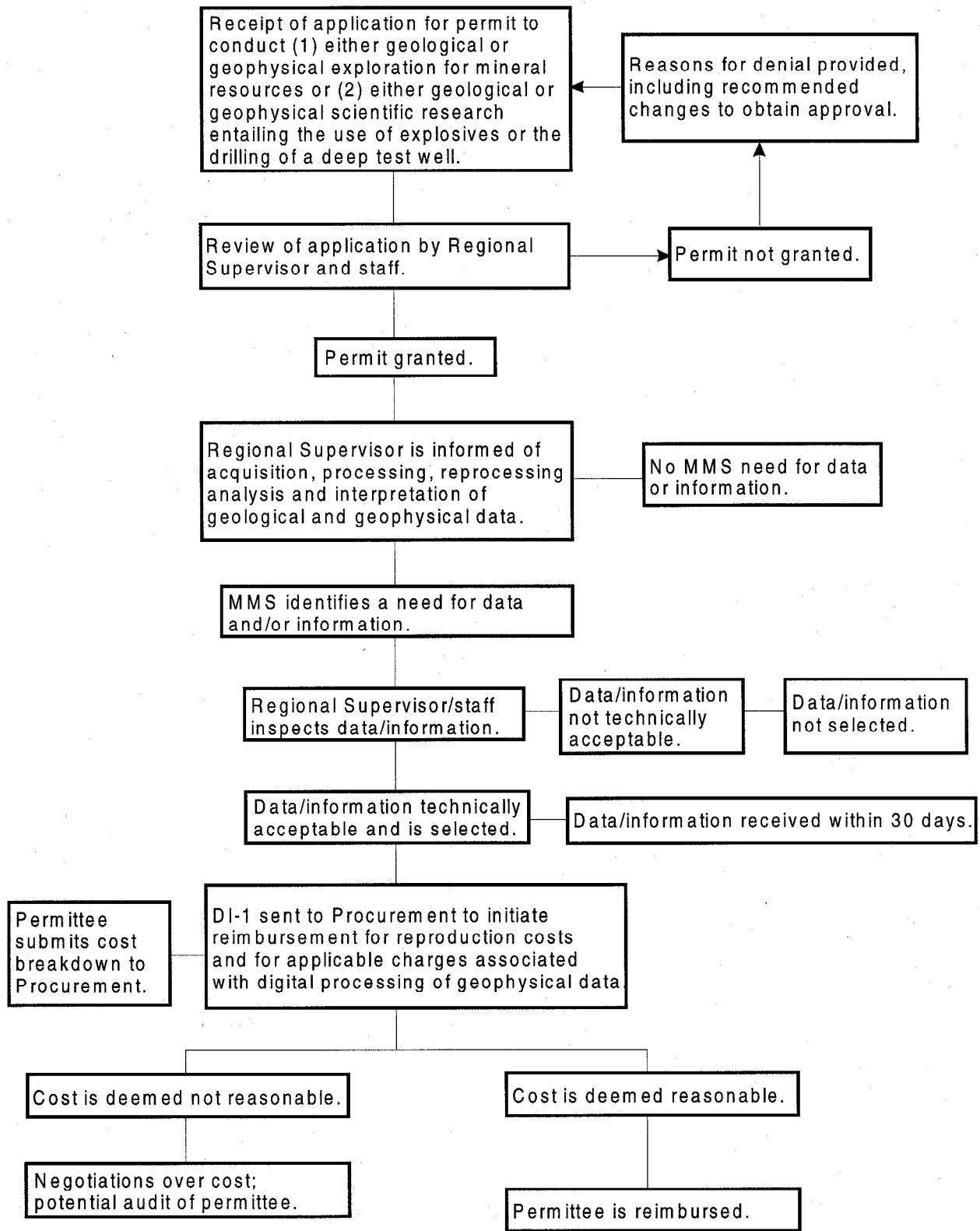


Figure 10. Flowchart of Permit and Data Acquisition Process

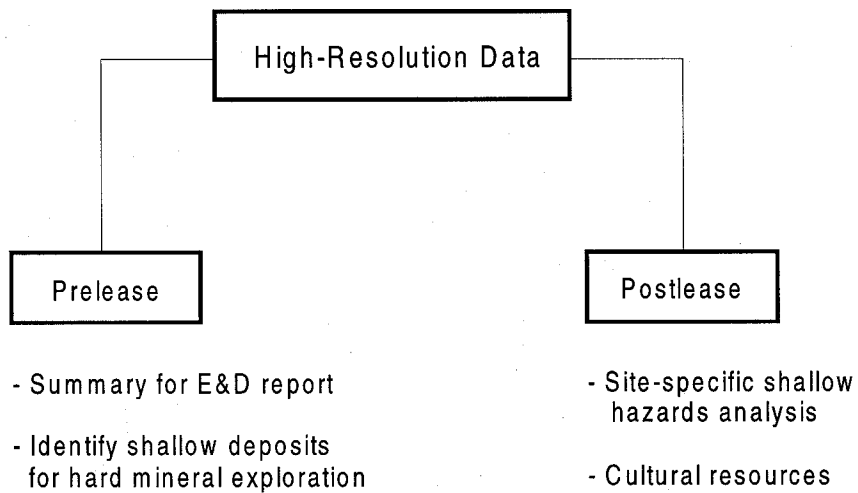
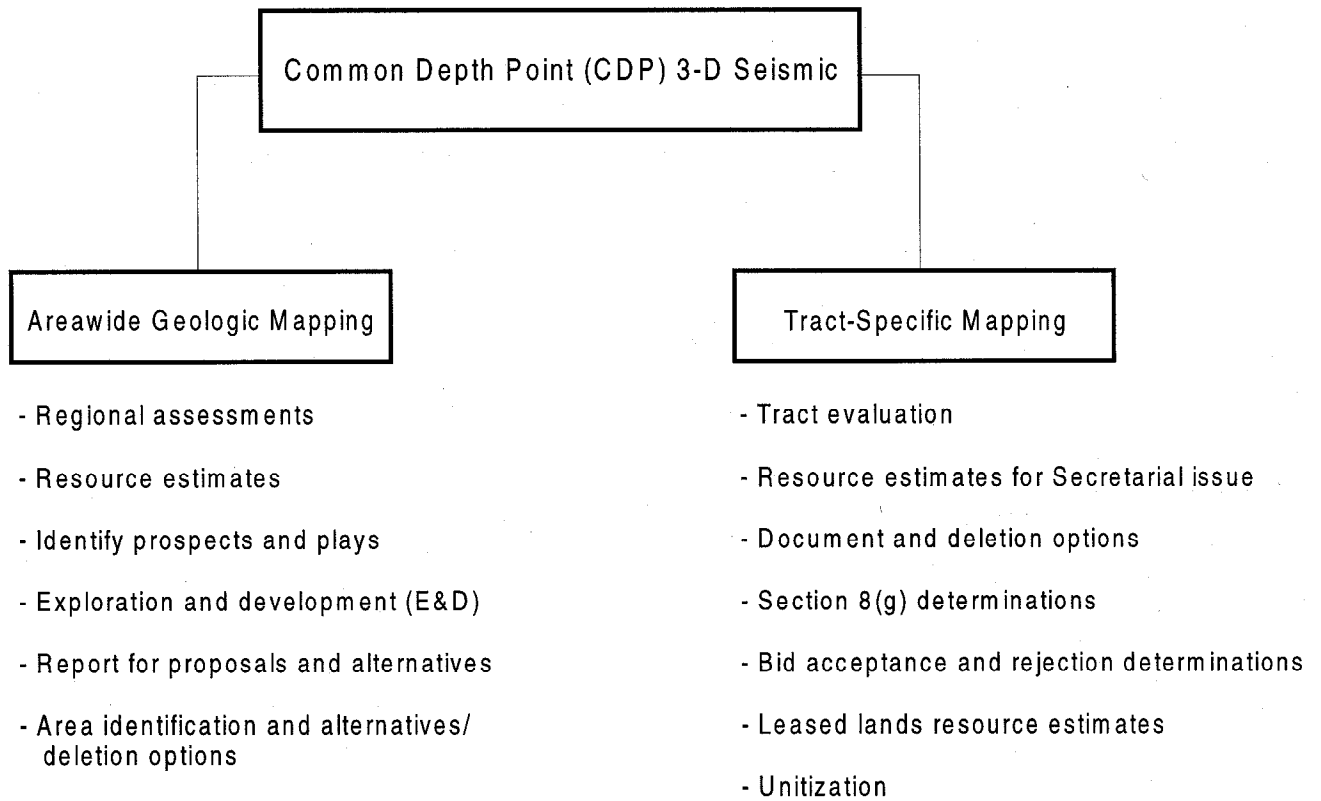


Figure 11. MMS Uses for Seismic Data

Table 1. Permits Issued

Year	A	B	C	D	E	F
1960-1968	2,353	---	---	---	---	---
1969	258	249	9	0	0	0
1970	213	203	10	0	0	0
1971	210	205	5	0	0	0
1972	220	210	10	0	0	0
1973	339	321	18	0	0	0
1974	357	345	12	2	0	0
1975	510	487	23	3	0	0
1976	420	400	20	7	0	0
1977	452	436	16	4	0	0
1978	342	329	13	2	0	0
1979	276	265	11	0	0	0
1980	318	302	16	1	0	0
1981	394	383	11	0	0	0
1982	502	490	12	3	0	0
1983	574	542	32	1	16	0
1984	543	518	25	0	18	0
1985	398	382	16	0	38	0
1986	211	207	4	0	32	0
1987	298	282	16	0	42	0
1988	313	289	24	0	45	0
1989	249	237	12	1	47	0
1990	251	241	9	0	57	1
1991	170	156	12	0	45	2
1992	141	137	3	0	53	1
1993	147	135	11	0	70	1
1994	133	117	16	0	53	0
1995	104	92	11	0	50	1
1996	<u>136</u>	<u>120</u>	<u>16</u>	<u>0</u>	<u>59</u>	<u>0</u>
Total	10,832	8,080	393	24	625	6

A=Total Number of Geological and Geophysical Permits

B=Number of Geophysical Permits

C=Number of Geological Permits

D=Number of Geological Permits Issued for Deep Stratigraphic Tests

E=Number of Geophysical Permits Issued for 3-D Seismic Data

F=Number of Permits Issued for Strategic (Nonenergy) Minerals

Dashed lines=Individual breakouts not established

Figures may vary 1-2%.

Definitions

Act means the Outer Continental Shelf Lands Act (OCSLA), as amended (43 U.S.C. 1331 et seq.).

Analyzed geological information means data collected under a permit or a lease that have been analyzed. Analysis may include, but is not limited to, identification of lithologic and fossil content, core analyses, laboratory analyses of physical and chemical properties, well logs or charts, results from formation fluid tests, and descriptions of hydrocarbon occurrences or hazardous conditions.

Archaeological interest means 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 measurements, controlled collection, analysis, interpretation, and explanation.

Archaeological resources means any material remains of human life or activities that are at least 50 years of age and of archaeological interest.

Coastal environment means the physical, atmospheric, and biological components, conditions, and factors that interactively determine the productivity, state, condition, and quality of the terrestrial ecosystem from the shoreline inward to the boundaries of the coastal zone.

Coastal zone means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States and extends seaward to the outer limit of the U.S. territorial sea.

Coastal Zone Management Act means the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.).

Data means facts, statistics, measurements, or samples that have not been analyzed, processed, or interpreted.

Deep stratigraphic test means drilling that involves the penetration into the sea bottom of more than 500 feet (152 meters).

Director means the Director of the Minerals Management Service, U.S. Department of the Interior, or a subordinate authorized to act on the Director's behalf.

Exploration means the commercial search for oil, gas, and sulphur. Activities classified as exploration include, but are not limited to: (1) Geological and geophysical marine and airborne surveys where magnetic, gravity, seismic reflection, seismic refraction, gas sniffers, coring, or other systems are used to detect or imply the presence of oil, gas, or sulphur; and (2) any drilling, whether on or off a geological structure.

Geological and geophysical scientific research means any oil, gas, or sulphur related investigation conducted in the OCS for scientific and/or research purposes. Geological, geophysical, and geochemical data and information gathered and analyzed are made available to the public for inspection and reproduction at the earliest practicable time. The term does not include commercial geological or geophysical exploration or research.

Geological exploration means exploration that uses geological and geochemical techniques (e.g., coring and test drilling, well logging, and bottom sampling) to produce data and information on oil, gas, and sulphur resources in support of possible exploration and development activities. The term does not include geological scientific research.

Geophysical exploration means exploration that utilizes geophysical techniques (e.g., gravity, magnetic, or seismic) to produce data and information on oil, gas, and sulphur resources in support of possible exploration and development activities. The term does not include geophysical scientific research.

Governor means the Governor of a State or the person or entity lawfully designated to exercise the powers granted to a Governor pursuant to the Act.

Human environment means the physical, social, and economic components, conditions, and factors which 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.

Hydrocarbon occurrence means the direct or indirect detection during drilling operations of any liquid or gaseous hydrocarbons by examination of well cuttings, cores, gas detector readings, formation fluid tests, wireline logs, or by any other means. The term does not include background gas, minor accumulations of gas, or heavy oil residues on cuttings and cores.

Information means geological and geophysical data that have been analyzed, processed, or interpreted.

Interpreted geological information means knowledge, often in the form of schematic cross sections, 3-dimensional representations, and maps, developed by determining the geological significance of geological data and analyzed and processed geologic information.

Interpreted geophysical information means knowledge, often in the form of seismic cross sections, 3-dimensional representations, and maps, developed by determining the geological significance of geophysical data and processed geophysical information.

Lease means an agreement which is issued under section 8 or maintained under section 6 of the Act and which authorizes exploration for, and development and production of, minerals or the area covered by that authorization, whichever is required by the context.

Lessee means a person who has entered into, or is the MMS approved assignee of, a lease with the United States to explore for, develop, and produce the leased minerals. The term "lessee" also includes an owner of operating rights.

Marine environment means the physical, atmospheric, and biological components, conditions, and factors that interactively determine the quality of the marine ecosystem in the coastal zone and in the OCS.

Material remains mean physical evidence of human habitation, occupation, use, or activity, including the site, location, or context in which such evidence is situated.

Minerals means oil, gas, sulphur, geopressured-geothermal and associated resources, and all other minerals which are authorized by an Act of Congress to be produced from public lands as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702).

Notice means a written statement of intent to conduct geological or geophysical scientific research related to oil, gas, and sulphur in the OCS other than under a permit.

Oil, gas, and sulphur mean oil, gas, sulphur, geopressured-geothermal, and associated resources.

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

Permit means the contract or agreement, other than a lease, issued pursuant to this part, under which a person acquires the right to conduct on the OCS in accordance with appropriate statutes, regulations, and stipulations: (1) Geological exploration for mineral resources; (2) Geophysical exploration for mineral resources; (3) Geological scientific research; or (4) Geophysical scientific research.

Permittee means the person authorized by a permit issued pursuant to this part to conduct activities on the OCS.

Person means a citizen or national of the United States; an alien lawfully admitted for permanent residence in the United States as defined in section 8 U.S.C 1101(a)(20); a private, public, or municipal corporation organized under the laws of the United States or of any State or territory thereof; and associations of such citizens, nationals, resident aliens, or private, public, or municipal corporations, States, or political subdivisions of States or anyone operating in a manner provided for by treaty or other applicable international agreements. The term does not include Federal agencies.

Processed geological or geophysical information means data collected under a permit and later processed or reprocessed. Processing involves changing the form of data so as to facilitate interpretation. Processing operations may include, but are not limited to, applying corrections for known perturbing causes, rearranging or filtering data, and combining or transforming data elements. Reprocessing is the additional processing other than ordinary processing used in the general course of evaluation. Reprocessing operations may include varying identified parameters for the detailed study of a specific problem area.

Secretary means the Secretary of the Interior or a subordinate authorized to act on the Secretary's behalf.

Shallow test drilling means drilling into the sea bottom to depths less than those specified in the definition of a deep stratigraphic test.

Significant archaeological resource means those archaeological resources that meet the criteria of significance for eligibility to the National Register of Historic Places as defined in 36 CFR 60.4.

Third party means any person other than the permittee or a representative of the United States, including all persons who obtain data or information acquired under a permit from the permittee, or from another third party, by sale, trade, license agreement, or other means.

Violation means a failure to comply with any provision of the Act, or a provision of a regulation or order issued under the Act, or any provision of a lease, license, or permit issued under the Act.

You means a person who applies for and/or obtains a permit, or files a Notice to conduct geological or geophysical exploration or scientific research related to oil, gas, and sulphur in the OCS.

References

Code of Federal Regulations, "Mineral Resources" Title 30 CFR Part 251.

Dellagiarino, George, 1986, Offshore Resource Evaluation Program: Background and Functions: Reston, Virginia, U.S. Department of the Interior, Minerals Management Service OCS Report, MMS 85-0091, 42 p..

Dellagiarino, George, et al., 1997, Geological and Geophysical Data Acquisition: A 20-year Retrospective 1976–1996 Minerals Management Service OCS Report MMS 97-0035, 39 p.

Fulton, Patricia, 1991, Permitting Process for Oil, Gas, and Sulphur on the Outer Continental Shelf, Minerals Management Service OCS Report, MMS 91-0059, 56 p.

U.S. Department of the Interior, Minerals Management Service, 1986, Managing Oil and Gas Operations on the Outer Continental Shelf, 60 p.

——— 1987, Leasing Energy Resources on the Outer Continental Shelf, 48 p.

APPENDIX 1

**UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE**

(Insert Appropriate Regional Office)

**Requirements for Geological and Geophysical Explorations
or Scientific Research in the Outer Continental Shelf**

**Application for Permit to Conduct Geological or Geophysical
Exploration for Mineral Resources or Scientific Research
in the Outer Continental Shelf**

(Attachment 1)

Nonexclusive Use Agreement for Scientific Research

(Attachment 2)

SUBMIT: Original, two copies, and one public information copy (all with original signatures).

The Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires us to inform you that: The Minerals Management Service (MMS) collects this information to evaluate applications for permits to conduct prelease exploration offshore and to monitor activities of scientific research conducted under notices. MMS uses the information to ensure there is no environmental degradation, personnel harm, damage to historical or cultural sites, or interference with other uses. Response to this request is required to obtain a benefit. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

Public reporting burden for this form is estimated to average 8 hours per response, including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of this form to the Information Collection Clearance Officer, Mail Stop 2053, Minerals Management Service, 381 Elden Street, Herndon, VA 20170-4817; and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attn: Desk Officer for the Department of the Interior (OMB Control No. 1010-0048), Washington, DC 20503.

Form MMS-327 Page 1 (April 1996)

(Supersedes all previous editions of
Form MMS-327 which may not be used)

**UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE**

**REQUIREMENTS FOR GEOLOGICAL AND GEOPHYSICAL EXPLORATIONS
OR SCIENTIFIC RESEARCH IN THE OUTER CONTINENTAL SHELF**

Authority

All geological and geophysical explorations or scientific research activities authorized and conducted in the Outer Continental Shelf (OCS) must be performed in accordance with the OCS Lands Act, 30 CFR Part 251, and other applicable Federal statutes and regulations, and amendments thereto.

General Requirements of Permits and Notices

Geological and geophysical activities for mineral exploration or scientific research activities authorized under 30 CFR Part 251 must be conducted so that those activities do not:

- A. Interfere with or endanger operations under any lease or right-of-way or permit issued or maintained pursuant to the OCS Lands Act;
- B. Cause harm or damage to aquatic life or to the marine, coastal, or human environment;
- C. Cause pollution;
- D. Create hazardous or unsafe conditions;
- E. Unreasonably interfere with or harm other uses of the area; or
- F. Disturb archaeological resources.

Any person conducting geological or geophysical activities for mineral exploration or scientific research under 30 CFR Part 251 must immediately report to the Director, MMS:

- A. Detection of hydrocarbon occurrences;
- B. Encounters of environmental hazards which constitute an imminent threat to human activity; or
- C. Activities which adversely affect the environment, aquatic life, archaeological resources, or other uses of the area in which the exploration or scientific research activities are conducted.

Any person conducting shallow or deep stratigraphic test drilling activities under a permit for mineral exploration or scientific research under 30 CFR Part 251 must utilize the best available and safest technologies which the Director, MMS, determines to be economically feasible.

Authorization granted under 30 CFR Part 251 to conduct geological and geophysical explorations for minerals or for scientific research will not confer a right to any discovered oil, gas, or other minerals, or to a lease under the OCS Lands Act.

Time Restriction for Permits and Notices

Permitted activities approved for a specified period, including requests for extensions, and activities under a notice may not exceed one year.

Geological and Geophysical Activities Requiring Permits and Notices

Geological and Geophysical Explorations for Mineral Resources

Geological and geophysical explorations for mineral resources may not be conducted in the OCS without an approved permit unless such activities are being conducted pursuant to a lease issued or maintained under the OCS Lands Act. Separate permits must be obtained for either geological or geophysical explorations for mineral resources. If the Director, MMS, disapproves an application, the statement of rejection will state the reasons for the denial and will advise the applicant of those changes needed to obtain approval.

Geological and Geophysical Scientific Research

Geological and geophysical scientific research related to oil, gas, and sulphur may not be conducted by any person in the OCS without an approved application for permit or filing of a notice. Separate permits must be obtained for geological and geophysical scientific research which involves the use of solid or liquid explosives or the drilling of a deep stratigraphic test. If the Director, MMS, disapproves an application for permit, the statement of rejection will state the reasons for the denial and will advise the applicant of the changes needed to obtain approval.

A notice must be filed with the Director, MMS, at least 30 days prior to the commencement of scientific research not requiring a permit. The Director, MMS, may inform the person who filed the notice of all environmental laws and regulations applicable to the OCS.

Information Required for Permits

Each applicant for a permit must complete the applicable sections of the Application for Permit (Attachment 1) and must include a page-size plat(s) showing the location of the proposed activity. The plat(s) should show geographic coordinates relative to the MMS area and block numbers, an easily identified onshore point of reference, and the distance and direction from the point of reference to area of activity. Line locations should not be included on these plat(s). In addition, each applicant for a geological or geophysical permit must submit the appropriate attachment to section D of the application. Each applicant for a scientific research permit must also complete a Nonexclusive Use Agreement (Attachment 2).

The information provided on the Application for Permit (excluding section D) and on the Nonexclusive Use Agreement, including continuation sheets and the page-size plat(s), is considered **NONPROPRIETARY INFORMATION**. These non-proprietary portions of the application constitute the "public information" copy of Form 327 and with the executed permit will be available to the public upon request.

The information listed in section D is considered **PROPRIETARY INFORMATION** and should **NOT** be attached to the public information copy. MMS will not make this information available to the public without the consent of the potential permittee or for a period mandated by law from the date of issuance of the permit, whichever is less. However, the Director of the MMS may determine that earlier release is necessary for the proper development of the area permitted.

Modifications to Approved Permits

Any modification to the permitted operations requires prior approval from the MMS Regional Supervisor.

Filing Locations for Permits to Conduct Explorations for Mineral Resources and for Permits or Notices to Conduct Scientific Research

Each notice or application for a permit must be filed in triplicate plus one public information copy at the following locations 30 days prior to initiating operations:

A. For the OCS off the State of Alaska:

Regional Supervisor for Resource Evaluation
Minerals Management Service
Alaska OCS Region
949 East 36th Avenue
Anchorage, Alaska 99508-4302

B. For the OCS in the Gulf of Mexico and off the Atlantic Coast:

Regional Supervisor for Resource Evaluation
Minerals Management Service
Gulf of Mexico OCS Region
1201 Elmwood Park Boulevard
New Orleans, Louisiana 70123-2394

C. For the OCS off the States of California, Oregon, or Washington:

Regional Supervisor for Resource Evaluation
Minerals Management Service
Pacific OCS Region
770 Paseo Camarillo
Camarillo, California 93010-6064

**UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE**

(Insert Appropriate Regional Office)

**APPLICATION FOR PERMIT TO CONDUCT GEOLOGICAL OR GEOPHYSICAL
EXPLORATION FOR MINERAL RESOURCES OR SCIENTIFIC RESEARCH
IN THE OUTER CONTINENTAL SHELF**

(Section 11, Outer Continental Shelf Lands Act of August 7, 1953, as amended on September 18, 1978, by Public Law 95-372, 92 Statute 629, 43 U.S.C. 1340; and 30 CFR Part 251)

Name of Applicant

Number and Street

City, State, and Zip Code

Name of Service Company or Purchaser
(if different from above)

Application is herein made for the following activity: (check one)

- Geological exploration for mineral resources
- Geological scientific research
- Geophysical exploration for mineral resources
- Geophysical scientific research

Submit: Original, two copies, and one public information copy.

A. General Information

1. The activity will be conducted by:

_____	For	_____
Service Company Name		Purchaser(s) of the Data
_____		_____
Address		Address
_____		_____
Telephone/FAX Numbers		Telephone/FAX Numbers
_____		_____
E-Mail Address		E-Mail Address

2. The purpose of the activity is: _____ Mineral exploration
_____ Scientific research

3. Describe the environmental effects of the proposed activity, including potential adverse effects on marine life and what steps are planned to minimize these adverse effects (use continuation sheets as necessary):

4. The expected commencement date is: _____

The expected completion date is: _____

5. The name of the individual in charge of the field operation is: _____

May be contacted at: _____

Telephone (Local) _____ (Marine) _____

Radio call sign _____

6. The vessel(s) to be used in the operation is (are):

Name _____ Registry number _____

Registered owner _____

7. The port from which the vessel(s) will operate is: _____

8. Briefly describe the navigation system (vessel navigation only): _____

B. Complete for Geological Exploration for Mineral Resources or Geological Scientific Research

1. The type of operation(s) to be employed is: (check one)

(a) _____ Deep stratigraphic test, or (b) _____ Shallow stratigraphic test with proposed total depth of _____, or (c) _____ Other _____

2. Exact geographic coordinates of proposed test(s) (attach a page-size plat(s)): _____

C. Complete for Geophysical Exploration for Mineral Resources or Geophysical Scientific Research

1. Proposed location of the activity (attach a page-size plat(s)): _____

2. The type(s) of operation(s) to be employed is (are): _____

(Seismic, gravity, magnetic, etc.)

3. The instrumentation and/or technique(s) to be used in the operation(s) is (are): _____

(Air gun, sparker, etc.)

4. Explosive charges will _____ will not _____ be used. If applicable, indicate the type of explosive and maximum charge size (in pounds) to be used:

Type _____ Pounds _____ Equivalent Pounds of TNT _____

D. Proprietary Information Attachments

Use the appropriate form on page 9 for a "geological" permit application or the form on page 10 for a "geophysical" permit application. You must submit a separate Form MMS-327 to apply for each geological or geophysical permit.

E. Certification

I hereby certify that foregoing and attached information are true and correct.

SIGNED _____ DATE _____

TITLE _____

TO BE COMPLETED BY MMS

Permit No. _____ Assigned by _____ Date _____
of MMS

This application is hereby:

- a. Approved
- b. Returned for reasons in the attached

The approved permit is:

- a. Attached
- b. Will be forwarded at a later date

SIGNED _____ TITLE Regional Supervisor DATE _____

**Section D Proprietary Information Attachment
Required for an Application for**

Geological Permit

1. Brief description of method of shallow drilling or sampling: _____

2. Brief description of shallow drilling or sampling equipment to be used: _____

3. Number of boring or sample locations to be occupied: _____

4. Navigation system or method to be used to position sample locations: _____

5. Method of sample analyses, storage, and handling: _____

6. Description and list of the final analyzed and/or processed data which will result from operations under the proposed activity: _____

7. Estimated date on which samples, logs, and analyzed and/or processed data will be ready for inspection: _____

8. Attach map(s), plat(s), and chart(s) (preferably at a scale of 1:250,000) showing latitude and longitude, scale, specific block numbers, specific boring sample locations, and total number of borings or samples proposed.

**Section D Proprietary Information Attachment
Required for an Application for
Geophysical Permit**

1. **Brief description of the energy source and streamer (receiving array):** _____

2. **Total energy output per impulse:** _____
3. **Number of impulses per linear mile:** _____
4. **Towing depth of the energy source:** _____
5. **Towing depth of the streamer:** _____
6. **Navigation system or method to be used to position shotpoint locations:** _____

7. **Area of activity and total number of line miles proposed:** _____
8. **Description and list of the final processed data which will result from operations under the proposed activity:** _____

9. **Estimated date on which processed data will be available for inspection:** _____

10. **Attach map(s), plat(s), and chart(s) (preferably at a scale of 1:250,000) showing latitude and longitude, scale, specific block numbers, specific tract lines with line identifications, and the total number of line miles proposed.**

**UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE**

(Insert Appropriate Regional Office)

**NONEXCLUSIVE USE AGREEMENT FOR SCIENTIFIC RESEARCH
IN THE OUTER CONTINENTAL SHELF**

- A. State the time and manner in which data and information resulting from the proposed activity will be made available to the public for inspection and reproduction, such time being the earliest practicable time.

- B. _____ (applicant) agrees that the data and information resulting from the proposed activity will not be sold or withheld for exclusive use.

(Signature of Applicant)

(Type or Print Name of Applicant)

(Title)

(Date)

Submit: Original, two copies, and one public information copy.

***INSTRUCTIONS (For Item D Proprietary Information Required for Application for Geological or Geophysical Permit)**

One public information copy of this form shall be submitted in accordance with 30 CFR 251.5 & 251.14. The information listed in Item D is proprietary and shall not be attached to the public information copy. This information shall not be made available to the public without the consent of the potential permittee or for a period mandated by law from the date of issuance of the permit, whichever is less, unless the Director, MMS, determines that earlier release is necessary for the proper development of the area permitted.

(Please list the above requested information on the following pages, as appropriate, for a geological or geophysical permit application. A separate application is required for each geological or geophysical permit.)

Geological Permit

1. Brief description of method of shallow drilling or sampling.
2. Brief description of shallow drilling or sampling equipment to be used.
3. Number of borings or sample locations to be occupied.
4. Navigation system or method to be used to position sample locations.
5. Method of sample analyses, storage, and handling.
6. Description and list of the final processed data which result from operations under the proposed activity.
7. Estimated date on which samples, logs, and processed data will be ready for inspection.
8. Map(s), plat(s), or chart(s) showing specific block numbers, specific boring, or sample locations, and total number of borings or samples proposed.

Geophysical Permit

1. Brief description of the energy source (unless explosives are used, in which case the source type is nonproprietary information).
2. Total energy output per impulse.
3. Number of impulses per linear mile.
4. Towing depth of the energy source.
5. Towing depth of the streamer.
6. Navigation system or method to be used to position shotpoint locations.
7. Area of activity and total number of line miles proposed.
8. Description and list of final processed data which will result from operations under the proposed activity.
9. Estimated date on which processed data will be available for inspection.
10. Maps(s), plat(s), or chart(s) showing latitude and longitude, scale, specific block numbers, specific track lines with line identifications and the total number of line miles proposed.

**UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE**

(Insert Appropriate Regional Office)

**PERMIT FOR GEOPHYSICAL EXPLORATION
FOR MINERAL RESOURCES OR SCIENTIFIC RESEARCH
IN THE OUTER CONTINENTAL SHELF**

In consideration of the terms and conditions contained herein and the authorization granted hereby, this permit is entered into by and between the United States of America (the Government), acting through the Minerals Management Service (MMS) of the Department of the Interior, and

(Name of Permittee)

(Number and Street)

(City, State, and Zip Code)

PERMIT NUMBER: _____ **DATE:** _____

This permit is issued pursuant to the authority of the Outer Continental Shelf Lands Act, as amended, (43 U.S.C. 1331 et seq.), hereinafter called the "Act," and Title 30 Code of Federal Regulations Part 251 (Geological and Geophysical (G&G) Explorations of the Outer Continental Shelf).

Form MMS-328 Page 1 (January 1998)
(Supersedes all previous editions of
Form MMS-328 which may not be used.)

Section I. Authorization

The Government hereby authorizes the permittee to conduct:

_____ Geophysical exploration for mineral resources as defined in 30 CFR 251.1.

_____ Geophysical scientific research as defined in 30 CFR 251.1. A permit is required for any geophysical investigation that involves the use of solid or liquid explosives or developing data and information for proprietary use or sale.

This permit authorizes the permittee to conduct the above geophysical activity during the period from _____ to _____ in the following area(s):

Extensions of the time period specified above must be requested in writing. A permit plus extensions for activities will be limited to a period of not more than 1 year from the original issuance date of the permit. Inspection and reporting of geophysical exploration activities, suspension and cancellation of authority to conduct exploration or scientific research activities under permit, and penalties and appeals will be carried out in accordance with 30 CFR 251.8, 251.9, and 251.10.

The authority of the Regional Director may be delegated to the Regional Supervisor for Resource Evaluation for the purposes of this permit.

Section II. Typ(s) of Operations and Technique(s)

A. The permittee will employ the following type(s) of operations:

and will utilize the following instruments and/or technique(s) in such operations:

B. The permittee will conduct all activities in compliance with the terms and conditions of this permit, including the "Stipulations," "Special Provisions," and the approved "Application for Permit," which are attached to and incorporated into this permit.

C. The permittee will conduct all geophysical exploration or scientific research activities in compliance with the Act, the regulations in 30 CFR Part 251, and other applicable statutes and regulations whether such statutes and regulations are enacted, promulgated, issued, or amended before or after this permit is issued. Some of the provisions of 30 CFR Part 251 are restated in this permit for emphasis. However, all of the provisions of 30 CFR Part 251 apply to this permit.

Section III. Reports on Operations

- A. The permittee must submit status reports on a _____ basis in a manner approved or prescribed by the Regional Supervisor, Resource Evaluation (hereinafter referred to as Supervisor). The report must include a daily log of operations and a map (preferably on a scale of 1:_____) showing traverse lines according to Minerals Management Service (MMS) area and block numbers.
- B. The permittee must submit to the Supervisor a final report within 30 days after the completion of operations. The final report must contain the following:
1. A description of the work performed including number of line miles or OCS blocks of geophysical data acquired;
 2. Chart(s), map(s), or plat(s) depicting the areas and blocks in which any exploration or scientific research activities were conducted. These graphics must clearly indicate the location of the activities so that the data produced from the activities can be accurately located and identified;
 3. The dates on which the actual geophysical exploration or scientific research activities were performed;
 4. A narrative summary of any: (a) hydrocarbon occurrences or environmental hazards observed and (b) adverse effects of the geophysical exploration or scientific research activities on the environment, aquatic life, archaeological resources, or other uses of the area in which the activities were conducted;
 5. The estimated date on which the processed or interpreted data or information will be available for inspection by the MMS;
 6. A final edited navigation tape or other suitable storage medium of all data or sample locations in latitude/longitude degrees. The tape is to be formatted in _____, coded in ASCII with fixed record length and fixed block size. A printed listing and a format statement are to be included;
 7. Identification of geocentric ellipsoid (NAD 27 or NAD 83) used as a reference for the data or sample locations; and
 8. Such other descriptions of the activities conducted as may be specified by the Supervisor.
- C. The last status report and the final report can be combined into one report.

Section IV. Submission, Inspection, and Selection of Geophysical Data and Information

- A. The permittee must notify the Supervisor, in writing, when the permittee has completed the initial processing and interpretation of any geophysical data and information collected under an exploration permit or a scientific research permit that involves developing data and information for proprietary use or sale. If the Supervisor asks if the permittee has further processed or interpreted any geophysical data and information collected under a permit, the permittee must respond within 30 days. If further processing of the data and information is conducted, it is the responsibility of the permittee to keep the most current resulting products available in the event the Supervisor requests the current status of data processing. At any time within 10 years after receiving notification of the completion of the acquisition activities conducted under the permit, the Supervisor may request that the permittee submit for inspection and possible retention all or part of the geophysical data, processed geophysical information, and interpreted geophysical information.
- B. The Supervisor will have the right to inspect and select the geophysical data, processed geophysical information, or interpreted geophysical information. This inspection will be performed on the permittee's premises unless the Supervisor requests that the permittee submit the data or information to the Supervisor for inspection. Such submission must be within 30 days following the receipt of the Supervisor's request unless the Supervisor authorizes a later delivery date. If the inspection is done on the permittee's premises, the permittee must submit the geophysical data or information selected within 30 days following receipt of the Supervisor's request, unless the Supervisor authorizes a longer period of time for delivery. The data or information requested for inspection or selected by the Supervisor must be submitted regardless of whether the permittee and the Government have or have not concluded an agreement for reimbursement. If the Supervisor decides to retain all or a portion of the geophysical data or information, the Supervisor will notify the permittee, in writing, of this decision.
- C. In the event that a third party obtains geophysical data, processed geophysical information, or interpreted geophysical information from a permittee, or from another third party, by sale, trade, license agreement, or other means:
1. The third party recipient of the data and information assumes the obligations under this section except for notification of initial processing and interpretation of the data and information and is subject to the penalty provisions of 30 CFR Part 250, Subpart N; and
 2. A permittee or third party that sells, trades, licenses, or otherwise provides the data and information to a third party must advise the recipient, in writing, that accepting these obligations is a condition precedent of the sale, trade, license, or other agreement; and

3. Except for license agreements, a permittee or third party that sells, trades, or otherwise provides data and information to a third party must advise the Supervisor in writing within 30 days of the sale, trade, or other agreement, including the identity of the recipient of the data and information; or
 4. With regard to license agreements, a permittee or third party that licenses data and information to a third party, within 30 days of a request by the Supervisor, must advise the Supervisor, in writing, of the license agreement, including the identity of the recipient of the data and information.
- D. Each submission of geophysical data, processed geophysical information, and interpreted geophysical information must contain, unless otherwise specified by the Supervisor, the following:
1. An accurate and complete record of each geophysical survey conducted under the permit, including digital navigational data and final location maps of all surveys;
 2. All seismic data developed under a permit presented in a format and of a quality suitable for processing;
 3. Processed geophysical information derived from seismic data with extraneous signals and interference removed, presented in a format and of a quality suitable for interpretive evaluation, reflecting state-of-the-art processing techniques; and
 4. Other geophysical data, processed geophysical information, and interpreted geophysical information obtained from, but not limited to, shallow and deep subbottom profiles, bathymetry, side-scan sonar, gravity, magnetic, and electrical surveys, and special studies such as refraction, shear wave, and velocity surveys.

Section V. Reimbursement to Permittees

- A. After the delivery of geophysical data, processed geophysical information, and interpreted geophysical information requested by the Supervisor in accordance with subsection IV of this permit, and upon receipt of a request for reimbursement and a determination by MMS that the requested reimbursement is proper, MMS will reimburse the permittee or third party for the reasonable costs of reproducing the submitted data and information at the permittee's or third party's lowest rate or at the lowest commercial rate established in the area, whichever is less.
- B. If the processing was in a form and manner other than that used in the normal conduct of the permittee's business at MMS's request, MMS will reimburse the permittee or third party for the reasonable costs of processing or reprocessing such data. Requests for reimbursement must identify processing costs separate from acquisition costs.

- C. The permittee or third party will not be reimbursed for the costs of acquiring or interpreting geophysical information.
- D. Data and information required under section IV.D.1. of this permit are not considered to be geophysical data or processed geophysical information and must be provided by the permittee at no cost to the Government.

Section VI. Disclosure of Data and Information to the Public

- A. The MMS will make data and information submitted by a permittee available in accordance with the requirements and subject to the limitations of the Freedom of Information Act (5 U.S.C. 552) and the implementing regulations (43 CFR Part 2), the requirements of the Act, and the regulations contained in 30 CFR Part 250 (Oil and Gas and Sulphur Operations in the Outer Continental Shelf), 30 CFR Part 251, and 30 CFR Part 252 (Outer Continental Shelf (OCS) Oil and Gas Information Program).
- B. Except as specified in this section, or Section VIII, or in 30 CFR Parts 250 and 252, no data or information determined by MMS to be exempt from public disclosure under subsection A of this section will be provided to any affected State or be made available to the executive of any affected local government or to the public, unless the permittee or third party and all persons to whom such permittee has sold, traded, or licensed the data or information under promise of confidentiality agree to such an action.
- C. Geophysical data and processed or interpreted geophysical information submitted under a permit, and retained by MMS, will be disclosed as follows:
 - 1. Except for deep stratigraphic tests, the MMS will make available to the public geophysical data 50 years after the date on which the data are submitted.
 - 2. Except for deep stratigraphic tests, the MMS will make available to the public processed geophysical information and interpreted geophysical information 25 years after the date on which the information is submitted. It is the policy of MMS that the "date of submission" of geophysical data or information obtained under geophysical permits will be the date that the MMS contracting officer or his/her representative signs the contract/delivery order or purchase order to reimburse the permittee for reproduction and, if appropriate, processing of the geophysical information. In the absence of a contract, delivery order, or purchase order, the date of receipt by MMS is the date of submission.

3. **The MMS will make available to the public all geophysical data and information and geophysical interpretations related to a deep stratigraphic test, at the earlier of the following times: (a) 25 years after the completion of the test, or (b) for a lease sale held after the test well is completed, 60 calendar days after the Department of the Interior executes the first lease for a block, any part of which is within 50 geographic miles (92.6 kilometers) of the site of the completed test.**

- D. **All line-specific preplot or postplot plot(s), and navigation tapes, including but not limited to seismic survey traverses and shotpoint locations, submitted as a requirement of 30 CFR 251.7 or 251.12, will be considered as "PROPRIETARY INFORMATION." Such information will not be made available to the public without the consent of the permittee for a period of 25 years from the date of issuance of the permit, unless the Director, MMS, determines that earlier release is necessary for the proper development of the area permitted.**

- E. **All other information submitted as a requirement of 30 CFR 251.8 and determined by MMS to be exempt from public disclosure will be considered as "PROPRIETARY." Such data and information will not be made available to the public without the consent of the permittee for a period of up to 25 years from the date of issuance of the permit as addressed in 30 CFR 251.14, unless the Director, MMS, determines that earlier release is necessary for the proper development of the area permitted. The executed permit will be considered as "PROPRIETARY" except the public information copy which will be available to the public upon request.**

- F. **The identities of third party recipients of data and information collected under a permit will be kept confidential. The identities will not be released unless the permittee and the third parties agree to the disclosure.**

Section VII. Disclosure to Independent Contractors

The MMS reserves the right to disclose any data or information acquired from a permittee to an independent contractor or agent for the purpose of reproducing, processing, reprocessing, or interpreting such data or information. When practicable, MMS will advise the permittee who provided the data or information of intent to disclose the data or information to an independent contractor or agent. The MMS's notice of intent will afford the permittee a period of not less than 5 working days within which to comment on the intended action. When MMS so advises a permittee of the intent to disclose data or information to an independent contractor or agent, all other owners of such data or information will be deemed to have been notified of MMS's intent. Prior to any such disclosure, the contractor or agent will be required to execute a written commitment not to sell, trade, license, or disclose any data or information to anyone without the express consent of MMS.

Section VIII. Sharing of Information with Affected States

- A. At the time of soliciting nominations for the leasing of lands within 3 geographic miles of the seaward boundary of any coastal State, MMS, pursuant to the provisions of 30 CFR 252.7 and subsections 8(g) and 26(e) (43 U.S.C. 1337(g) and 1352(e)) of the Act, will provide the Governor of the State (or the Governor's designated representative) the following information that has been acquired by MMS on such lands proposed to be offered for leasing:
1. All information on the geographical, geological, and ecological characteristics of the areas and regions proposed to be offered for leasing;
 2. An estimate of the oil and gas reserves in the area proposed for leasing; and
 3. An identification of any field, geological structure, or trap located within 3 miles of the seaward boundary of the State.
- B. After the time of receipt of nominations for any area of the OCS within 3 geographic miles of the seaward boundary of any coastal State and Area Identification in accordance with the provisions of Subparts D and E of 30 CFR Part 256, MMS, in consultation with the Governor of the State (or the Governor's designated representative), will determine whether any tracts being given further consideration for leasing may contain one or more oil or gas reservoirs underlying both the OCS and lands subject to the jurisdiction of the State.
- C. At any time prior to a sale, information acquired by MMS that pertains to the identification of potential and/or proven common hydrocarbon-bearing areas within 3 geographic miles of the seaward boundary of any such State will be shared, upon request by the Governor and pursuant to the provisions of 30 CFR 252.7 and subsections 8(g) and 26(e) of the Act, with the Governor of such State (or the Governor's designated representative).
- D. Knowledge obtained by a State official who receives information under subsections A, B, and C of this section will be subject to the requirements and limitations of the Act and the regulations contained in 30 CFR Part 250, Part 251, and Part 252.

Section IX. Permit Modifications

The Department will have the right at any time to modify or amend any provisions of this permit, except that the Department will not have such right with respect to the provisions of Sections VI, VII, and VIII hereof, unless required by an Act of Congress.

IN WITNESS WHEREOF the parties have executed this permit and it will be effective as of the date of signature by the Supervisor.

PERMITTEE:

THE UNITED STATES OF AMERICA:

(Signature of Permittee)

(Signature of Regional Supervisor)

(Type or Print Name of Permittee)

(Type or Print Name of Regional Supervisor)

(Title)

(Date)

(Date)

**UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE**

(Insert Appropriate Regional Office)

**PERMIT FOR GEOLOGICAL EXPLORATION
FOR MINERAL RESOURCES OR SCIENTIFIC RESEARCH
IN THE OUTER CONTINENTAL SHELF**

In consideration of the terms and conditions contained herein and the authorization granted hereby, this permit is entered into by and between the United States of America (the Government), acting through the Minerals Management Service (MMS) of the Department of the Interior, and

(Name of Permittee)

(Number and Street)

(City, State, and Zip Code)

PERMIT NUMBER: _____ **DATE:** _____

This permit is made pursuant to the authority of the Outer Continental Shelf Lands Act, as amended, (43 U.S.C. 1331 et seq.), hereinafter called the "Act," and Title 30 Code of Federal Regulations Part 251 (Geological and Geophysical (G&G) Explorations of the Outer Continental Shelf).

Form MMS-329 Page 1 (January 1998)
(Supersedes all previous editions of
Form MMS-329 which may not be used.)

Section I. Authorization

The Government hereby authorizes the permittee to conduct:

- _____ Geological exploration for mineral resources by means other than a deep stratigraphic test, as defined in 30 CFR 251.1. This activity utilizes geological and geochemical techniques, including, but not limited to, gas sniffing, various bottom sampling methods, and shallow test drilling.

- _____ Geological scientific research by means other than a deep stratigraphic test, as defined in 30 CFR 251.1. This activity involves drilling and gathering of geological data and information for scientific research purposes, including, but not limited to, shallow test drilling.

- _____ Geological exploration for mineral resources or scientific research by means of a deep stratigraphic test, as defined in 30 CFR 251.1, or developing data and information for proprietary use or sale.

This permit authorizes the permittee to conduct the above geological activity during the period from _____ to _____ in the following area(s):

Extensions of the time period specified above must be requested in writing. A permit plus extensions for activities other than a deep stratigraphic test will be limited to a period of not more than 1 year from the original specified issuance date of the permit. The duration of a permit for a deep stratigraphic test must be controlled in accordance with 30 CFR 251.7. Group participation in test drilling activities, bonds, inspection and reporting of geological exploration activities, suspension and cancellation of authority to conduct exploration or scientific research activities under permit and penalties, and appeals must be carried out in accordance with 30 CFR 251.7, 251.8, 251.9, and 251.10.

The authority of the Regional Director may be delegated to the appropriate Regional Supervisor for the purposes of this permit.

Section II. Type(s) of Operations and Technique(s)

A. The permittee will employ the following type(s) of operations:

and will utilize the following instruments and/or technique(s) in such operations:

- B. The permittee will conduct all activities in compliance with the terms and conditions of this permit, including the "Stipulations," "Special Provisions," and the approved "Application for Permit," which are attached to and incorporated into this permit.
- C. The permittee will conduct all geological exploration or scientific research activities in compliance with the Act, the regulations in 30 CFR Part 251, and other applicable statutes and regulations whether such statutes and regulations are enacted, promulgated, issued, or amended before or after this permit is issued. Some of the provisions of 30 CFR Part 251 are restated in this permit for emphasis. However, all of the provisions of 30 CFR Part 251 apply to this permit.

Section III. Reports on Operations

- A. The permittee must submit status reports on a _____ basis in a manner approved or prescribed by the Regional Supervisor, Resource Evaluation (hereinafter, except in section V only wherein Supervisor refers to the Regional Supervisor for Operations, referred to as Supervisor). The report must include a daily log of operations.
- B. The permittee must submit to the Supervisor a final report within 30 days after the completion of operations. The final report must contain the following:
 - 1. A description of the work performed including number of samples acquired;
 - 2. Chart(s), map(s), or plat(s) depicting the areas and blocks in which any exploration or scientific research activities were conducted. These graphics must clearly indicate the location of the activities so that the data produced from the activities can be accurately located and identified;
 - 3. The dates on which the actual geological exploration or scientific research activities were performed;
 - 4. A narrative summary of any: (a) hydrocarbon occurrences or environmental hazards observed and (b) adverse effects of the geological exploration or scientific research activities on the environment, aquatic life, archaeological resources, or other uses of the area in which the activities were conducted;
 - 5. The estimated date on which the processed or analyzed data or information will be available for inspection by the MMS;
 - 6. A final edited navigation tape or other suitable storage medium, of all data or sample locations in latitude/longitude degrees. The tape is to be formatted in _____ coded in ASCII with fixed record length and fixed block size. A printed listing and a format statement are to be included;

7. Identification of geocentric ellipsoid (NAD 27 or NAD 83) used as a reference for the data or sample locations; and
8. Such other descriptions of the activities conducted as may be specified by the Supervisor.

C. The last status report and the final report can be combined into one report.

Section IV. Permit or Notice Requirements for Shallow Test Drilling

Prior to the commencement of shallow test drilling for exploration for mineral resources or for scientific research, the Supervisor may require for permits, or recommend for notices, the gathering and submission of geophysical data and information sufficient to determine shallow structural detail across and in the vicinity of the proposed test. Data and information may include, but are not limited to, seismic, bathymetric, side-scan sonar, and magnetometer systems, across and in the vicinity of the proposed test. When required, 30 CFR 251.7 will apply to permits issued for shallow test drilling. All Outer Continental Shelf (OCS) regulations relating to drilling operations in 30 CFR Part 250 apply, as appropriate, to drilling activities authorized under this section.

Section V. Permit Requirements for a Deep Stratigraphic Test

- A. No deep stratigraphic test drilling activities may be initiated or conducted until a Drilling Plan and Application for Permit to Drill have been submitted by the applicant and approved by the Regional Supervisor, Operations (referred to as Supervisor in this section only). The Drilling Plan must include:
 1. The proposed type of sequence of drilling activities to be undertaken together with a timetable for their performance from commencement to completion;
 2. A description of the drilling rig proposed for use, unless a description has been previously submitted to the Supervisor, indicating the important features thereof, with special attention to safety features and pollution prevention and control features, including oil spill containment and cleanup plans and onshore disposal procedures;
 3. The location of deep stratigraphic test to be conducted, including the surface and projected bottomhole location of the borehole;
 4. The types of geological and geophysical instrumentation to be used for site surveys;

5. Geophysical data and information sufficient to evaluate seafloor characteristics, shallow geologic and man-made hazards, and structural detail across and in the vicinity of the proposed test to the total depth of the proposed test well. Data and information from side-scan sonar and magnetometer surveys must be submitted as required, at the option of the Supervisor; and
 6. Such other relevant data and information as the Supervisor may require.
- B. At the same time the applicant submits a Drilling Plan to the Supervisor, an Environmental Report must be submitted. The report must be in summary form and should include information available at the time the related Drilling Plan is submitted. Data and information which are site-specific, or which are developed subsequent to the most recent Environmental Impact Statement or other environmental analyses in the immediate area, must be specifically considered. The applicant must summarize and provide references for data, information, and issues specific to the site of drilling activity in the related plan, and in other environmental reports, analyses, and impact statements prepared for the geographic area. Any material based on proprietary data which is not itself available for inspection should not be referenced. The Environmental Report must include the following:
1. (a) A list and description of new or unusual technologies that are to be used, (b) the location of travel routes for supplies and personnel, (c) the kinds and approximate levels of energy sources to be used, (d) the environmental monitoring systems that are to be used, and (e) suitable maps and diagrams showing details of the proposed project layout;
 2. A narrative description of the existing environment. This section must include the following information on the area: (a) geology, (b) physical oceanography, (c) other uses of the area, (d) flora and fauna, (e) existing environmental monitoring systems, and (f) other unusual or unique characteristics which may affect or be affected by the drilling activities;
 3. A narrative description of the probable impacts of the proposed action on the environment and the measures proposed for mitigating these impacts;
 4. A narrative description of any unavoidable or irreversible adverse effects on the environment that could be expected to occur as a result of the proposed action; and
 5. Such other relevant data and information as the Supervisor may require.
- C. Any revisions to an approved Drilling Plan must be approved by the Supervisor.
- D. All OCS regulations relating to drilling operations in 30 CFR Part 250 apply, as appropriate, to drilling activities authorized under this Permit.

- B. At the completion of the test activities, the borehole of all deep stratigraphic tests must be permanently plugged and abandoned by the permittee prior to moving the rig off location in accordance with the requirements of the regulations in 30 CFR Part 250.

Section VI. Submission, Inspection, and Selection of Geological Data and Information

- A. The permittee must notify the Supervisor, in writing, when the permittee has completed the initial analysis, processing, or interpretation of any geological data and information collected under an exploration permit or a scientific research permit that involves developing data and information for proprietary use or sale. If the Supervisor asks if the permittee has further analyzed, processed, or interpreted any geological data and information collected under a permit, the permittee must respond within 30 days. If the data or information are further analyzed or reprocessed, it is the responsibility of the permittee to keep the most current resulting products available in the event the Supervisor requests the current status of data analysis or processing. At any time within 10 years after receiving notification of the completion of the acquisition activities conducted under the permit, the Supervisor may request that the permittee submit for inspection and possible retention all or part of the geological data, analyzed geological information, processed geological information, and interpreted geological information.
- B. In the event that a third party obtains geological data, analyzed geological information, processed geological information, or interpreted geological information from a permittee or from another third party by sale, trade, license agreement, or other means:
 - 1. The third party recipient of the data and information assumes the obligations under this section, except for notification of initial analysis, processing, and interpretation of the data and information, and is subject to the penalty provisions of 30 CFR Part 250, Subpart N; and
 - 2. A permittee or third party that sells, trades, licenses, or otherwise provides the data and information must advise the recipient, in writing, that accepting these obligations is a condition precedent of the sale, trade, license, or other agreement; and
 - 3. Except for license agreements, a permittee or third party that sells, trades, or otherwise provides data and information to a third party, must advise the Supervisor in writing within 30 days of the sale, trade, or other agreement, including the identity of the recipient of the data and information; or
 - 4. With regard to license agreements, a permittee or third party that licenses data and information to a third party, within 30 days of a request by the Supervisor, must advise the Supervisor, in writing, of the license agreement, including the identity of the recipient of the data and information.

- C. Each submission of geological data, analyzed geological information, processed geological information, and interpreted geological information must contain, unless otherwise specified by the Supervisor, the following:
1. An accurate and complete record of geological (including geochemical) data, analyzed geological information, processed geological information, and interpreted geological information resulting from each operation;
 2. Paleontological reports identifying microscopic fossils by depth, and/or washed samples of drill cuttings normally maintained by the permittee for paleontological determination and are made available upon request by the Supervisor. In addition, any other samples or cores requested by the Supervisor are made available on request;
 3. Copies of well logs and charts: one paper copy, one copy on a reproducible stable base, and copies of composite digital well logs on magnetic tape or other suitable medium in a format approved by the Supervisor;
 4. Data and results obtained from formation fluid test;
 5. Analyses of core or bottom samples or a representative cut or split of the core or bottom sample;
 6. Detailed descriptions of any hydrocarbons or hazardous conditions encountered during operations, including near losses of well-control, abnormal geopressure, and losses of circulation; and
 7. Such other geological data, analyzed geological information, processed geological information, and interpreted geological information as may be specified by the Supervisor.

Section VII. Reimbursement to Permittees

- A. After the delivery of geological data, analyzed geological information, processed geological information, and interpreted geological information requested by the Supervisor in accordance with subsection VI of this permit, and upon receipt of a request for reimbursement and a determination by MMS that the requested reimbursement is proper, MMS will reimburse the permittee or third party for the reasonable costs of reproducing the submitted data and information at the permittee's or third party's lowest rate or at the lowest commercial rate established in the area, whichever is less.
- B. The permittee or third party will not be reimbursed for the costs of acquiring, analyzing, or interpreting geological information.

Section VIII. Disclosure of Data and Information to the Public

- A. The MMS will make data and information submitted by a permittee available in accordance with the requirements and subject to the limitations of the Freedom of Information Act (5 U.S.C. 552) and the implementing regulations (43 CFR Part 2), the requirements of the Act, and the regulations contained in 30 CFR Part 250 (Oil and Gas and Sulphur Operations in the Outer Continental Shelf), 30 CFR Part 251, and 30 CFR Part 252 (Outer Continental Shelf (OCS) Oil and Gas Information Program).
- B. Except as specified in this section, or Section X, or in 30 CFR Parts 250, 251 and 252, no data or information determined by MMS to be exempt from public disclosure under subsection A of this section will be provided to any affected State or be made available to the executive of any affected local government or to the public unless the permittee or third party and all persons to whom such permittee has sold, traded, or licensed the data or information under promise of confidentiality agree to such an action.
- C. Geological data, analyzed geological information, processed geological information, and interpreted geological information submitted under a permit, and retained by MMS will be disclosed as follows:
1. The Director, MMS, will immediately issue a public announcement when any significant hydrocarbon occurrences are detected or environmental hazards are encountered on unleased lands during drilling operations. In the case of significant hydrocarbon occurrences, the Director will announce such occurrences in a form and manner that will further the national interest without unduly damaging the competitive position of those conducting the drilling. Other data and information pertaining to the permit will be released according to the schedule provided in subsection D and paragraphs 2 and 3 of this subsection.
 2. The MMS will make available to the public all processed geological data, analyzed geological information, processed geological information, and interpreted geological information (except geological data, analyzed geological information, processed geological information, and interpreted geological information obtained from drilling a deep stratigraphic test) 10 years after the date of issuance of the permit under which the data and information were obtained; and
 3. The MMS will make available to the public all geological data and information related to a deep stratigraphic test at the earlier of the following times: (a) 25 years after the completion of the test, or (b) for a lease sale field after the test well is completed, 60 calendar days after the Department of the Interior executes the first lease for a block, any part of which is within 50 geographic miles (92.6 kilometers) of the site of the completed test.

- D. All other information submitted as a requirement of 30 CFR 251.8 and determined by MMS to be exempt from public disclosure will be considered as "PROPRIETARY." Such data and information will not be made available to the public without the consent of the permittee for a period of 10 years from the date of issuance of the permit, unless the Director, MMS, determines that earlier release is necessary for the proper development of the area permitted. The executed permit will be considered as "NONPROPRIETARY" and will be available to the public upon request.
- E. The identities of third party recipients of data and information collected under a permit will be kept confidential. The identities will not be released unless the permittee and the third parties agree to the disclosure.

Section IX. Disclosure to Independent Contractors

The MMS reserves the right to disclose any data or information acquired from a permittee to an independent contractor or agent for the purpose of reproducing, analyzing, processing, or interpreting such data or information. When practicable, MMS will advise the permittee who provided the data or information of intent to disclose the data or information to an independent contractor or agent. The MMS's notice of intent will afford the permittee a period of not less than 5 working days within which to comment on the intended action. When MMS so advises a permittee of the intent to disclose data or information to an independent contractor or agent, all other owners of such data or information will be deemed to have been notified of the MMS's intent. Prior to any such disclosure, the contractor or agent will be required to execute a written commitment not to sell, trade, license, or disclose any data or information to anyone without the express consent of MMS.

Section X. Sharing of Information with Affected States

- A. At the time of soliciting nominations for the leasing of lands within 3 geographic miles of the seaward boundary of any coastal State, MMS, pursuant to the provisions of 30 CFR 252.7 and subsections 8(g) and 26(e) of the Act (43 U.S.C. 1337(g) and 1352(e)), will provide the Governor of the State (or the Governor's designated representative) the following information that has been acquired by the Supervisor on such lands proposed to be offered for leasing:
1. All information on the geographical, geological, and ecological characteristics of the areas and regions proposed to be offered for leasing;
 2. An estimate of the oil and gas reserves in the area proposed for leasing; and

3. An identification of any field, geological structure, or trap located within 3 miles of the seaward boundary of the State.
- B. After the time of receipt of nominations for any area of the OCS within 3 geographic miles of the seaward boundary of any coastal State and Area Identification in accordance with the provisions of Subparts D and E of 30 CFR Part 256, MMS, in consultation with the Governor of the State (or the Governor's designated representative), will determine whether any tracts being given further consideration for leasing may contain one or more oil or gas reservoirs underlying both the OCS and lands subject to the jurisdiction of the State.
 - C. At any time prior to a sale, information acquired by MMS that pertains to the identification of potential and/or proven common hydrocarbon-bearing areas within 3 geographic miles of the seaward boundary of any such State will be shared, upon request by the Governor and pursuant to the provisions of 30 CFR 252.7 and subsections 8(g) and 26(c) of the Act, with the Governor of such State (or the Governor's designated representative).
 - D. Knowledge obtained by a State official who receives information under subsections A, B, and C of this section will be subject to the requirements and limitations of the Act, the regulations contained in 30 CFR Part 250, Part 251, and Part 252.

Section XI. Fishermen's Contingency Fund

For deep stratigraphic test drilling activities as described under Section V of this permit, the permittee must meet the requirements of establishing an account with the Fishermen's Contingency Fund for the drilling activities area pursuant to Title IV [Subsection 402(b)] of the Act and pay assessment as required in 50 CFR 296.3 (Chapter 11 - National Marine Fisheries Service; Subchapter J - Continental Shelf). The amount of the assessment is specified by the Secretary of Commerce, collected by the Director, MMS, and deposited in the fund to be appropriate account.

Section IX. Permit Modifications

The Department will have the right at any time to modify or amend any provisions of this permit, except that the Department will not have such right with respect to the provisions of Sections VIII, IX, and X hereof, unless required by an Act of Congress.

IN WITNESS WHEREOF the parties have executed this permit and it will be effective as of the date of signature by the Supervisor.

PERMITTEE:

THE UNITED STATES OF AMERICA:

(Signature of Permittee)

(Signature of Regional Supervisor)

(Type or Print Name of Permittee)

(Type or Print Name of Regional Supervisor)

(Title)

(Date)

(Date)

APPENDIX 2

ALASKA REGION STIPULATIONS

STIPULATIONS

In the performance of any operations under the Permit and Agreement for Outer Continental Shelf Exploration, the Permittee shall comply with the following Stipulations:

1. As part of the requirements of 30 CFR 251.7-3, the Permittee shall submit to the Regional Supervisor, Resource Evaluation (hereinafter referred to as the Supervisor) within 30 days after the completion of the survey authorized under this Permit and Agreement a map at the same scale as that used ordinarily for such maps and showing the coordinates of latitude and longitude. In addition, each Permittee shall submit one (1) one-half inch, nine-track, final edited navigation tape of all locations in latitude and longitude degrees. The tape is to be in an ASCII or EBCDIC 1600 BPI format with fixed record length and fixed block size. Record length, block size, density and whether the tape is ASCII or EBCDIC must be on a label affixed to the tape. The label must also specify the geodetic reference system (NAD27 or NAD83) used. A printed tape listing and format statement are to be included with the tape.
2. As part of the requirements of 30 CFR 251.3-5, if any operation under this Permit and Agreement is to be conducted in a leased area, the Permittee shall take all necessary precautions to avoid interference with operations on the lease and damage to existing structures and facilities. The lessee (or operator) of the leased area will be notified by letter before the Permittee enters the leased area or commences operations, and a copy of the letter will be sent to the Supervisor executing this Permit and Agreement.
3. (a) Solid or liquid explosives shall not be used except pursuant to written authorization from the Supervisor. Requests for the use of such explosives must be made in writing, giving the size of charges to be used, the depth at which they are to be suspended or buried, and the specific precautionary methods proposed for the protection of fish, oysters, shrimp, and other aquatic life, wildlife, or other natural resources.

(b) The following provisions are made applicable when geophysical exploration on the Outer Continental Shelf using explosives is approved:
 - (i) Each explosive charge will be permanently identified by markings so that unexploded charges may be positively traced to the Permittee and to the specific field party of the Permittee responsible for the explosive charge.
 - (ii) The placing of explosive charges on the seafloor is prohibited. No explosive charges shall be detonated nearer to the seafloor than five (5) feet.
 - (iii) No explosives shall be discharged within one thousand (1000) feet of any boat not involved in the survey.
4. Any serious accident, personal injury, or loss of property shall be immediately reported to the Supervisor.

5. All pipes, buoys, and other markers used in connection with work shall be properly flagged and lighted according to the navigation rules of the U.S. Corps of Engineers and the U.S. Coast Guard.

6. If the Permittee discovers any archaeological resource during geological and geophysical activities, the Permittee shall report the discovery immediately to the Supervisor. The Permittee shall make every reasonable effort to preserve the archaeological resource until the Supervisor has told the Permittee how to protect it.

7. In addition to the general provisions above, the following special provisions shall apply:

(a) This permit is applicable only to that portion of the program involving Federal OCS lands seaward of the submerged lands of the State of Alaska.

(b) The Permittee shall, on request of the Supervisor, furnish quarters and transportation for a Federal representative(s) or other designated observer to inspect operations.

(c) Operations shall be conducted in a manner to assure that they will not cause pollution, cause undue harm to aquatic life, create hazardous or unsafe conditions or unreasonably interfere with other uses of the area. Any difficulty encountered with other users of the area or any conditions which cause undue harm to aquatic life, pollution, or could create a hazardous or unsafe condition as a result of the operations under this permit shall be reported to the Supervisor. Serious or emergency conditions shall be reported without delay.

(d) A final summary report (one copy) shall be submitted to this office within 30 days of completion or cessation of operations.

This report shall include:

(i) Program commencement date.

(ii) Program completion date.

(iii) Field effort in crew weeks (actual work time based on 168-hour weeks).

(iv) Line miles of surveys completed.

(v) Summary of incidents or accidents from paragraph 4.

(vi) Date or reasonable estimation of date when data will be available for inspection or selection.

(e) The Permittee shall notify the Commander, U.S. Coast Guard and the Commander, 3rd Fleet as to the approximate time and place the work is to be conducted and to keep them informed:

Commander, U.S. Coast Guard
17th Coast Guard District
P.O. Box 3-5000
Juneau, AK 99801
(907)586-7365

COMTHIRD
Pearl Harbor, HI
96860
(808)472-8242

8. Information to the Permittee

(a) Operations authorized under permit are subject to the Marine Mammal Protection Act of 1972 as amended (16 U.S.C. 1361 et seq), the Endangered Species Act as amended (16 U.S.C. 1531 et seq), regulations found in 50 CFR Part 18 (U.S. Fish and Wildlife Service), and 50 CFR Part 228 (National Marine Fisheries Service). Special attention should be given to the prohibition of the "taking" of marine mammals. "Taking" means to harass, hunt, capture, collect, or kill or attempt to harass, hunt, capture, collect, or kill any marine mammal. National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (F&WS) regulations allow, under certain conditions, the incidental taking by harassment of specific marine mammals. Such a taking of marine mammals is controlled through Letters of Authorization issued by NMFS or F&WS. Permittees are advised to consult the appropriate agencies regarding these laws and regulations. Further information may be obtained from

Regional Director
U.S. Fish and Wildlife Service
Alaska Region
1011 East Tudor Road
Anchorage, Alaska 99503
telephone (907) 786-3542

National Marine Fisheries Service
222 West 7th Avenue, Box 43
Anchorage, Alaska 99513
telephone (907) 271-5006

(b) It is recommended that you contact the appropriate Regional Supervisor, Commercial Fish Division, Alaska Fish and Game Department, or the National Marine Fisheries Service for information on the fisheries and fishing activities in the proposed area of operations in order to minimize potential conflict between your activities and fishing activities. We are attaching a list of the Fish and Game offices with addresses and telephone numbers and a map showing the boundaries of the fishing districts for your convenience.

THE FOLLOWING DOCUMENT PROVIDES INFORMATION TO THE PERMITTEE ON THE ENDANGERED SPECIES ACT OF 1973, AS IT MIGHT APPLY WHEN CONDUCTING FIELD OPERATIONS.

The Endangered Species Act prohibits harassment of endangered and threatened species whether the harassment occurs through an intentional or negligent act or omission. Harassment refers to conduct of activities that disrupt an animal's normal behavior or cause a significant change in the activity of the affected animal. In many cases the effect of harassment is readily detectible: a whale may rapidly dive or flee from an intruder to avoid the source of disturbance. Other instances of harassment may be less noticeable to an observer but will still have a significant effect on endangered whales.

The Permittee must be prepared to take all reasonable and necessary measures to avoid harassing or unnecessarily disturbing endangered whales. In this regard, the Permittee should be particularly alert to the effects of boat and airplane or helicopter traffic on whales.

In order to ensure that the Permittee may derive maximum benefits from their operations at a minimum cost to the health and well being of endangered whales, the following guidelines are offered to help avoid potential harassment of endangered whales:

- (1) (a) Vessels and aircraft should avoid concentrations or groups of whales. Operators should, at all times, conduct their activities at a maximum distance from such concentrations of whales. Under no circumstances, other than an emergency, should aircraft be operated at an altitude lower than 1,000 feet when within 500 lateral yards of groups of whales. Helicopters may not hover or circle above such areas or within 500 lateral yards of such areas.

(b) When weather conditions do not allow a 1,000-foot flying altitude, such as during severe storms or when cloud cover is low, aircraft may be operated below the 1,000-foot altitude stipulated above. However, when aircraft are operated at altitudes below 1,000 feet because of weather conditions, the operator must avoid known whale concentration areas and should take precautions to avoid flying directly over or within 500 yards of groups of whales.
- (2) When a vessel is operated near a concentration of whales, the operator must take every precaution to avoid harassment of these animals. Therefore, vessels should reduce speed when within 300 yards of whales and those vessels capable of steering around such groups should do so. Vessels may not be operated in such a way as to separate members of a group of whales from other members of the group.
- (3) Vessel operators should avoid multiple changes in direction and speed when within 300 yards of whales. In addition, operators should check the waters immediately adjacent to a vessel to ensure that no whales will be injured when the vessel's propellers (or screws) are engaged.
- (4) Small boats should not be operated at such a speed as to make collisions with whales likely. When weather conditions require, such as when visibility drops, vessels should adjust speed accordingly to avoid the likelihood of injury to whales.

When any Permittee becomes aware of the potentially harassing effects of operations on endangered whales, or when any Permittee is unsure of the best course of action to avoid harassment of endangered whales, every measure to avoid further harassment should be taken until the National Marine Fisheries Service is consulted for instructions or directions. However, human safety will take precedence at all times over the guidelines and distances recommended herein for the avoidance of disturbance and harassment of endangered whales.

Permittees are advised that harassment of endangered whales may be reported to the National Marine Fisheries Service. For further information contact the National Marine Fisheries Service, Federal Building, Room C-554, Anchorage, Alaska, 99513, telephone (907) 271-5006.

This addendum is intended for use of marine geophysical seismic crews operating in State and Federal waters of Alaska to assist in the implementation of OAGA Marine Geophysical Operating Guidelines.

Some caution should be used in application, as any information could change without prior notification.

However, all information is believed to be current at the present time.

REGION I - SOUTHEASTERN

Covers area from Yakutat Bay (Cape Fairweather) southward to Dixon Entrance.

Includes State Fish and Game Management Areas through 16.

Managed from Juneau office.

CONTACTS**Federal**

Robert McVey
Regional Director
National Marine Fisheries Service
P.O. Box 1668
Juneau, Alaska 99801

State Permit Coordination

Richard D. Reed
Regional Supervisor
Habitat Protection Section
P.O. Box 20
Douglas, Alaska 99824

Dave Cantillon, Regional Supervisor
Division of Commercial Fisheries
P.O. Box 20
Douglas, Alaska 99824

State Advisory Committees

Gordon Williams, Chairman
Angoon Advisory Committee
Box 7
Angoon, Alaska 99820

D. W. Dean, Chairman
Gastineau Channel Advisory Committee
2662 Douglas Highway
Juneau, Alaska 99802

Gordy Peterson, Chairman
Hoonah Advisory Committee
Box 384
Hoonah, Alaska 99829

Victor Burgess, Chairman
Hydaburg Advisory Committee
Box 363
Hydaburg, Alaska 99922

Albert Davis, Chairman
Kake Advisory Committee
Box 231
Kake, Alaska 99830

Ron Lundamo, Chairman
Ketchikan Advisory Committee
Rt. 1 Box 958
Ketchikan, Alaska 99901

Byron Skinna, Chairman
Klawock Advisory Committee
Box 74
Klawock, Alaska 99925

Gary McMaster, Chairman
Pelican Advisory Committee
Box 746
Pelican, Alaska 99832

Loren Croxton, Chairman
Petersburg Advisory Committee
Box 1410
Petersburg, Alaska 99833

Eric Jordon, Chairman
Sitka Advisory Committee
609 Bjorko
Sitka, Alaska 99835

Dorothy Fossman, Chairman
Upper Lynn Canal Advisory Committee
Box 237
Haines, Alaska 99827

Bruce Eagle, Member
Wrangell Advisory Committee
Box 303
Wrangell, Alaska 99929

Hank Porter, Chairman
Yakutat Advisory Committee
Box 352
Yakutat, Alaska 99689

Fisheries Groups

United Fishermen of Alaska
Jack Codigan, Executive Director
175 South Franklin St.
Juneau, Alaska 99801

Commercial Fishermen's Co-op Association
c/o Ken Anthony
Box 1265
Ketchikan, Alaska 99901

Craig Vessel Owners Association
c/o Len Leach
Box 1017
Ketchikan, Alaska 99921

Hoonah Vessel Owners Association
c/o Mike Kelley
Hoonah, Alaska 99829

Commercial Fishing Vessel Owners of Alaska
c/o Clancy Henkins
Box 161
Douglas, Alaska 99824

Ketchikan Alaska Trawlers Association
c/o Al Babeoni
2126 First Avenue
Ketchikan, Alaska 99901

Petersburg Vessel Owners Association
c/o Bob Haltiner
Box 232
Petersburg, Alaska 99833

Southeast Alaska Gilnet Association
c/o David Haslagen
Box 1443
Ketchikan, Alaska 99901

Southeast Gilnet Federation
c/o Don Gray
Box 7
Juneau, Alaska 99802

Southeast Alaska Trawlers Association
c/o Henry Moy
Box 237
Sitka, Alaska 99835

Southwest Alaska Seine Boat Owners and Operators Association
Attn: Bruce Wallace, Executive Director
728 Water Street
Ketchikan, Alaska 99901

REGION II - CENTRAL

Covers an area north of Yakutat Bay (Cape Fairweather) to Cape Douglas and the Barren Islands at the entrance of Cook Inlet and the Bristol Bay salmon fishery.

Includes State Fish and Game Management Areas:

1. Prince William Sound
2. Cook Inlet and Resurrection Bay
3. Bristol Bay

CONTACTS

Federal

Robert McVey
Regional Director
National Marine Fisheries Service
Box 1668
Juneau, Alaska 99801

State Permit Coordination

Prince William Sound, Cook Inlet and Resurrection Bay

Carl Yanagawa, Regional Supervisor, Region II
Habitat Division
Alaska Department of Fish and Game
333 Raspberry Rd.
Anchorage, Alaska 99518-1599

Bristol Bay Management Area

Lance Trasky, Regional Supervisor, Region II
Habitat Division
Alaska Department of Fish and Game
333 Raspberry Rd.
Anchorage, Alaska 99518-1599

Mike Nelson, Area Biologist
Commercial Fisheries Division
Alaska Department of Fish and Game
Box 199
Dillingham, Alaska 99669

Richard Russol, Area Biologist
Iguigik Ugashik Districts
Commercial Fisheries Division
Alaska Department of Fish and Game
Box 37
King Salmon, Alaska 99613-0037

Donald Bill, Area Biologist
 Naknek Kupichak District
 Commercial Fisheries Division
 Alaska Department of Fish and Game
 Box 37
 King Salmon, Alaska 99613-0037

Cook Inlet Management Area, North of the Latitude of Anchor Point

Bruce King, Area Management Biologist
 Commercial Fisheries Division
 Alaska Department of Fish and Game
 Box R
 Soldotna, Alaska 99669

Cook Inlet Management Area, South of the Latitude of Anchor Point

Tom Schroeder, Area Biologist
 Commercial Fisheries Division
 Alaska Department of Fish and Game
 Box 234
 Homer, Alaska 99603

Cordova Management Area

James Brady, Area Management Biologist
 Commercial Fisheries Division
 Alaska Department of Fish and Game
 Box 669
 Cordova, Alaska 99574

State Advisory Committees

Cook Inlet Management Area

Tim Stevens, Chairman
 Anchorage Advisory Committee
 12830 Huffinan Circle
 Anchorage, Alaska 99516

Doug Blossom, Chairman
 Central Peninsula Advisory Committee
 Box 3
 Ninilchik, Alaska 99639

Dan Calhoun, Chairman
 Homer Advisory Committee
 Box 566
 Homer, Alaska 99603

T. J. Hinkle, Chairman
Kenai-Soldotna Advisory Committee
Rt. 1 Box 250
Kenai, Alaska 99611

Gene Cameron, Chairman
Seldovia Advisory Committee
Seldovia, Alaska 99663

Willard Dunham, Chairman
Seward Advisory Committee
Box 97
Seward, Alaska 99664

Prince William Sound Management Area

Matt Luck, Chairman
Copper River-Prince William Sound Advisory Committee
Box 566
Cordova, Alaska 99574

Jim Alexander, Chairman
Valdez Advisory Committee
P.O. Box 650
Valdez, Alaska 99686

Bristol Bay Management Area

Robert Hoyano, Chairman
Nushagak Advisory Committee
Box 120
Dillingham, Alaska 99576

Don Albright, Chairman
Lower Bristol Bay Advisory Committee
Egegik, Alaska 99579

Alan Aspelund, Chairman
Naknek-Kvichak Advisory Committee
Box 84
Naknek, Alaska 99633

Peter J. Kust, Chairman
Nelson Lagoon Advisory Committee
Nelson Lagoon
Via Port Moller, Alaska 99695

Moses Kritz, Chairman
Togiak Advisory Committee
Box 83
Togiak, Alaska 99678

Fisheries Groups**Cook Inlet**

Cook Inlet Seiners Association
Box 4311
Homer, Alaska 99603

Kachemak Bay Subsistence Group
SRA 23B
Homer, Alaska 99603

North Pacific Fishermen's Association
c/o Ken Castner, President
Box 796
Homer, Alaska 99603

Commercial Fishermen of Cook Inlet
c/o Jerry Wasson
Kenai, Alaska 99611

Commercial Fishermen of Cook Inlet
c/o L. E. Every
RR1 Box 951
Kenai, Alaska 99611

Cook Inlet Fishermen's Fund
c/o Floyd Blossom
Box 3
Ninilchik, Alaska 99639

United Cook Inlet Drift Association
Theo Matthews, President
P.O. Box 4440
Kenai, Alaska 99611

Kenai Peninsula Fishermen's Cooperative Association
Cheryl Sutton
Box 1885
Soldotna, Alaska 99669

Northern District Setnetters
Steve Braun, President
P.O. 1480
Anchorage, Alaska 99510

Prince William Sound

Cordova Aquatic Marketing Association
c/o Jerry McCune, President
Box 359
Cordova, Alaska 99574

Cordova District Fisheries Union
c/o Jerry McCune
Box 939
Cordova, Alaska 99574

Bristol Bay

Bristol Bay Native Association
Terry Hoefflerle, Director
P.O. Box 237
Dillingham, Alaska 99756

Bering Sea Fishermen's Association
Henry Mitchell
805 W. Third Avenue
Anchorage, Alaska 99501

Bristol Bay Longline Gillnet Cooperative, Inc.
William Nicholson, President
P.O. Box 1710
Dillingham, Alaska 99576

Western Alaska Cooperative Marketing
Association (WACMA)
Harvey Samuelson, President
P.O. Box 18
Dillingham, Alaska 99576

REGION III - ARCTIC, YUKON AND KUSKOKWIM

Includes State Fish and Game Management Areas:

1. Yukon
2. Norton Sound (and Kotzebue)
3. Kuskokwim

CONTACTS

Federal

Steven Pennoyer
Regional Director
National Marine Fisheries Service
Box 1668
Juneau, Alaska 99801

State Permit Coordination

Yukon Kuskokwim Delta District

Lance Trasky, Regional Supervisor
Habitat Division, Region IV
Alaska Department of Fish and Game
333 Raspberry Rd.
Anchorage, Alaska 99518-1599

Norton Sound and Kotzebue (Arctic Ocean) District

Alvin Ott, Regional Supervisor
Habitat Division, Region III
Alaska Department of Fish and Game
1300 College Rd.
Fairbanks, Alaska 99701-1599

Richard Randall, Regional Supervisor
Alaska Department of Fish and Game
Habitat Division, Region III
333 Raspberry Rd.
Anchorage, Alaska 99518-1599

Cenaliurrit Coastal Management District

Alaska Department of Fish and Game
Box 1169
Bethel, Alaska 99559

Kuskokwim and Yukon District

Kim Francisco, Area Management Biologist
Alaska Department of Fish and Game
Box 90
Bethel, Alaska 99559

Norton Sound and Kotzebue District

Charles Lean, Area Management Biologist
Alaska Department of Fish and Game
Box 1148
Nome, Alaska 99762-1148

State Advisory Committees

Kuskokwim District

Frank Fox, Chairman
Central Bering Sea Coast Advisory Committee
General Delivery
Quinhagak, Alaska 99655

Chuck Chaliak, Chairman
Lower Kuskokwim Advisory Committee
Nunapitchuk, Alaska 99641

Yukon District

John Thompson, Chairman
Lower Yukon Advisory Chairman
Box 21
St. Mary's, Alaska 99655

Norton Sound

Nate Perkins, Chairman
Norton Sound Advisory Committee
Box 1584
Nome, Alaska 99762

R. Weaver Ivanoff, Member
Southern Norton Sound Advisory Committee
Box 70
Unalakleet, Alaska 99684

Kotzebue District

Victor Karmun, Chairman
Kotzebue Advisory Committee
Box 16
Kotzebue, Alaska 99752

Arctic Ocean

Rosabelle Rexford, Chairman
Barrow Advisory Committee
Box 286
Barrow, Alaska 99782

Nolan Solomon
Kaktovik Advisory Committee
Box 84
Kaktovik, Alaska 99747

Processors: Northern Commercial Company Emmonak
Yukon Delta Fish Marketing Coop., Emmonak
Bering Sea Fisheries, Emmonak, Alaska
John Amukon, Black River
Arnold Akers, Chukotnawick

Kotzebue Sound Fishery Coop.
Box 720, Kotzebue, Alaska
Witney Fidalgo, Kotzebue

Fishermen's Groups:

Bering Sea Fishermen's Association
Attn: Henry Mitchell
805 W. Third Avenue
Anchorage, Alaska 99501

Association of Village Council Presidents
Gene Peltola, President
P.O. Box 219
Bethel, Alaska 99559

Western Alaska Salmon Coalition
P.O. Box 866
Bethel, Alaska 99559

REGION IV - WESTWARD KODIAK

Covers an area consisting of Kodiak Island vicinity, including waters on the south side of the Alaska Peninsula and both sides of the Aleutian Chain.

Includes State Fish and Game Management Areas:

1. Bering Sea
2. Alaska Peninsula
3. Aleutian Islands
4. Chignik Island
5. Kodiak

Managed from Kodiak office.

CONTACTS

Federal

Dr. Robert Wolotira
National Marine Fisheries Research Laboratory
Box 1638
Kodiak, Alaska

State Permit Coordination

Lance Trasky, Supervisor Region IV
Habitat Division
Alaska Department of Fish and Game
333 Raspberry Rd.
Anchorage, Alaska 99518-1599

Larry Nicholson, Regional Supervisor Westward Region
Commercial Fisheries Division
Alaska Department of Fish and Game
P.O. Box 686
Kodiak, Alaska 99615

State Advisory Committees

Tom Hoblet, Chairman
False Pass Advisory Committee
False Pass, Alaska 99583

Richard Koso, Chairman
King Cove Advisory Committee
Box 91
King Cove, Alaska 99612

Hank Eaton, Chairman
Kodiak Advisory Committee
Box 1423
Kodiak, Alaska 99615

Alvin Osterback, Chairman
Sand Point Advisory Committee
Box 61
Sand Point, Alaska 99661

Greg Gerbandstein, Chairman
Unalaska Advisory Committee
c/o Sea Alaska Seafoods
Dutch Harbor, Alaska 99695

Glenn Suydam, Chairman
Chignik Advisory Committee
General Delivery
Chignik, Alaska 99564

Fisheries Groups

Alaska Driggers Association
Attn: **Al Burch, Manager**
P.O. Box 991
Kodiak, Alaska 99615

Chignik Boat Owners Association
c/o **Harold Anderson, President**
(Chignik Lagoon)
Box 565
Kodiak, Alaska 99615

Alaska Packers Association Inc.
c/o **Mr. Thomas E. Libby**
Box 646
Kodiak, Alaska 99615

Alaska Packers Association
c/o **Wayne Woods**
Box AA
Blaine, Washington 98230

Peninsula Marketing Association
David Grunholdt, President
P.O. Box 174
Sand Point, Alaska 99661

Peninsula Marketing Association
c/o **Phil Younker**
King Cove, Alaska 99612

Peninsula Marketing Association
c/o Lawrence Yatchmenoff
False Pass, Alaska 99583

Alaska Independent Marketing Association
Mitch Kink, General Manager
700 14 Street
Bellingham, Washington 98225

Alaska Druggers Association
c/o Al Burch
Box 991
Kodiak, Alaska 99615

United Fishermen's Marketing Association
c/o Jeff Stephan
Box 1035
Kodiak, Alaska 99615

Western Alaska Cooperative Marketing Association
Harvey Samuelson, President
Box 18
Dillingham, Alaska 99576

Bering Sea Fishermen's Association
Attn: Henry Mitchell
85 W. Third Avenue
Anchorage, Alaska 99501

ATLANTIC REGION STIPULATIONS

STIPULATIONS

In the performance of any operations under the Permit and Agreement for Outer Continental Shelf Geophysical Exploration for Mineral Resources or Scientific Research, the Permittee shall comply with the following Stipulations:

1. As part of the requirements of 30 CFR 251.3-5(a), if any operation under this Permit and Agreement is to be conducted in a leased area, the Permittee shall take all necessary precautions to avoid interference with operations on the lease and damage of existing structures and facilities. The lessee (or operator) of the leased area will be notified, in writing, before the Permittee enters the leased area or commences operations, and a copy of the notification will be sent to the Regional Supervisor executing this Permit and Agreement.
2. (a) Solid or liquid explosives shall not be used except pursuant to written authorization from the Regional Supervisor. Requests of the use of such explosives must be in writing, giving the size of charges to be used, the depth at which they are to be detonated, and the specific precautionary methods proposed for the protection of fish, oysters, shrimp, and other aquatic life, wildlife, or other natural resources.

(b) The following provisions are made applicable when geophysical exploration on the Outer Continental Shelf using explosives is approved:
 - (i) Each explosive charge will be permanently identified by markings so that unexploded charges may be positively traced to the Permittee and to the specific field party of the Permittee responsible for the explosive charge.
 - (ii) The placing of explosive charges on the seafloor is prohibited. No explosive charges shall be detonated nearer to the seafloor than five (5) feet (1.52 meters).
 - (iii) No explosive shall be discharged within 1,000 feet (304.8 meters) of any boat not involved in the survey.
3. Any serious accident, personal injury, or loss of property shall be immediately reported to the Regional Supervisor.
4. All pipes, buoys, and other markers used in connection with seismic work shall be properly flagged and lighted according to the navigation rules of the U.S. Corps of Engineers and the U.S. Coast Guard.
5. In addition to the "Stipulations" above, the "Special Provisions" attached hereto shall apply.

"SPECIAL PROVISIONS"

1. When requested by the Regional Supervisor, offshore quarters and offshore transportation will be provided for a representative of the Minerals Management Service or for such Federal personnel designated by the Regional Supervisor to permit inspection of the operations at any time.

2. No operations shall be conducted under this permit after _____ unless an extension of time is granted by the Regional Supervisor.

3. Protection of Archaeological Resources

(a) "Archaeological resource" means any prehistoric or historic district, site, building, structure, or object (including shipwrecks); such term includes artifacts, records, and remains which are related to such a district, site, building, structure or object. (Section 301(5), National Historic Preservation Act, as amended, 16 U.S.C. 470w(5)). "Operations" means any drilling, mining, or construction, or placement of any structure for exploration, development, or production of the lease.

(b) If the Regional Supervisor (RS) believes an archaeological resource may exist in the area, the RS will notify the permittee in writing. The permittee shall then comply with subparagraphs (1) through (3).

(1) Prior to commencing any operations, the permittee shall prepare a report, as specified by the RS, to determine the potential existence of any archaeological resource that may be affected by operations. The report, prepared by an archaeologist and a geophysicist, shall be based on an assessment of data from remote-sensing surveys and of other pertinent archaeological and environmental information. The permittee shall submit this report to the RS for review.

(2) If the evidence suggests that an archaeological resource may be present, the permittee shall either:

(i) Locate the site of any operation so as not to adversely affect the area where the archaeological resource may be; or

(ii) Establish to the satisfaction of the RS that an archaeological resource does not exist or will not be adversely affected by operations. This shall be done by further archaeological investigation, conducted by an archaeologist and a geophysicist, using survey equipment and techniques deemed necessary by the RS. A report on the investigation shall be submitted to the RS for review.

(3) If the RS determines that an archaeological resource is likely to be present in the area and may be adversely affected by operations, the RS will notify the permittee immediately.

The permittee shall take no action that may adversely affect the archaeological resource until the RS has told the permittee how to protect it.

(c) If the permittee discovers any archaeological resource while conducting operations in the area, the permittee shall report the discovery immediately to the RS. The permittee shall make every reasonable effort to preserve the archaeological resource until the RS has told the permittee how to protect it.

4. Protection of Biological Resources

Biological resources requiring special protection include, but are not limited to: (1) very unusual, rare, or uncommon ecosystems; (2) species of limited regional distribution that may be adversely affected by any operation; (3) critical habitat for endangered and/or threatened species; and (4) productive ecosystems and/or habitats of all species of aquatic animals important as commercial or recreational fisheries.

If biological populations or habitats that may require special protection are identified by the RS in the area, the RS may require the permittee to conduct biological surveys to determine the extent and composition of such biological populations or habitats. The RS shall give written notification to the permittee of the RS' decision to require such surveys.

Based on any surveys that the RS may require of the permittee or on other information available to the RS on biological resources requiring special protection, the RS may require the permittee to:

- (1) relocate the site of operations to avoid biological resources requiring special protection;
- (2) establish to the satisfaction of the RS, on the basis of a site-specific survey, either that such operations will not have a significant adverse effect upon the resource identified or that a biological resource requiring special protection does not exist;
- (3) operate during those periods of time, as established by the RS, that do not adversely affect the biological resources; and/or
- (4) modify operations to ensure that biological populations or habitats deserving special protection are not adversely affected.

If any biological resources requiring special protection should be discovered during the conduct of any operations, the permittee shall immediately report such findings to the RS and make every reasonable effort to preserve and protect the biological resource from damage until the RS has given the permittee direction with respect to its protection.

The permittee shall submit all data obtained in the course of biological surveys to the RS with the locational information for drilling or other activity. The permittee may take no action that might

affect biological populations or habitats surveyed until the RS provides written directions to the permittee with regard to permissible actions.

5. Military and NASA Areas

(a) Hold and Save Harmless

Whether compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the permittee assumes all risks of damage or injury to persons or property which occur in, on, or above the Outer Continental Shelf (OCS), to any persons or to any property of any person or persons who are agents, employees, or invitees of the permittee, its agents, independent contractors, or subcontractors doing business with the permittee in connection with any activities being performed by the permittee in, on, or above the OCS, if such injury or damage to such person or property occurs by reason of the activities of any Agency of the United States Government, its contractors or subcontractors, or any of its officers, agents, or employees, being conducted as a part of, or in connection with the programs and activities of the command headquarters listed below.

Notwithstanding any limitation of the permittee's liability, the permittee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of its officers, agents, or employees. The permittee further agrees to indemnify and hold and save harmless the United States against all claims for loss, damage, or injury sustained by the permittee, and to indemnify and hold and save harmless the United States against all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the permittee, its agents, or any independent contractors or subcontractors doing business with the permittee in connection with the programs and activities of the military installations listed below, whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors or subcontractors, or any of its officers, agents, or employees and whether such claims might be sustained under a theory of strict or absolute liability or otherwise.

(b) Electromagnetic Emissions

The permittee agrees to control his own electromagnetic emissions and those of its agents, employees, invitees, independent contractors, or subcontractors emanating from the area or surrounding area of the survey, in accordance with the requirements specified by the commander of the command headquarters listed below to the degree necessary to prevent damage to, or unacceptable interference with, the programs and activities of the military installations listed below. Necessary monitoring, control, and coordination with the permittee, its agents, employees, invitees, independent contractors, or subcontractors will be affected by the commander of the command headquarters listed below; provided, however, that control of such electromagnetic emission shall in no instance prohibit all manner of electromagnetic communications during any period of time between a permittee, its agents, employees, invitees, independent contractors, or subcontractors and onshore facilities.

(c) Operational

The permittee, when operating or causing to be operated on its behalf, boat, ship, or aircraft traffic into the area or surrounding area of the military installations listed below, shall enter into an agreement with the commander of the individual command headquarters listed below prior to commencing such traffic. Such agreement will provide for positive control of boats, ships, and aircraft operating in the designated areas at all times.

(d) Following are the Federal facilities with operations in the area. The permittee will contact the Regional Supervisor, Field Operations (RSFO), concerning the relevance of the facility to the survey area.

Mr. Terry Krzywicki, Chief
Facilities Support Office, FF-S3
John F. Kennedy Space Center, Florida 32899 (407) 867-7475

45 SW/XP
Chief, Plans & Programs
1201 Minute Man Street
Patrick Air Force Base, Florida 32925-3239 (407) 494-4054

Commanding Officer
Fleet Area Control and Surveillance Facility
P.O. Box 40
Naval Air Station
Jacksonville, Florida 32212 (904) 772-2551

Commander General
Marine Corps Air Station
Cherry Point, North Carolina 28533

Attn: Mr. Dan Brown (919) 466-2233 or 466-6330

Commanding Officer
Fleet Area Control and Surveillance Facility
Virginia Capes OPAREA
Naval Air Station OCEANA
Virginia Beach, Virginia 23460 (757) 433-1208

Jay Brown - Test Director
GSFC/Wallops Flight Facility
National Aeronautics and Space Administration
Wallops Island, Virginia 23337-5099 (804) 824-1094

Commander
Submarine Group Two
Naval Submarine Base
Groton, Connecticut 06340

(203) 449-3676

* The Current Department of Defense contact for matters concerning hold harmless electromagnetic emissions, or operational conflicts is indicated below.

Lt Commander Theodore Wirgnis or
FACSFAC VACAPES
(757) 433-1217

Mr. Jerry Henson
Office of Chief of Naval Operations
(N313)
2000 Navy Pentagon, (Rm 4D600)
Washington, D.C. 20350-2000
Telephone: (703) 614-3101/697-6821
(703) 697-6821

(e) Evacuation

Upon recommendation by the commander of the relevant Federal facility, when the activities of the Federal facility may endanger personnel or property, the permittee agrees, upon receipt of a directive from the RSFO to evacuate all personnel from the area.

6. Information on Guidelines For Vessels and Aircraft Operations

Permittees are advised they must be prepared to take all reasonable and necessary measures to avoid harassment or unnecessary disturbance of endangered and threatened species and not-endangered and not-threatened marine mammals and sea turtles. In this regard, permittees should be particularly alert to the effects of boat, ship, airplane, and helicopter traffic on these species.

The following guidelines are offered to assist permittees in conducting activities, safety permitting, in such a manner as to cause minimal adverse impacts to endangered and threatened species and not-endangered cetaceans.

(1) Whenever possible, vessels and aircraft should avoid concentrations of endangered or threatened species and not-endangered and not-threatened marine mammals and sea turtles. Operators should, at all times, conduct activities at a maximum distance from these animals. To avoid disturbing groups of endangered whales and other cetaceans, aircraft should be operated at a minimum altitude of not less than 1,000 feet, when within 500 lateral yards of such groups. Helicopters should not hover or circle above, or within 500 lateral yards of such areas.

(2) When a vessel is operated near a concentration of whales or other marine mammals, the operator should take every precaution to avoid harassment or disturbance of these

animals. Therefore, vessels should not intentionally approach within 100 yards of them. Vessels capable of steering around them should do so.

(3) Vessels may not be operated in such a way as to separate members of a group, or otherwise box-in, cut off, or in any way restrict these animals' normal movements.

(4) Vessel operators should avoid excessive speed or radical changes in speed or direction when approaching or leaving the immediate area of marine mammals or when marine mammals or a group of marine mammals approach a vessel.

(5) Small boats should not be operated at such a speed as to make collisions with endangered or threatened species likely. When weather conditions require, such as when visibility drops, vessels should adjust speed accordingly to avoid the likelihood of injury to these animals.

(6) Sightings of these animals should be reported to other vessel operators in the area to alert them of the need to take the necessary precautions.

(7) The presence of right whales may preclude exploration activities south of 34 degrees North Latitude between October 31, 1989, and April 1, 1990. If activities are anticipated south of 34 degrees N. within this time period you must notify this office at least two weeks before entering the area, and obtain written authorization to conduct the requested activity.

(8) Exploration activities may not be conducted between April 1 and July 15 in the area "preferred" by right, humpback, and fin whales. The "preferred" area is located adjacent to the Great South Channel, in proximity to the northernmost area you propose for the conduct of G&G activities. The boundaries for this "preferred" area include:

Cape Porpoise, Maine	east to	43° 20'N	70° 00'W
	southeast to	42° 30'N	69° 30'W
	east to	42° 30'N	69° 00'W
	southeast to	42° 00'N	68° 15'W
	south to	40° 30'N	68° 45'W
	west to	40° 30'N	69° 15'W
	northwest to	Sankaty Head, Nantucket Island, Massachusetts	

Endangered right whales are usually present in this area from April 1 to July 15, however it must be kept in mind that these dates are guidelines only and that whales may be in the "preferred" area before April 1 and/or after July 15. The GERG should avoid this area unless the MMS has been notified so that activities can be discussed with the National Marine Fisheries Service.

7. Information on Marine Mammal Protection

Permittees are advised that during the conduct of all activities related to this permit, the permittee and its agents, contractors, and subcontractors will be subject to, among others, the provisions of

the Marine Mammal Protection Act (MMPA) of 1972, as amended; the Endangered Species Act (ESA) of 1973, as amended; and International Treaties.

Permittees and their contractors should be aware that disturbance of wildlife could be determined to constitute harm or harassment and thereby be in violation of existing laws. With respect to endangered species and not-endangered marine mammals, disturbance could be determined to constitute a "taking" situation and be in violation of the ESA or the MMPA. Under the ESA, the term "take" has been defined to mean "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." Under the MMPA, "take" means to "harass, hunt, capture, collect, or kill or attempt to do so."

Incidental taking of marine mammals and endangered species is only allowed when the statutory requirements of the MMPA and the ESA are met; appropriate special species-, location-, and activity-specific incidental take regulations are in place; and Letters of Authorization (as contained in section 101(a)(5) of the MMPA and Section 7(b)(4)(c) of the ESA) are obtained from the National Marine Fisheries Service (NMFS). Activities that are likely to "take" marine mammals will be subject to these regulatory requirements. Violations under these acts and treaties may be reported to the NMFS or the Fish and Wildlife Service, as appropriate.

8. Information on Undetonated Explosives and Radioactive Materials

Permittees are advised that if the RS believes that undetonated explosives or radioactive materials may exist within the area, the permittee shall conduct surveys as specified by the RS to determine the existence and location of these explosives and radioactive materials.

Upon completion of such surveys, the permittee shall forward a report and all pertinent data to the RS for review. Should the RS determine that the existence of undetonated explosives or radioactive materials may adversely affect any activity or operation, such as the construction or placement of any structures for exploration or development of the permit site or otherwise pose an environmental hazard, such as by the release of radioactive materials from drums, the permittee shall take no action until the RS has given directions as to the conduct of that operation.

9. As soon as available, but not later than the commencement of the proposed survey operations, the Regional Supervisor will be furnished with, to the best of the Permittee's knowledge, a program map or maps showing the location of lines to be shot and/or sampling locations planned with their identification numbers or symbols. This map should be prepared on a plat drawn to a scale of 1:500,000. The Regional Supervisor will be informed of any changes to the proposed survey locations prior to the data acquisition.

10. At least 2 weeks prior to commencement of operations the permittee must provide advance notice to the fishermen through the "Local Notice to Mariners" by notifying the Coast Guard Offices listed below:

Toms River NJ - Maine

Commander 1st Coast Guard District (OAN)

Aids to Navigation Office

Captain John Foster Williams Bldg.

408 Atlantic Ave.

Boston, MA 02210-3350

office hours (617) 223-8222

after hours call District Command Center (617) 223-8555

Toms River NJ - NC

Commander 5th Coast Guard District

Aids to Navigation Branch

Federal Building 431 Crawford St. PHONE (757) 398-6486

Portsmouth VA 23704-5004 FAX (757) 398-6334 Attn: QM1 Lewallen

Florida - South Carolina

Commander 7th Coast Guard District (CAN)

Brickell Plaza Federal Building

909 SE First Ave.

Miami, Florida 33131-3050

(305) 536-5621

after hrs (305) 536-5611

11. Any conflict with commercial fishing activities or damage to fishing gear should be reported to the Regional Supervisor immediately.

12. The Regional Supervisor will be furnished with a written notice upon completion or suspension of operations stating the date operations were concluded.

13. All notices and reports must contain a reference to Minerals Management Service's OCS Permit and Agreement No. E02-89.

14. At least two weeks prior to commencement of operations, the permittee shall notify and coordinate with the Atlantic Offshore Fishermen's Association, address listed below:

William R. Palombo, President

Mr. Richard B. Allen, Vice President

Atlantic Offshore Fishermen's Association

221 Third Street

P.O. Box 3001

Newport, RI

(401) 849-3232

Please provide us with written verification that this has occurred.

15. The permittee shall avoid coring or dragging anchors or similar equipment over known areas of live hard bottoms.

16. The permittee shall coordinate with AT&T to avoid damage to undersea cables.

AT&T

340 Mount Kemble Ave.

Room S200

Morristown, New Jersey 07960

Attn: Jim Murray

PHONE (973) 326-3445 FAX (973) 326-3663

GULF REGION STIPULATIONS

ENVIRONMENTAL PROTECTIVE MEASURES

The permittee shall comply with the following provisions:

1. The permittee will ensure that all aircraft used in support of their OCS operations maintain a minimum altitude of 2,000 feet over all national wildlife refuges and national park lands.
2. Transportation operations conducted through Aransas or Cavello Passes will avoid disturbance of the following islands used for nesting by the endangered brown pelican: Sundown Island in Matagorda Bay, Second Chain of Islands in San Antonio Bay, Long Reef in Aransas County, and Pelican Island in Nueces County, Texas.
3. This mitigation applies to all oil and gas related activities where the operator proposes to use a shore base south of the Suwannee River (Florida). Shore bases north of the Suwannee River do not need this mitigation. Shore bases other than Port Manatee/Tampa Bay area require a separate Endangered Species Section 7 Consultation.)

To protect the endangered Florida Manatee, onshore support activities are restricted to Tampa Bay (including Port Manatee). The following manatee protection measures will be used by all vessels associated with these CCS activities:

- a. Permittees and their employees, contractors or subcontractors are to be advised of the possibility of the presence of manatees in inland and coastal waters of Florida and the Eastern Gulf of Mexico.
- b. Permittees and their employees, contractors or subcontractors are to be advised that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Endangered Species Act of 1973, as amended, the Marine Mammal Protection Act of 1972, and the Florida Manatee Sanctuary Act of 1978. The lessee may be held responsible for any manatee harmed, harassed, or killed as a result of their activities.
- c. Permittees and their employees, contractors or subcontractor vessel operators are to be advised of the need to avoid collisions with the manatee and to stay within the existing channels. Vessels using Port Manatee should restrict travel to

the extent possible to the deeper channels from Egmont Key to Port Manatee. While in Tampa Bay, vessels should obey all speed restrictions and operate at "no wake/idle" speeds at all times while in waters where the draft of the vessel provides less than a 4-foot clearance from the bottom. (Areas of manatee concentrations have been identified and speed zone signs erected in accordance with Federal, State, and local regulations.)

d. Vessels while berthed in port will use fenders between the dock and the vessel and/or between adjacent vessels berthed side-by-side. The fenders shall have a minimum clearance of 3-feet when compressed between dock and vessel.

e. Any collision with and/or injury to a manatee must be reported immediately to the "Manatee Hotline" (1-800-DIAL FMP) and to the U.S. Fish and Wildlife Service, Jacksonville Field Office (904/232-2580) for north Florida and to the Vero Beach Ecosystem Office (407/562-3909) for south Florida.

f. The permittees and their employees, contractors, or subcontractors must maintain a log detailing sightings, collisions, or injuries to manatees should they occur during the activity period.

g. Following activity completion, a report summarizing the above incidents and sightings must be submitted to the Florida Department of Natural Resources (FDNR), Marine Mammals Section, 100 Eighth Avenue, SE., St. Petersburg, Florida 33701-5095 and to the U.S. Fish and Wildlife Service, 6620 South point Drive South, Suite 310, Jacksonville, Florida 32216 for north Florida and to the U.S. Fish and Wildlife Service Office, P.O. Box 2676, Vero Beach, Florida 32961-2676 for south Florida.

4. If the permittee discovers any archaeological resource (shipwreck/prehistoric site) while conducting activities, the company will report the discovery immediately to the Regional Director (RD) at the MMS. The company will make every reasonable effort to avoid disturbance to the archaeological resource until the RD informs the company as to what precautions must be taken to protect the resource from operational activities.

5. No bottom disturbing operations will be allowed for the proposed activities within the No Activity Zone(s) of the biologically sensitive feature(s) shown on the enclosed map.

6. It is recommended that the permittees use low sulfur fuel within 100 km of the Breton Sound National Wildlife Refuge.

7. The permittee will exercise precaution while conducting operations that involve bottom surface disturbance in blocks shown on the attached Ordnance Dumping Area map as portions of these areas possibly contain old ordnance and unexploded shells and depth charges dumped until 1970. In addition, the U.S. Air Force has released an indeterminable amount of unexploded ordnance in Water Test Areas 1-5 (most of the Eastern Planning Area).

8. Man-made structure(s) such as pipeline(s) or other potential hazard(s) may be located in the permitted work area; therefore, prior to performing operations that involve bottom surface disturbance (e.g., coring), all existing pipeline(s) or other potential hazard(s) within 150 meters (490) feet of the proposed work area will be buoyed. In areas highly congested with pipelines or debris, a safe working area large enough to accommodate the proposed operations may be outlined with buoys in lieu of marking each hazard.

9. Operations proposed in designated military warning and or test areas require compliance with the following requirement regarding boat and/or aircraft traffic:

(a) Hold and Save Harmless

Whether compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the company assumes all risks of damage or injury to persons or property, which occur in, on, or above the OCS, to any persons or employees, or invitees of the permittees, its agents, independent contractors or subcontractors doing business with the company in connection with any activities being performed by the company in, on, or above the OCS, if such injury or damage to such person or property occurs by reason of the activities of any agency of the U.S. Government, its contractors or subcontractors, or any of their officers, agents or employees, being conducted as a part of, or in connection with, the programs and activities of the command headquarters listed in the following listing.

The permittee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors, or subcontractors, or any of its officers, agents, or employees. The company further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the company, and to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the

company, its agents, or any independent contractors or subcontractors doing business with the company in connection with the programs and activities of the appropriate military installation, whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors or subcontractors, or any of its officers, agents, or employees and whether such claims might be sustained under a theory of strict or absolute liability or otherwise.

(b) Electromagnetic Emissions

The permittee agrees to control its own electromagnetic emissions and those of its agents, employees, invitees, independent contractors or subcontractors emanating from individual designated defense warning areas in accordance with requirements specified by the commander of the command headquarters listed to the degree necessary to prevent damage to, or unacceptable interference with, Department of Defense flight, testing, or operational activities conducted within individual designated warning areas. Necessary monitoring control and coordination with the company, its agents, employees, invitees, independent contractors subcontractors will be effected by the commander of the appropriate onshore military installation conducting operations in the particular warning area, provided, however, that control of such electromagnetic communication during any period of time between a company, its agents, employees, invitees, independent contractors or subcontractors, and onshore facilities.

(C) Operational

The permittee, when operating or causing to be operated on its behalf, boat or aircraft traffic in the individual designated warning areas, shall enter into an agreement with the commander of the individual command headquarters listed below, upon utilizing an individual designated warning area prior to commencing such traffic. Such an agreement will provide for positive control of boats and aircraft operating in the warning areas at all times.

Military Warning Area W-228: Chief, Naval Air Training, Naval Air Station, Corpus Christi, Texas 78419-5100, telephone: (512) 939-3862/2621.

Military Warning Area W-602: ACC/DORR, Detachment 1 Operations Headquarters, Air Combat Command, Offutt AFB, Nebraska 68113-5550, Telephone: (402) 294-2334.

Military Warning Area W-155A, W-155B: Operations, Fleet Area Control & Surveillance Facility (FACSFAC), Operations, Naval Air Station, Pensacola, Florida 32508, telephone (904) 452-2735/4671.

Military Warning Area W-92: Naval Air Station, Air Operations Department, Air Traffic Division/Code 52, New Orleans, Louisiana 70146-5000, telephone: (504) 678-3100/3101.

Military Warning Area W-453: ANG CRTIC, Gulfport/ACMI, Scheduling Office, Gulfport, Mississippi 39507, telephone: (601) 867-2433.

Military Warning Area W-151, W-168, W-470, and Eglin Water Test Area 1-5: Air Force Development Test Center, Strategic Plans Division, Directorate of Requirements, 101 West D Avenue, Suite 125, Eglin AFB, Florida 32542-5495, telephone: (904) 882-3899/4188.

Military Warning Area W-174: Naval Air Training Command, Military Radar Unit, Naval Air Station, Air Operations/Tarpon, Key West, Florida 33040, telephone: (305) 293-2430.

Naval Coastal Systems Center Area: Naval Coastal Systems Center Area (NCSC)/Code 330, Coastal Test and Evaluation Division, Panama City, Florida 32407, telephone: (904) 234-4626/4280.

10. Artificial reef material may be located in the area of the permittee's proposed activities. The permittee should coordinate with the respective State's artificial reef coordinator for specific data regarding the location of reefal material. The following are the respective coordinators and their phone numbers: Louisiana, Mr. Rick Kasprzak (504) 765-2375, Texas, Ms. Jan Coulbertson (713) 474-1418, Mississippi, Mr. Mike Buchanan, (601) 385-5860, and Alabama, Mr. Walter M. Tatum (334) 968-7578

11. When operations extend south of approximately 26 degrees North Latitude in the Western Gulf of Mexico or 24 to 25 degrees North Latitude in the Eastern Gulf (the 200 nautical mile provisional maritime also called the Exclusive Economic Zone Conservation Zone Limit), the permittee should notify the Department of State:

Mr. Tom Cocke, Room 5801, OES/OA
Department of State
Director, Office of Ocean Affairs
Washington, D.C. 20520
Phone: (202) 647-0240

12. Under the Magnuson Fisheries Management Act, 50 CFR 641.22(a) prohibits the use of explosives to take reef fish in the Exclusive Economic Zone. Consequently, permittees/contractors should not take stunned or killed fish on board their vessels. Should this happen the permittee/contractor could be charged by the National Marine Fisheries Service with violation of the Act. If, you have any questions, contact Mr. Robert Sadler with the National Marine Fisheries Service. His telephone number is (813) 570-5305.

13. The following OCS lease blocks possibly contain a biologically sensitive area known as the "Pinnacle Trend": Main Pass Area, South and East Addition, Blocks 190, 194, 198, 219-226, 244-266, 276-290; Viosca Knoll Area, Blocks 473-476, 521, 522, 564-566, 609, 610, 654, 692-698, 734, and 778. The use of anchors may cause physical damage to the pinnacles. When operations are proposed on any of the above blocks, the permittee must submit anchor plats or other data to demonstrate that pinnacle areas will not be physically impacted by anchoring activities. Anchor locations may be surveyed with an echo sounder prior to anchoring to determine if there is any topographic relief indicative of pinnacle reefs. If pinnacles are discovered, anchors must be set in locations which will not impact the pinnacles. Echo sounder or other data and anchor locations must be submitted to MMS for review upon completion of operations in this Pinnacle Trend area.

14. The permittee shall contact Steve Gittings, Sanctuary Manager of the Flower Gardens Banks National Marine Sanctuary when conducting operations within the Flower Gardens Marine Sanctuary or the Stetson Bank Sanctuary. Mr. Gittings' address is : Flower Gardens Banks National Marine Sanctuary, 216 W. 26th St., Suite 104, Bryan, Texas, 77803. His phone number is (409) 779-2705. The permittee should also arrange for any possible buoy removal and subsequent replacement, and exercise caution regarding any geophysical or navigational activities that may endanger any other users of the aforementioned Sanctuary. The Flower Gardens and Stetson Bank buoys are located at:

East Flower Garden Bank

EFG Buoy #1	27°54' 35.9"N, 93°35' 49.7"W
EFG Buoy #2	27°54' 31.9"N, 93°35' 49.0"W
EFG Buoy #3	27°54' 27.0"N, 93°35' 57.4"W
EFG Buoy #4	27°54' 33.0"N, 93°35' 59.7"W
EFG Buoy #5	27°54' 38.7"N, 93°36' 00.5"W
EFG Buoy #6	27°54' 39.9"N, 93°35' 55.6"W
EFG Buoy #7	27°54' 32.8"N, 93°35' 55.1"W

West Flower Garden Bank

WFG Buoy #1	27°52' 35.1"N, 93°48' 54.1"W
WFG Buoy #2	27°52' 31.3"N, 93°48' 51.3"W
WFG Buoy #3	27°52' 27.5"N, 93°49' 00.4"W
WFG Buoy #4	27°52' 29.4"N, 93°49' 04.1"W
WFG Buoy #5	27°52' 30.6"N, 93°48' 54.7"W

The Stetson Bank

Buoy #1	28°09' 57.4"N, 94°17' 51.5"W
Buoy #2	28°09' 59.1"N, 94°17' 50.5"W
Buoy #3	28°09' 59.2"N, 94°17' 47.5"W

15. All permits using explosives or involving surface disturbing activities must comply with the following special provisions:

The MMS has determined that the use of explosives for geophysical survey operations conducted under 30 CFR 251 may potentially harm marine mammals and endangered sea turtles. The use of explosives represents a "may effect" situation under Section 7 of the Endangered Species Act of 1973, as amended. Section 7 Consultation between the MMS and the National Marine Fisheries Service will be conducted on these applications. Specific information needed to support MMS evaluations of applications proposing the use of explosives and seafloor disturbing operations is listed below:

1. Purpose of the survey.
2. Description of Operations to be conducted.
3. Proposed starting date and duration of the proposed operation.
4. Name, title, and telephone number of contact person.
5. Name, registration number, registered owner, and home port of vessel(s) to be used.
6. A preplot map, scale 1":4000' with the area name and block number(s) and boundaries indicated, showing the proposed grid pattern and shot point interval to be used.
7. A sketch which schematically illustrates the configuration of the vessel(s) to be used.
8. Lease number(s), area(s), block(s), and the range of water depths and the average water depth in area of planned activity.
9. The anticipated number, if any, of trips to be made by vessel(s) to shore base for food, fuel, and supplies. Location of shore base.
10. A legible map of the area(s) of proposed operations, showing shore base and travel routes.
11. Will operation be supported by aircraft? If yes, name of operations base, distance from base to area of operations, and anticipated number of trips to be made between

them.

12. Briefly state why explosives were selected over nonexplosive seismic energy sources.

13. Type of explosive, number of charges, maximum charge size, and identification (manufacturer and lot number, serial number, etc.) of charges.

14. Will charges be detonated below the mudline? If no, why not?

15. Depth in water column where charge is to be detonated and method of detonation.

16. Will detonations be sequential? If yes, time delay between detonations.

17. Will explosives be used continuously?

18. Will explosives be detonated during hours of darkness?

19. Briefly describe plan for retrieval and/or disposal of unexploded charges.

As these seafloor disturbing and explosives permit applications require more time to process, more advance notice by the applicant will be required.

If explosives are used, it may be required that an MMS representative witness the detonations. Upon such notification by MMS, provisions shall be made to accommodate the representative.

SURFACE DISTURBING ACTIVITIES

1. Purpose of the evaluation.
2. Description of operations to be conducted.
3. Proposed starting date and duration of the proposed operation.
4. Name, title, and telephone number of contact person.
5. Lease number, area, block, and water depth where the geotechnical evaluation will take place.

6. A plot showing the location of the proposed operations indicated in feet from the nearest block lines, and showing the anchor pattern, if any, of the vessel(s) to be used.

7. If soil samples will be obtained by drilling or coring, provide the following:

a. An evaluation, referencing supporting information, of the potential for encountering shallow hazards.

b. A plan for dealing with the shallow gas should it be encountered while drilling.

8. Name, registration number, registered owner, and home port of vessel(s) to be used.

9. Will operation be supported by aircraft? If yes, name of operations base, distance from base to area of operations, and anticipated number of trips to be made between them.

10. The anticipated number, if any, of trips to be made by vessel(s) to shore base for food, fuel, and supplies. Location of shore base.

11. A legible map of the area(s) of proposed operations, showing shore base and travel routes.

APPENDIX 3

subchapter, for which prior approval is always required.

§ 129.7 Prior Approval (License).

(a) The following brokering activities require the prior written approval of the Office of Defense Trade Controls:

(i) Brokering activities pertaining to certain defense articles (or associated defense services) covered by or of a nature described by Part 121, to or from any country, as follows:

- (i) Fully automatic firearms and components and parts therefor;
- (ii) Nuclear weapons strategic delivery systems and all components, parts, accessories, attachments specifically designed for such systems and associated equipment;
- (iii) Nuclear weapons design and test equipment of a nature described by Category XVI of Part 121;
- (iv) Naval nuclear propulsion equipment of a nature described by Category VI(c);
- (v) Missile Technology Control Regime Category I Items (§ 121.16);
- (vi) Classified defense articles, services and technical data;
- (vii) Foreign defense articles or defense services (other than those that are arranged wholly within and destined exclusively for the North Atlantic Treaty Organization, Japan, Australia, or New Zealand (see §§ 129.6(b)(2) and 129.7(a)).

(2) Brokering activities involving defense articles or defense services covered by, or of a nature described by, Part 121, in addition to those specified in § 129.7(a), that are designated as significant military equipment under this subchapter, for or from any country not a member of the North Atlantic Treaty Organization, Australia, New Zealand, or Japan whenever any of the following factors are present:

- (i) The value of the significant military equipment is \$1,000,000 or more;
- (ii) The identical significant military equipment has not been previously licensed for export to the armed forces of the country concerned under this subchapter or approved for sale under the Foreign Military Sales Program of the Department of Defense;
- (iii) Significant military equipment would be manufactured abroad as a result of the articles or services being brokered; or
- (iv) The recipient or end user is not a foreign government or international organization.

(b) The requirements of this section for prior written approval are met by any of the following:

- (1) A license or other written approval issued under parts 123, 124, or 125 of

this subchapter for the permanent or temporary export or temporary import of the particular defense article, defense service or technical data subject to prior approval under this section, provided the names of all brokers have been identified in an attachment accompanying submission of the initial application; or

(2) A written statement from the Office of Defense Trade Controls approving the proposed activity or the making of a proposal or presentation.

(c) Requests for approval of brokering activities shall be submitted in writing to the Office of Defense Trade Controls by an empowered official of the registered broker; the letter shall also meet the requirements of § 126.13 of this subchapter.

(d) The request shall identify all parties involved in the proposed transaction and their roles, as well as outline in detail the defense article and related technical data (including manufacturer, military designation and model number), quantity and value, the security classification, if any, of the articles and related technical data, the country or countries involved, and the specific end use and end user(s).

(e) The procedures outlined in § 126.8(c) through (g) are equally applicable with respect to this section.

§ 129.8 Prior Notification.

(a) Prior notification to the Office of Defense Trade Controls is required for brokering activities with respect to significant military equipment valued at less than \$1,000,000, except for sharing of basic marketing information (e.g., information that does not include performance characteristics, price and probable availability for delivery) by U.S. persons registered as exporters under Part 122.

(b) The requirement of this section for prior notification is met by informing the Office of Defense Trade Controls by letter at least 30 days before making a brokering proposal or presentation. The Office of Defense Trade Controls will provide written acknowledgment of such prior notification to confirm compliance with this requirement and the commencement of the 30-day notification period.

(c) The procedures outlined in § 126.8(c) through (g) are equally applicable with respect to this section.

§ 129.9 Reports.

(a) Any person required to register under this part shall provide annually a report to the Office of Defense Trade Controls enumerating and describing its brokering activities by quantity, type, U.S. dollar value, and purchaser(s) and

recipient(s), license(s) numbers for approved activities and any exemptions utilized for other covered activities.

§ 129.10 Guidance.

(a) Any person desiring guidance on issues related to this part, such as whether an activity is a brokering activity within the scope of this Part, or whether a prior approval or notification requirement applies, may seek guidance in writing from the Office of Defense Trade Controls. The procedures and conditions stated in § 126.9 apply equally to requests under this section.

Dated: November 24, 1997.

Strobe Talbot,

Acting Secretary of State.

[FR Doc. 97-33649 Filed 12-23-97; 8:45 am]

BILLING CODE 4710-28-P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 250 and 261

RIN 1010-AC10

Geological and Geophysical (G&G) Explorations of the Outer Continental Shelf

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: This rule revises MMS' regulations and expands the Notice requirement to include all oil, gas, and sulphur related G&G scientific research not conducted under a permit. The revisions also update the addresses for applying for a permit or filing a Notice, standardize definitions, describe the procedures for protecting archaeological resources, reflect changes in technology, and clarify the obligations of third parties who obtain G&G data and information collected under a permit. These revisions are being made because there have been instances of commercial G&G exploration being conducted by academia without a permit, the addresses for all the MMS regions have changed, changes in technology need to be incorporated, and permittees and third parties have questioned MMS access to certain G&G data and information that were collected under a permit and further processed by third parties. The modifications will enable MMS to better ensure safe use and environmental protection of the outer continental shelf (OCS) for all G&G related operations, expedite permit applications and Notices to MMS, and make the regulatory language clearer

and more understandable. MMS also believes that it is necessary to more clearly assert its authority to acquire C&G data and information.

Access to these data and information is needed to ensure that the U.S. Government receives fair market value on leases, especially in areas of complex geology, and for the Government to conduct analyses or assessments for royalty relief and other purposes.

EFFECTIVE DATE: January 23, 1998.

FOR FURTHER INFORMATION CONTACT: David R. Zinzer, Resource Evaluation Division, (703) 787-1515 or Kumkum Ray, Rules Processing Team, (703) 787-1600.

SUPPLEMENTARY INFORMATION: This final rule implements changes put forward by our notice of proposed rulemaking (NPR) that was published February 11, 1997 (62 FR 6149) and which solicited public comments. The comment period was extended twice, the last extension ending July 29, 1997. We met with industry twice during the comment period, May 15 in Washington, D.C., and July 10 in New Orleans, LA. We received 22 sets of written comments and recommendations in response to the NPR. Ten of these comments and recommendations were from industry associations, and twelve were from permittees and third party users of C&G data and information collected on the OCS. We have carefully considered each of these comments and recommendations. We did not adopt recommendations that did not appear to be in the public's best interest.

In order to assist industry in understanding how MMS will implement the final rule, MMS will conduct a meeting with industry and other interested parties in the Gulf of Mexico Region following publication of a meeting time in the Federal Register.

Discussion and Analysis of Comments

Some commenters requested that MMS withdraw the final rule in its entirety and/or conduct a negotiated rulemaking, citing adverse effects on the oil and gas industry, including oil and gas producers, independent oil and gas companies, and geophysical service companies, accompanied by a significant reduction in the amount of data collection and exploration by industry.

MMS has decided to proceed with the final rule after carefully considering all written comments on the proposed rulemaking and after lengthy discussions with industry at the meetings in Washington, D.C., and New Orleans, Louisiana. MMS appreciates the candor and scope of the many

comments that were put forth and the concerns of the industry. However, we believe that specific concerns with the proposed rulemaking have been addressed properly, and that where MMS and industry disagree, MMS is acting appropriately as the Federal agency required by the OCS Lands Act (OSCLA) to manage the oil and natural gas resources of the OCS in an environmentally responsible and safe manner. MMS must oversee C&G explorations on the OCS in an orderly and fair manner, balancing the needs of industry and the public interest.

Some commenters questioned whether MMS had performed the analysis required under the Regulatory Flexibility Act, or made an estimate of how much it would cost the exploration and production industry to comply with the proposed revisions to part 251. These commenters cited the potential administrative burdens of the proposed changes and their significant impact on the ability of smaller companies to compete in the Gulf of Mexico. MMS has addressed these concerns under the section of the preamble titled, "Regulatory Flexibility Act."

Section-by-Section Analysis

Section 251.1 Definitions

The definition of *exploration* was expanded to include marine and airborne surveys. Although MMS proposed changing the definition of *human environment*, several commenters criticized the proposed wording as broad and ambiguous. MMS agrees to retain the existing definition.

The definitions of *lease* and *lessee* were changed to read the same as the definitions in part 250.

The definitions of *archaeological interest*, *material remains*, and *significant archaeological resource* were added to explain archaeological protection requirements in part 251. The language adopted in this rule is the same as that used in part 250.

The definition of *third party* was clarified to include all persons who, by whatever means, obtained from permittees or other third parties C&G data or information collected under a permit.

The definition of *you* was changed in response to comments that the definition in the proposed rule was too vague and broad and should not include persons who only inquire about a permit or Notice. *You* also applies to third parties who assume certain responsibilities under §§ 251.11 and 251.12.

Section 251.2 Purpose of This Part

Paragraph (d) was added to this section to clarify the U.S. Government's right to certain data and information, explain MMS' obligation to pay certain reimbursements, and set out MMS' procedures for safeguarding proprietary and privileged data and information acquired from industry and other sources.

Section 251.3 Authority and Applicability of This Part

One commenter questioned whether, under the OSCLA, the Secretary of the Interior (Secretary) could allow C&G exploration under a Notice, instead of requiring a permit. Section 11 of the OSCLA (43 U.S.C. 1340) gives the Secretary the authority to allow geological and geophysical exploration. Because of the commercial nature of the activity, MMS believes that it is preferable to require that C&G exploration be conducted only under the auspices of a permit. C&G scientific research can be conducted either under a permit or by filing a Notice, depending on the activity being conducted.

The commenter also asked under what authority the Secretary applies MMS regulations to ships or vessels, and exempts Federal agencies from the permit procedures. The OSCLA definition of *exploration* includes geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of minerals. Ships and vessels are commonly used in, and are an integral part of, geophysical surveys. Therefore, it is necessary to apply MMS' regulations to them. The definition of *person* in the OSCLA does not include Federal agencies. Thus, Federal agencies are not authorized as persons by the Secretary to conduct C&G explorations in the OCS and thus are not subject to part 251.

Finally, the same commenter found no regulatory language dealing with the Secretary's review or approval of permit applications or time limits to take action on applications. While section 11 of the OSCLA authorizes the Secretary to issue permits for exploration, it does not require the Secretary to set forth time limits to issue permits. The authority to review and approve permit applications is delegated to the appropriate MMS Regional Director who exercises this authority under §§ 251.5 and 251.7, and sets the administrative time limits to review and approve permit applications. Time limits may vary in each OCS Region. Response times to permit applications have not been an issue in the past.

Section 251.4 Types of C&G Activities That Require Permits or Notices

Several commenters asked whether commercial G&G research related to developing or testing new equipment or techniques would require a permit or could be conducted under a Notice. As mentioned earlier, MMS believes that a Notice is not appropriate for commercial G&G activities. Basically, whether the G&G company calls the activity "research" or "exploration" is not important. A permit is required if the data collected from the "research" activity can be used in exploration for oil, gas, or sulphur, or if the "research" activity involves solid or liquid explosives, or deep stratigraphic tests. Other research activities that only involve developing or testing new equipment or techniques do not require a permit.

The underlying concern of the commenters, however, seemed to be whether they were required to give MMS the testing and development work they perform when a permit is required. Generally, descriptions of new equipment, techniques, computer hardware/software, or the results of tests on those items do not need to be given to MMS. However, if these items were used to produce G&G data and information which must be submitted to MMS, it may be necessary to provide some explanatory information to MMS in order to allow the agency to properly evaluate the data and information.

Section 251.5 Applying for Permits or Filing Notices

One commenter, addressing § 251.5(c)(7), noted that collaboration on research between industry and universities may make it difficult to estimate the "earliest time" that data will be available to the public. MMS recognizes this difficulty and only requires a good faith estimate of the time that scientific research data and information will be released to the public. To alleviate these concerns, MMS has inserted the word "practicable" between "earliest" and "time" to conform with the wording used in part 251 since 1976.

Section 251.6 Obligations and Rights Under a Permit or a Notice

One commenter objected to the use of "human environment" in § 251.6(a)(2), citing subjective judgments regarding the term "quality of life", which was part of the proposed definition of "human environment." The definition of "human environment" was not changed in response to this and other comments. However, the word

"property" is added to § 251.6(a)(2) to make the obligation under this part conform with the standards in part 250 which apply to operations under a lease, right of use or easement, or right-of-way. Several commenters objected to the wording of § 251.6(a)(7) which removed the word "unreasonably" from the requirement to not interfere with or cause harm to other users of an area. We agree, and "unreasonably" will be reinserted before the word "interfere".

Several commenters objected to new wording in § 251.6(c) that requires entities conducting G&G operations to consult with and coordinate their operational activities with specific users of an area. The commenters argued that consultation is not always practicable and that, in certain cases, proprietary information regarding the timing and location of planned surveys would be unfairly revealed to competitors. The wording has been changed to reflect that MMS's intent is for companies to consult and coordinate their G&G activities solely for navigational and safety purposes. MMS also recognizes that the International Association of Geophysical Contractors acts on behalf of the geophysical survey companies to coordinate its members' activities through a time sharing system to promote safe operations and protect members' proprietary survey designs and plans.

Several commenters objected to proposed language which expands the use of the best available and safest technologies (BAST) beyond the area of test drilling requirements. The wording in § 251.6(d) is changed to make clear that the BAST requirement only applies to shallow test drilling and deep stratigraphic test drilling conducted under a permit.

Section 251.7 Test Drilling Activities Under a Permit

One commenter suggested deleting § 251.7(a)(2), stating that MMS cannot mandate compliance of shallow test drilling activities with requirements of the Coastal Zone Management Act (CZMA). We agree that MMS cannot establish requirements under the auspices of the CZMA. However, we disagree that the proposed language creates a new mandate. Section 251.7(a)(2) simply advises permit applicants that MMS may require submission of consistency certification when a federally approved coastal management program requires consistency review.

Section 251.7(b)(5), "Protecting archaeological resources," is revised in the final rule to make the wordings conform with similar requirements in

part 250. Also, as mentioned previously, new definitions related to archaeological resources were added in the definitions section to better explain the requirements of this section.

Section 251.8 Inspection and Reporting Requirements for Activities Under a Permit

One commenter questioned our proposed removal of the word "actual" from the term "actual costs" in determining the amount of reimbursement to a permittee when MMS inspectors are required to be accommodated during activities authorized under part 251. The point of the proposed change was to impose a 90-day time limit for reimbursement requests so that MMS can quickly clear such expenses. Permittees will be reimbursed for actual expenses incurred as long as their request for reimbursement is made within the 90-day period.

Some commenters noted that there was no provision in § 251.8(b) for permittees to make oral requests to MMS for modifications to their programs with a followup in writing, although § 251.4(b)(2) allows a person to file a Notice orally with a followup in writing if circumstances preclude a 30-day advance written Notice. MMS recognizes that there are circumstances when written requests to modify programs are not practicable, and that an oral request with a written followup could be acceptable in such cases. The wording in § 251.8(b) is changed to allow for such oral requests, but we want to emphasize that oral requests for modifications should only be made when necessary.

One commenter sought clarification as to the beginning date of the 30-day period to submit a final report under § 251.8(c)(2). The revised wording indicates that a final report of exploration or scientific research activities under a permit is due within 30 days after completion of "acquisition activities."

Section 251.9 Temporarily Stopping, Canceling, or Relinquishing Activities Approved Under a Permit

This section sets out the situation under which MMS will halt ongoing permit activities. Section 251.9(a)(2) was changed to include G&G data and information in the examples of items required by MMS which, if not submitted, could constitute a failure to comply with applicable law, regulation, order, or provision of a permit and result in MMS halting the permit activities.

Section 251.10 Penalties and Appeals

No comments were received regarding § 251.10.

Section 251.11 Inspection, Selection, and Submission of Geological Data and Information Collected Under a Permit and Processed by Permittees or Third Parties

Several commenters objected to the proposed requirement in § 251.11(a)(1) that a permittee notify the Regional Director "immediately" after acquiring, analyzing, processing, or interpreting geological data and information, citing excessive paperwork and other burdens. MMS agrees. The wording has been changed to require the permittee to notify the Regional Director after completion of the initial analysis, processing, and interpretation of geological data and information collected under a permit. MMS does not require continual notification of every analysis, processing, and interpretation.

Furthermore, the reference in § 251.11(a)(1) to acquisition of geological data is redundant and was therefore removed, since the requirement for reporting acquisition of geological data resides in § 251.8(c)(2).

Some commenters objected to the proposed wording in § 251.11(c)(f) which requires a record of all geological data and information, "describing each operation of analysis, processing, and interpretation." The commenters considered this a shift of MMS focus from geological information, as defined in part 251, to descriptions of the technologies and techniques used to arrive at processed, analyzed, or interpreted information. It is not the intent of MMS to acquire from industry these types of proprietary or confidential technical information. Therefore, MMS will require only a description of each "type" of analysis, processing, or interpretation, as specified in a G&G permit.

Several commenters objected to the provisions in § 251.11(d), relating to the obligations of permittees and third parties who obtain geological data and information. Since the requirements of this section are similar to § 251.12(d), we have combined our discussion of those two sections. Please see the section titled "Third Party Issues" for a complete discussion of obligations when G&G data and information collected under a permit are obtained by a third party.

Section 251.12 Inspection, Selection, and Submission of Geophysical Data and Information Collected Under a Permit and Processed by Permittees or Third Parties

Similar to the comments on § 251.11(a)(1), many commenters objected to the requirement in § 251.12(a)(1) that a permittee notify the Regional Director "immediately" after initially acquiring, processing, and interpreting any geophysical data and information collected under a permit, again citing excessive costs and other burdens. MMS agrees. The wording is changed to require the permittee to notify the Regional Director after completion of the initial processing and interpretation of geophysical data and information collected under a permit. MMS does not intend to require continual notification of every step of initial processing and interpretation. In addition, the reference in § 251.12(a)(1) to acquisition of geophysical data is redundant and removed, since the requirement for reporting acquisition of geophysical data also resides in § 251.8(c)(2).

Some commenters questioned the provisions in §§ 251.12(c)(2) and 251.12(c)(3) which require that processed geophysical information be submitted to MMS in a "quality" format suitable for processing or interpretive evaluation. There was a misunderstanding as to what was meant by "quality" format. Here "quality" means the same level of format used by a permittee or third party in the normal course of their business.

Some commenters questioned whether MMS was seeking "black box" technologies that are privileged and proprietary to the person submitting the G&G data and information. MMS requires only the information, including a detailed format, necessary to load digital data and information. MMS does not request nor seek proprietary software or procedures used to prepare the data and information.

Third Party Issues

Several commenters strongly objected to §§ 251.11(d) and 251.12(d), which clarify the permit obligations placed on both the permittee and the third party when geological and geophysical data and information are transferred by any means to a third party. Most commenters argued that the provisions of §§ 251.11 and 251.12 should not apply to third parties who obtain G&G data and information from permittees through a license agreement since no "transfer" of data and information takes place. We disagree. The obligation to

notify the Regional Supervisor when a permittee provides geophysical data or processed information to a third party, or a third party provides data and information received from a permittee to another third party, has been in place since part 251 was added to Title 30 of the Code of Federal Regulations, effective June 11, 1976.

MMS has always considered a license agreement a form of transfer or exchange, as are a sale, trade, or other agreement between a permittee and a third party. In order to clarify any confusion resulting from industry's interpretation of what constitutes a transfer, MMS has revised the language of the regulation to make clear that the obligations under §§ 251.11 and 251.12 are triggered whenever a third party obtains by any means data and information collected under a permit. However, in an effort to alleviate industry concerns over the burden and cost of reporting all license agreements, MMS will require identification of third parties who obtain data and information under licensing agreements only in response to a written request by MMS to the permittee, or to the third party which licensed the data to another third party.

The commenters also questioned the statutory authority of MMS to acquire G&G data and information from third parties who obtain the data and information under a license agreement. The authority for obtaining data and information that were collected under a permit and further processed by a third party is at section 11 of the OCSLA (43 U.S.C. 1340 (a)(1)). This section provides that only persons "authorized" by the Secretary may conduct G&G activities on the OCS. In the absence of a license, MMS "authorization" is the "permit."

One of the terms of the permit is the permittee's agreement to provide MMS with all of the data and information collected, interpretations, etc., and to identify third parties. The regulations in turn, at former §§ 251.11(c) and 251.12(c) required the recipients of those data and information or interpretation to accept those same permit obligations as a condition of receipt. Third party recipients are still subject to the regulatory requirements of a permittee in the revised §§ 251.11 and 251.12, including the obligation to submit G&G data and information for inspection and possible retention by MMS.

Several commenters stated that there would be an additional administrative burden on third parties who would be required to submit such data and information to MMS for inspection and possible retention, than is the case

under the current regulations. We acknowledge an increase in administrative work and costs to third parties. However, MMS does not consider the extra burden under the revised rule to be significant. Furthermore, the requirement for third parties to submit data and information is not new relative to the requirement of the existing regulations. MMS does anticipate a larger percentage of its data needs coming from third parties. However, we anticipate that most of MMS' future data needs will continue to come directly from permittees, who have provided over 95 percent of processed seismic information that MMS has acquired on the OCS.

Some commenters also claimed that the proposed language would require that third parties assume all responsibilities of permittees, including operational and environmental requirements. That is not the intent of MMS. The responsibilities of third parties to whom data and information were transferred from permittees have always been limited to the data submittal sections of part 251, specifically §§ 251.11 and 251.12. The final rule has been modified so that third parties who obtained data and information are exempt from the §§ 251.11(a)(1) and 251.12(a)(1) requirement of automatic notification to MMS. This exemption is a change from the proposed rulemaking and from previous final rulemakings and will ease the potential administrative burdens on third parties.

Several commenters objected to the provisions that required third parties to submit data and information obtained from permittees to MMS, arguing that the terms of license agreements will be violated and/or license agreements will have to be rewritten to accommodate submittal to MMS, resulting in a large paperwork burden. MMS has always required that third parties assume all the data submittal obligations of a permittee if data and information are transferred to the third party by a permittee. License agreements should therefore have always reflected the possibility of submittal of data and information to MMS by third parties.

Some commenters stated that the acquisition of G&G data and information by MMS from third parties who obtained the data under license agreements is a taking of private property. MMS disagrees. Applicants for a permit accept, as part of the permit terms, an obligation to provide data obtained under the permit to MMS. In addition, applicants agree to require that any third party who obtains the data accept those same obligations. If an

applicant is unwilling to agree, they have the choice of not obtaining the permit. Third parties who agree to the requirements can obtain the data from the permittees. Those who choose not to agree also have an option. They simply cannot accept the data without also accepting the obligation imposed by the permit.

Several commenters expressed concern about revealing to MMS the identity of third parties who obtained data and information from permittees. The commenters noted that public disclosure of a third party's identity, or the areas on the OCS for which the third party obtained data, could jeopardize a third party's competitive position and reveal business strategies of operating and obtaining leases on the OCS. MMS agrees that public disclosure of a third party's business interests and strategies, or of other privileged and proprietary information, would have a deleterious effect on third parties. Such information has been protected in the past by MMS, and we are reaffirming through these regulations that such information would continue to be protected by MMS as trade secrets or confidential business information which are exempt from the Freedom of Information Act and not subject to release under regulations which come under the purview of MMS. A new provision in § 251.14(a)(9) provides further protection for third party recipients of data and information collected under permits. Under this provision, MMS will keep confidential the identities of third party recipients and will not release these identities unless both the permittee and the third parties agree to the disclosure.

Several commenters suggested that MMS continue using the "trial procedures" set up in 1995 between MMS and industry as a mechanism for leases in the Gulf of Mexico. Under these procedures, bidders on a particular tract were required to submit to MMS specific seismic information collected under a permit and processed by the bidder (a third party). While some of the commenters acknowledged problems with implementation of the "trial procedures," they encouraged MMS to pursue improvements instead of proceeding with this final rule.

MMS has always considered the "trial procedures" to be temporary and has indicated such to industry. In the two meetings with industry, MMS cited instances of noncompliance, in some cases perhaps deliberate, with the provisions of the "trial procedures." It is now also becoming apparent that there are data necessary for a thorough assessment of tracts receiving bids that are not available under the "trial

procedures." Furthermore, MMS now needs to clarify and finalize the process of obtaining G&G data and information collected under permits for all of the OCS, not only the Gulf of Mexico.

Section 251.14 Protecting and Disclosing Data and Information Submitted to MMS Under a Permit

Some commenters recommended that the Director, MMS, rather than the appropriate Regional Director, be responsible for the provisions of § 251.14(c), the procedure that MMS follows to disclose acquired data and information to a contractor for reproduction, processing, and interpretation. The commenters argued that wrongful disclosure of data could have disastrous consequences from a competitive standpoint, and that ensuring that the top official of MMS is bound by all applicable laws and regulations regarding dissemination of the data would better protect data. We feel that it is unnecessary to specify that only the Director be responsible for disclosure of data or that only the Director can notify the proper party of disclosure of data to contractors for authorized purposes. The Director is still responsible for actions of subordinates acting in an official capacity.

Section 251.14(c) was changed to clarify that the person, whether a permittee or third party, who submitted the data and information under §§ 251.11 or 251.12 will be advised by MMS of any contemplated disclosure to a contractor for reproduction, processing, and interpretation.

In this rulemaking, MMS is also making two corrections in 30 CFR part 250.

The first correction is to § 250.209(c). This technical amendment amends the citation in (c) from "43 CFR part 62 subpart D" to "43 CFR part 12 subpart D." The second correction is to subpart O. The numbering of subpart O will be moved down one. The subpart will begin at § 250.210 and end at § 250.234.

Authors: David R. Zinzer, Resource Evaluation Division, and Kumkum Ray, Rules Processing Team.

Executive Order (E.O.) 12868

This rule is not significant under E.O. 12868, "Regulatory Planning and Review," and does not require a review by the Office of Management and Budget (OMB). Most revisions to the rule are generally nonsubstantive changes and will have a negligible economic effect on the oil, gas, sulphur, and mining industries or scientific researchers. Bonding requirements in the rule affect C&G exploration costs as

outlined below. MMS estimated the economic effects by assuming that one deep stratigraphic well will be drilled per year, based on past history of frequency of wells drilled. Bonding requirements for single deep stratigraphic wells recently increased from \$50,000 to \$200,000; at a 2-percent maximum rate, the bonding cost recently increased from \$1,000 to \$4,000.

MMS does not expect that any company will drill enough deep stratigraphic wells to warrant an area bond. If a company did want an area bond, then the bonding requirement would increase from \$300,000 to \$1,000,000; at a 2-percent maximum rate, the bonding cost would increase from \$6,000 to \$20,000. Since this increase in bonding cost will not have a major economic effect (less than \$100 million), the proposed rule is not considered an economically significant rule. Additionally, the proposed revisions will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency, materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or raise novel legal or policy issues.

Regulatory Flexibility Act

The changes to 30 CFR part 251 will not have a significant economic effect on the oil and gas industry or small business entities. The final rulemaking may involve small businesses or other small entities if they desire to perform geological or geophysical exploration or scientific research on the OCS. The Small Business Administration defines a *small business* as having:

- Annual revenues of \$5 million or less for exploration service and field service companies;
- Less than 500 employees for drilling companies and for companies that extract oil, gas, or natural gas liquids.

However, a typical exploratory well in the shallow waters of the Gulf of Mexico costs more than \$2.7 million to drill; and the acquisition and processing of a single block (9 sq. mi) of exclusive 3D seismic data could cost as much as \$1 million. Because of the technical and financial resources needed to perform these activities offshore, the majority of entities conducting these activities are not considered small.

The primary economic effect on small businesses is the cost associated with information collection activities. The final rulemaking contains virtually all of the same reporting requirements and attendant costs as the existing regulations. There is only one change in

reporting requirements which represents a small increase. The increased burden is not on the oil and gas industry, but for entities involved in scientific research.

The increased reporting requirement contained in these regulations relates to the filing of a Notice for all scientific research involving geological and geophysical activities. Previously, the requirement for a Notice existed solely for certain geological scientific research activities, namely shallow test drilling. We estimate that the new requirement will result in the filing of an additional two to four Notices annually, all from small entities: 24 to 36 hours; \$840 to \$1,260.

Several commenters on the proposed regulations commented on the extreme burden that would be imposed on the oil and gas industry if they were made to comply with our clarification of "transfer." They alluded to the need to modify the large number of existing data licenses. MMS does not agree with the contention that there is a material change in the definition. We maintain that the requirement is unchanged from the existing regulations. To the extent existing licenses need to be revised we believe the burden and cost of this revision will not be incurred directly by small business entities. MMS will, however, be making requests directly to small business entities. These new requests will be offset in part by elimination of the current procedures.

MMS concludes that complying with these regulations will not have a substantial or significant effect on small business entities operating on the OCS. MMS in its existing approved information collection budget estimated the total burden in complying with these regulations is 10,604 hours for a total of \$371,140. Our estimate of the annual burden to small business entities is approximately 1,060 hours at a cost of \$37,100. This represents about 10 percent of the total compliance burden. These costs are insignificant given the fiscal resources required to perform exploration and development activities on the OCS. Furthermore, virtually all of this burden existed under the old rule.

Paperwork Reduction Act

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. §501 et seq.), we submitted the collection of information contained in the proposed rule to OMB. The OMB approved the information collection requirements in proposed 30 CFR part 251, Geological and Geophysical (G&G) Explorations of the Outer Continental Shelf and assigned OMB control number 1010-0048. We have examined the

information collection requirements in this final rule and have determined that there is no significant change from the currently approved collection of information for the proposed rule. The estimated annual burden for this collection of information is 10,604 hours, an average of 7.7 hour per response.

Takings Implication Assessment

The rule does not represent a government action capable of interference with constitutionally protected property rights. A new requirement in the rule is a Notice for scientific research in the OCS. Since MMS is not requiring the researcher to submit data and information or analyses resulting from the research activity, there is no direct or indirect taking.

The rule also clarifies the obligations of a third party. When a permittee transfers data and information to a third party, there is a transfer of the obligation to provide access to MMS as well. Further, the recipient of the data and information is subject to the same penalty provisions as the original permittee—if a third party fails to provide access. These clarifications better define existing requirements and add no new requirements.

Other changes are not substantive or were made to put the regulation into plain English. Thus, a Takings Implication Assessment need not be prepared pursuant to E.O. 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights."

Unfunded Mandates Reform Act of 1995

DOI has determined and certifies according to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 et seq., that this rule will not impose a cost of \$100 million or more in any given year on local, tribal, and State governments, or the private sector.

E.O. 12988

DOI has certified to OMB that the rule meets the applicable reform standards provided in sections 3(a) and 3(b)(2) of E.O. 12988, "Civil Justice Reform."

National Environmental Policy Act

DOI has also determined that this action does not constitute a major Federal action affecting the quality of the human environment; therefore, an Environmental Impact Statement is not required.

List of Subjects**30 CFR Part 250**

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

30 CFR Part 251

Continental shelf, Freedom of information, Oil and gas exploration, Public lands— mineral resources, Reporting and recordkeeping requirements, Research.

Dated: December 16, 1997.

Bob Armstrong,

Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, Minerals Management Service (MMS) amends 30 CFR parts 250 and 251 to read as follows:

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

1. The authority citation for part 250 continues to read as follows:

Authority: 43 U.S.C. 1334.

Subpart N—Outer Continental Shelf (OCS) Civil Penalties

2. Section 250.209 paragraph (c) is revised as follows:

§ 250.209 What are my rights?

* * * * *

(c) * * * The Department of Interior's regulations implementing these authorities are found at 43 CFR part 12 subpart D.

Subpart O—Training

3. In subpart O, §§ 250.209 through 250.233 are redesignated as §§ 250.210 through 250.234, respectively.

4. 30 CFR part 251 is revised to read as follows:

PART 251—GEOLOGICAL AND GEOPHYSICAL (G&G) EXPLORATIONS OF THE OUTER CONTINENTAL SHELF

Sec.

251.1 Definitions.

251.2 Purpose of this part.

251.3 Authority and applicability of this part.

251.4 Types of G&G activities that require permits or Notices.

251.5 Applying for permits or filing Notices.

251.6 Obligations and rights under a permit or a Notice.

251.7 Test drilling activities under a permit.

251.8 Inspection and reporting requirements for activities under a permit.

251.9 Temporarily stopping, canceling, or relinquishing activities approved under a permit.

251.10 Penalties and appeals.

251.11 Submission, inspection, and selection of geological data and information collected under a permit and processed by permittees or titled parties.

251.12 Submission, inspection, and selection of geophysical data and information collected under a permit and processed by permittees or titled parties.

251.13 Reimbursement for the cost of reproducing data and information and certain processing costs.

251.14 Protecting and disclosing data and information submitted to MMS under a permit.

251.15 Authority for information collection. Authority: 43 U.S.C. 1331 et seq.

§ 251.1 Definitions.

Terms used in this part have the following meaning:

Act means the Outer Continental Shelf Lands Act (OCSLA), as amended (43 U.S.C. 1331 et seq.).

Analyzed geological information means data collected under a permit or a lease that have been analyzed.

Analysis may include, but is not limited to, identification of lithologic and fossil content, core analyses, laboratory analyses of physical and chemical properties, well logs or charts, results from formation fluid tests, and descriptions of hydrocarbon occurrences or hazardous conditions.

Archaeological interest means 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 measurements, controlled collection, analysis, interpretation, and explanation.

Archaeological resources means any material remains of human life or activities that are at least 50 years of age and of archaeological interest.

Coastal environment means the physical, atmospheric, and biological components, conditions, and factors that interactively determine the productivity, state, condition, and quality of the terrestrial ecosystem from the shoreline inward to the boundaries of the coastal zone.

Coastal Zone means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands

(including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States and extends seaward to the outer limit of the U.S. territorial sea.

Coastal Zone Management Act means the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.).

Data means facts, statistics, measurements, or samples that have not been analyzed, processed, or interpreted.

Deep stratigraphic test means drilling that involves the penetration into the sea bottom of more than 500 feet (152 meters).

Director means the Director of the Minerals Management Service, U.S. Department of the Interior, or a subordinate authorized to act on the Director's behalf.

Exploration means the commercial search for oil, gas, and sulphur. Activities classified as exploration include, but are not limited to:

- (1) Geological and geophysical marine and airborne surveys where magnetic, gravity, seismic reflection, seismic refraction, gas sniffers, coring, or other systems are used to detect or imply the presence of oil, gas, or sulphur; and
- (2) Any drilling, whether on or off a geological structure.

Geological and geophysical scientific research means any oil, gas, or sulphur related investigation conducted in the OCS for scientific and/or research purposes. Geological, geophysical, and geochemical data and information gathered and analyzed are made available to the public for inspection and reproduction at the earliest practicable time. The term does not include commercial geological or geophysical exploration or research.

Geological exploration means exploration that uses geological and geochemical techniques (e.g., coring and test drilling, well logging, and bottom sampling) to produce data and information on oil, gas, and sulphur resources in support of possible exploration and development activities. The term does not include geological scientific research.

Geophysical exploration means exploration that utilizes geophysical techniques (e.g., gravity, magnetic, or seismic) to produce data and information on oil, gas, and sulphur resources in support of possible exploration and development activities. The term does not include geophysical scientific research.

Governor means the Governor of a State or the person or entity lawfully designated to exercise the powers

granted to a Governor pursuant to the Act.

Human environment means the physical, social, and economic components, conditions, and factors which 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.

Hydrocarbon occurrence means the direct or indirect detection during drilling operations of any liquid or gaseous hydrocarbons by examination of well cuttings, cores, gas detector readings, formation fluid tests, wireline logs, or by any other means. The term does not include background gas, minor accumulations of gas, or heavy oil residues on cuttings and cores.

Information means geological and geophysical data that have been analyzed, processed, or interpreted.

Interpreted geological information means knowledge, often in the form of schematic cross sections, 3-dimensional representations, and maps, developed by determining the geological significance of geological data and analyzed and processed geologic information.

Interpreted geophysical information means knowledge, often in the form of seismic cross sections, 3-dimensional representations, and maps, developed by determining the geological significance of geophysical data and processed geophysical information.

Lease means an agreement which is issued under section 8 or maintained under section 6 of the Act and which authorizes exploration for, and development and production of, minerals or the area covered by that authorization, whichever is required by the context.

Lessee means a person who has entered into, or is the MMS approved assignee of, a lease with the United States to explore for, develop, and produce the leased minerals. The term "lessee" also includes an owner of operating rights.

Marine environment means the physical, atmospheric, and biological components, conditions, and factors that interactively determine the quality of the marine ecosystem in the coastal zone and in the OCS.

Material remains mean physical evidence of human habitation, occupation, use, or activity, including the site, location, or context in which such evidence is situated.

Minerals mean oil, gas, sulphur, geopressured-geothermal and associated resources, and all other minerals which are authorized by an Act of Congress to be produced from public lands as

defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702).

Notice means a written statement of intent to conduct geological or geophysical scientific research related to oil, gas, and sulphur in the OCS other than under a permit.

Oil, gas, and sulphur mean oil, gas, sulphur, geopressured-geothermal, and associated resources.

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

Permit means the contract or agreement, other than a lease, issued pursuant to this part, under which a person acquires the right to conduct on the OCS, in accordance with appropriate statutes, regulations, and stipulations:

- (1) Geological exploration for mineral resources;
- (2) Geophysical exploration for mineral resources;
- (3) Geological scientific research; or
- (4) Geophysical scientific research.

Permittee means the person authorized by a permit issued pursuant to this part to conduct activities on the OCS.

Person means a citizen or national of the United States; an alien lawfully admitted for permanent residence in the United States as defined in section 8 U.S.C. 1101(a)(20); a private, public, or municipal corporation organized under the laws of the United States or of any State or territory thereof; and associations of such citizens, nationals, resident aliens, or private, public, or municipal corporations, States, or political subdivisions of States or anyone operating in a manner provided for by treaty or other applicable international agreements. The term does not include Federal agencies.

Processed geological or geophysical information means data collected under a permit and later processed or reprocessed. Processing involves changing the form of data so as to facilitate interpretation. Processing operations may include, but are not limited to, applying corrections for known perturbing causes, rearranging or filtering data, and combining or transforming data elements. Reprocessing is the additional processing other than ordinary processing used in the general course of evaluation. Reprocessing operations may include varying identified

parameters for the detailed study of a specific problem area.

Secretary means the Secretary of the Interior or a subordinate authorized to act on the Secretary's behalf.

Shallow test drilling means drilling into the sea bottom to depths less than those specified in the definition of a deep stratigraphic test.

Significant archaeological resource means those archaeological resources that meet the criteria of significance for eligibility to the National Register of Historic Places as defined in 36 CFR 60.4.

Third Party means any person other than the permittee or a representative of the United States, including all persons who obtain data or information acquired under a permit from the permittee, or from another third party, by sale, trade, license agreement, or other means.

Violation means a failure to comply with any provision of the Act, or a provision of a regulation or order issued under the Act, or any provision of a lease, license, or permit issued under the Act.

You means a person who applies for and/or obtains a permit, or files a Notice to conduct geological or geophysical exploration or scientific research related to oil, gas, and sulphur in the OCS.

§ 251.2 Purpose of this part.

(a) To allow you to conduct G&G activities in the OCS related to oil, gas, and sulphur on unleased lands or on lands under lease to a third party.

(b) To ensure that you carry out G&G activities in a safe and environmentally sound manner so as to prevent harm or damage to, or waste of, any natural resources (including any mineral deposit in areas leased or not leased), any life (including fish and other aquatic life), property, or the marine, coastal, or human environment.

(c) To inform you and third parties of your legal and contractual obligations.

(d) To inform you and third parties of the U.S. Government's rights to access G&G data and information collected under permit in the OCS, reimbursement for submittal of data and information, and the proprietary terms of data and information submitted to, and retained by, MMS.

§ 251.3 Authority and applicability of this part.

MMS authorizes you to conduct exploration or scientific research activities under this part in accordance with the Act, the regulations in this part, orders of the Director/Regional Director, and other applicable statutes, regulations, and amendments.

(a) This part does not apply to G&G exploration conducted by or on behalf

of the lessee on a lease in the OCS. Refer to 30 CFR part 250 if you plan to conduct G&G activities related to oil, gas, or sulphur under terms of a lease.

(b) Federal agencies are exempt from the regulations in this part.

(c) G&G exploration or G&G scientific research related to minerals other than oil, gas, and sulphur is covered by regulations at 30 CFR part 280.

§ 251.4 Types of G&G activities that require permits or Notices.

(a) *Exploration.* You must have an MMS-approved permit to conduct G&G exploration, including deep stratigraphic tests, for oil, gas, or sulphur resources. If you conduct both geological and geophysical exploration, you must have a separate permit for each.

(b) *Scientific research.* You may only conduct G&G scientific research related to oil, gas, and sulphur in the OCS after you obtain an MMS-approved permit or file a Notice.

(1) *Permit.* You must obtain a permit if the research activities you propose to conduct involve:

- (i) Using solid or liquid explosives;
- (ii) Drilling a deep stratigraphic test;

or

- (iii) Developing data and information for proprietary use or sale.

(2) *Notice.* Any other G&G scientific research that you conduct related to oil, gas, and sulphur in the OCS requires you to file a Notice with the Regional Director at least 30 days before you begin. If circumstances preclude a 30-day Notice, you must provide oral notification and followup in writing. You must also inform MMS in writing when you conclude your work.

§ 251.5 Applying for permits or filing Notices.

(a) *Permits.* You must submit a signed original and three copies of the MMS permit application form (Form MMS-327). The form includes names of persons, type, location, purpose, and dates of activity, and environmental and other information.

(b) *Disapproval of permit application.* If MMS disapproves your application for a permit, the Regional Director will state the reasons for the denial and will advise you of the changes needed to obtain approval.

(c) *Notices.* You must sign and date a Notice and state:

- (1) The name(s) of the person(s) who will conduct the proposed research;
- (2) The name(s) of any other person(s) participating in the proposed research, including the sponsor;
- (3) The type of research and a brief description of how you will conduct it;

(4) The location in the OCS, indicated on a map, plot, or chart, where you will conduct research;

(5) The proposed dates you project for your research activity to start and end;

(6) The name, registry number, registered owner, and port of registry of vessels used in the operation;

(7) The earliest practicable time you expect to make the data and information resulting from your research activity available to the public;

(8) Your plan of how you will make the data and information you collected available to the public;

(9) That you and others involved will not sell or withhold for exclusive use the data and information resulting from your research; and

(10) At your option, you may submit (as a substitute for the material required in paragraphs (c)(7), (c)(8), and (c)(9) of this section) the nonexclusive use agreement for scientific research attachment to Form 327.

(d) *Filing locations.* You must apply for a permit or file a Notice at one of the following locations:

(1) For the OCS off the State of Alaska—the Regional Supervisor for Resource Evaluation, Minerals Management Service, Alaska OCS Region, 949 East 36th Avenue, Anchorage, Alaska 99508-4302.

(2) For the OCS off the Atlantic Coast and in the Gulf of Mexico—the Regional Supervisor for Resource Evaluation, Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123-2394.

(3) For the OCS off the coast of the States of California, Oregon, Washington, or Hawaii—the Regional Supervisor for Resource Evaluation, Minerals Management Service, Pacific OCS Region, 770 Paseo Camarillo, Camarillo, California 93010-6064.

§ 251.6 Obligations and rights under a permit or a Notice.

While conducting G&G exploration or scientific research activities under MMS permit or Notice:

- (a) You must not:
 - (1) Interfere with or endanger operations under any lease, right-of-way, easement, right-of-use, Notice, or permit issued or maintained under the Act;
 - (2) Cause harm or damage to life (including fish and other aquatic life), property, or to the marine, coastal, or human environment;
 - (3) Cause harm or damage to any mineral resource (in areas leased or not leased);
 - (4) Cause pollution;
 - (5) Disturb archaeological resources;

(6) Create hazardous or unsafe conditions; or

(7) Unreasonably interfere with or cause harm to other uses of the area.

(b) You must immediately report to the Regional Director if you:

- (1) Detect hydrocarbon occurrences;
- (2) Detect environmental hazards which imminently threaten life and property; or
- (3) Adversely affect the environment, aquatic life, archaeological resources, or other uses of the area where you are conducting exploration or scientific research activities.

(c) You must also consult and coordinate your G&G activities with other users of the area for navigation and safety purposes.

(d) Any persons conducting shallow test drilling or deep stratigraphic test drilling activities under a permit must use the best available and safest technologies that the Regional Director determines to be economically feasible.

(e) You may not claim any oil, gas, sulphur, or other minerals you discover while conducting operations under a permit or Notice.

§ 251.7 Test drilling activities under a permit.

(a) *Shallow test drilling.* Before you begin shallow test drilling under a permit, the Regional Director may require you to:

(1) Gather and submit seismic, bathymetric, sidescan sonar, magnetometer, or other geophysical data and information to determine shallow structural detail across and in the vicinity of the proposed test.

(2) Submit information for coastal zone consistency certification according to paragraphs (b)(3) and (b)(4) of this section, and for protecting archaeological resources according to paragraph (b)(5) of this section.

(3) Allow all interested parties the opportunity to participate in the shallow test according to paragraph (c) of this section, and meet bonding requirements according to paragraph (d) of this section.

(b) *Deep stratigraphic tests.* You must submit to the appropriate Regional Director, at the address given in § 251.5, a drilling plan, an environmental report, and an application for permit to drill (Form MMS-123) as follows:

(1) *Drilling plan.* The drilling plan must include:

- (i) The proposed type, sequence, and timetable of drilling activities;
- (ii) A description of your drilling rig, indicating the important features with special attention to safety, pollution prevention, oil-spill containment and cleanup plans, and onshore disposal procedures;

(iii) The location of each deep stratigraphic test you will conduct, including the location of the surface and projected bottomhole of the borehole;

(iv) The types of geological and geophysical survey instruments you will use before and during drilling;

(v) Seismic, bathymetric, sidescan sonar, magnetometer, or other geophysical data and information sufficient to evaluate seafloor characteristics, shallow geologic hazards, and structural detail across and in the vicinity of the proposed test to the total depth of the proposed test well; and

(vi) Other relevant data and information that the Regional Director requires.

(2) *Environmental report.* The environmental report must include all of the following material:

(i) A summary with data and information available at the time you submitted the related drilling plan. MMS will consider site-specific data and information developed since the most recent environmental impact statement or other environmental impact analysis in the immediate area. The summary must meet the following requirements:

(A) You must concentrate on the issues specific to the site(s) of drilling activity. However, you only need to summarize data and information discussed in any environmental reports, analyses, or impact statements prepared for the geographic area of the drilling activity.

(B) You must list referenced material. Include brief descriptions and a statement of where the material is available for inspection.

(C) You must refer only to data that are available to MMS.

(ii) Details about your project such as:

(A) A list and description of new or unusual technologies;

(B) The location of travel routes for supplies and personnel;

(C) The kinds and approximate levels of energy sources;

(D) The environmental monitoring systems; and

(E) Suitable maps and diagrams showing details of the proposed project layout.

(iii) A description of the existing environment. For this section, you must include the following information on the area:

(A) Geology;

(B) Physical oceanography;

(C) Other uses of the area;

(D) Flora and fauna;

(E) Existing environmental monitoring systems; and

(F) Other unusual or unique characteristics that may affect or be affected by the drilling activities.

(iv) A description of the probable impacts of the proposed action on the environment and the measures you propose for mitigating these impacts.

(v) A description of any unavoidable or irreversible adverse effects on the environment that could occur.

(vi) Other relevant data that the Regional Director requires.

(3) *Copies for coastal States.* You must submit copies of the drilling plan and environmental report to the Regional Director for transmittal to the Governor of each affected coastal State and the coastal zone management agency of each affected coastal State that has an approved program under the Coastal Zone Management Act. (The Regional Director will make the drilling plan and environmental report available to appropriate Federal agencies and the public according to the Department of the Interior's policies and procedures).

(4) *Certification of coastal zone management program consistency and State concurrence.* When required under an approved coastal zone management program of an affected State, your drilling plan must include a certification that the proposed activities described in the plan comply with enforceable policies of, and will be conducted in a manner consistent with such State's program. The Regional Director may not approve any of the activities described in the drilling plan unless the State concurs with the consistency certification or the Secretary of Commerce makes the finding authorized by section 307(c)(3)(B)(ii) of the Coastal Zone Management Act.

(5) *Protecting archaeological resources.* If the Regional Director believes that an archaeological resource may exist in the area that may be affected by drilling, the Regional Director will notify you of the need to prepare an archaeological report.

(i) If the evidence suggests that an archaeological resource may be present, you must:

(A) Locate the site of the drilling so as to not adversely affect the area where the archaeological resources may be, or

(B) Establish to the satisfaction of the Regional Director that an archaeological resource does not exist or will not be adversely affected by drilling. This must be done by further archaeological investigation, conducted by an archaeologist and a geophysicist, using survey equipment and techniques deemed necessary by the Regional Director. A report on the investigation

must be submitted to the Regional Director for review.

(ii) If the Regional Director determines that an archaeological resource is likely to be present in the area that may be affected by drilling, and may be adversely affected by drilling, the Regional Director will notify you immediately. You must take no action that may adversely affect the archaeological resource unless further investigations determine that the resource is not archaeologically significant.

(iii) If you discover any archaeological resource while drilling, you must immediately halt drilling and report the discovery to the Regional Director. If investigations determine that the resource is significant, the Regional Director will inform you how to protect it.

(6) *Application for permit to drill (APD).* Before commencing deep stratigraphic test drilling activities under an approved drilling plan, you must submit an APD (Form MMS-123) and receive approval. You must comply with all regulations relating to drilling operations in 30 CFR part 250.

(7) *Revising an approved drilling plan.* Before you revise an approved drilling plan, you must obtain the Regional Director's approval.

(8) *After drilling.* When you complete the test activities, you must permanently plug and abandon the boreholes of all deep stratigraphic tests in compliance with 30 CFR part 250. If the tract on which you conducted a deep stratigraphic test is leased to another party for exploration and development, and if the lessee has not disturbed the borehole, MMS will hold you and not the lessee responsible for problems associated with the test hole.

(9) *Deadline for completing a deep stratigraphic test.* If your deep stratigraphic test well is within 50 geographic miles of a tract that MMS has identified for a future lease sale, as listed on the currently approved OCS leasing schedule, you must complete all drilling activities and submit the data and information to the Regional Director at least 60 days before the first day of the month in which MMS schedules the lease sale. However, the Regional Director may extend your permit duration to allow you to complete drilling activities and submit data and information if the extension is in the national interest.

(c) *Group participation in test drilling.* MMS encourages group participation for deep stratigraphic tests.

(1) *Purpose of group participation.* The purpose is to minimize duplicative

G&G activities involving drilling into the seabed of the OCS.

(2) *Providing opportunity for participation in a deep stratigraphic test.* When you propose to drill a deep stratigraphic test, you must give all interested persons an opportunity to participate in the test drilling through a signed agreement on a cost-sharing basis. You may include a penalty for late participation of not more than 100 percent of the cost to each original participant in addition to the original share cost.

(3) The participants must assess and distribute late participation penalties in accordance with the terms of the agreement.

(4) For a significant hydrocarbon occurrence that the Regional Director announces to the public, the penalty for subsequent late participants may be raised to not more than 300 percent of the cost of each original participant in addition to the original share cost.

(5) *Providing opportunity for participation in a shallow test drilling project.* When you apply to conduct shallow test drilling activities, you must, if ordered by the Regional Director or required by the permit, give all interested persons an opportunity to participate in the test activity on a cost-sharing basis. You may include a penalty provision for late participation of not more than 50 percent of the cost to each original participant in addition to the original share cost.

(6) *Procedures for group participation in drilling activities.* You must:

- (i) Publish a summary statement that describes the approved activity in a relevant trade publication;
 - (ii) Forward a copy of the published statement to the Regional Director;
 - (iii) Allow at least 30 days from the summary statement publication date for other persons to join as original participants;
 - (iv) Compute the estimated cost by dividing the estimated total cost of the program by the number of original participants; and
 - (v) Furnish the Regional Director with a complete list of all participants before starting operations, or at the end of the advertising period if you begin operations before the advertising period is over. The names of any subsequent or late participants must also be furnished to the Regional Director.
- (7) *Changes to the original application for test drilling.* If you propose changes to the original application and the Regional Director determines that the changes are significant, the Regional Director will require you to publish the changes for an additional 30 days to

give other persons a chance to join as original participants.

(d) *Bonding requirements.* You must submit a bond under this part before you may start a deep stratigraphic test.

(1) Before MMS issues a permit authorizing the drilling of a deep stratigraphic test, you must either:

- (i) Furnish to MMS a bond of not less than \$200,000 that guarantees compliance with all the terms and conditions of the permit; or
- (ii) Maintain a \$1 million bond that guarantees compliance with all the terms and conditions of the permit you hold for the OCS area where you propose to drill.

(2) You must provide additional security to MMS if the Regional Director determines that it is necessary for the permit or area.

(3) The Regional Director may require you to provide a bond, in an amount the Regional Director prescribes, before authorizing you to drill a shallow test well.

(4) Your bond must be on a form approved by the Associate Director for Offshore Minerals Management.

§ 251.8 Inspection and reporting requirements for activities under a permit.

(a) *Inspection of permit activities.* You must allow MMS representatives to inspect your exploration or scientific research activities under a permit. They will determine whether operations are adversely affecting the environment, aquatic life, archaeological resources, or other uses of the area. MMS will reimburse you for food, quarters, and transportation that you provide for MMS representatives if you send in your reimbursement request to the Region that issued the permit within 90 days of the inspection.

(b) *Approval for modifications.* Before you begin modified operations, you must submit a written request describing the modifications and receive the Regional Director's oral or written approval. If circumstances preclude a written request, you must make an oral request and follow up in writing.

(c) *Reports.* (1) You must submit status reports on a schedule specified in the permit and include a daily log of operations.

(2) You must submit a final report of exploration or scientific research activities under a permit within 30 days after the completion of acquisition activities under the permit. You may combine the final report with the last status report and must include each of the following:

- (i) A description of the work performed;
- (ii) Charts, maps, plats, and digital navigational data in a format specified

by the Regional Director, showing the areas and blocks in which any exploration or permitted scientific research activities were conducted. Identify the lines of geophysical traverses and their locations including a reference sufficient to identify the data produced during each activity.

(3) The dates on which you conducted the actual exploration or scientific research activities.

- (iv) A summary of any:
 - (A) Hydrocarbon or sulphur occurrences encountered;
 - (B) Environmental hazards; and
 - (C) Adverse effects of the exploration or scientific research activities on the environment, aquatic life, archaeological resources, or other uses of the area in which the activities were conducted.

(v) Other descriptions of the activities conducted as specified by the Regional Director.

§ 251.9 Temporarily stopping, canceling, or relinquishing activities approved under a permit.

(a) MMS may temporarily stop exploration or scientific research activities under a permit when the Regional Director determines that:

- (1) Activities pose a threat of serious, irreparable, or immediate harm. This includes damage to life (including fish and other aquatic life), property, any mineral deposit (in areas leased or not leased), to the marine, coastal, or human environment, or to an archaeological resource;

(2) You failed to comply with any applicable law, regulation, order, or provision of the permit. This would include MMS' required submission of reports, well records or logs, and G&G data and information within the time specified; or

(3) Stopping the activities is in the interest of national security or defense.

(b) *Procedures to temporarily stop activities.* (1) The Regional Director will advise you either orally or in writing. MMS will confirm an oral notification in writing and deliver all written notifications by courier or certified or registered mail. You must halt all activities under a permit as soon as you receive an oral or written notification.

(2) The Regional Director will advise you when you may start your permit activities again.

(c) *Procedure to cancel or relinquish a permit.* The Regional Director may cancel, or a permittee may relinquish, a permit at any time.

(1) If MMS cancels your permit, the Regional Director will advise you by certified or registered mail 30 days before the cancellation date and will state the reason.

(2) You may relinquish the permit by advising the Regional Director by certified or registered mail 30 days in advance.

(3) After MMS cancels your permit or you relinquish it, you are still responsible for proper abandonment of any drill sites in accordance with the requirements of § 251.7(b)(8). You must also comply with all other obligations specified in this part or in the permit.

§ 251.10 Penalties and appeals.

(a) *Penalties for noncompliance under a permit issued by MMS.* You are subject to the penalty provisions of: (1) Section 24 of the Act (43 U.S.C. 1350); and (2) The procedures contained in 30 CFR part 250, subpart N, for noncompliance with: (i) Any provision of the Act; (ii) Any provision of a C&G or drilling permit; or (iii) Any regulation or order issued under the Act.

(b) *Penalties under other laws and regulations.* The penalties prescribed in this section are in addition to any other penalty imposed by any other law or regulation.

(c) *Procedures to appeal orders or decisions MMS issues.* You may appeal any orders or decisions that MMS issues under the regulations in this part by referring to 30 CFR part 290. When you file an appeal with the Director, you must continue to follow all requirements for compliance with an order or decision other than payment of a civil penalty.

§ 251.11 Submission, inspection, and selection of geological data and information collected under a permit and processed by permittees or third parties.

(a) *Availability of geological data and information collected under a permit.*

(1) You must notify the Regional Director, in writing, when you complete the initial analysis, processing, or interpretation of any geological data and information. Initial analysis and processing are the stages of analysis or processing where the data and information first become available for in-house interpretation by the permittee, or become available commercially to third parties via sale, trade, license agreement, or other means.

(2) The Regional Director may ask if you have further analyzed, processed, or interpreted any geological data and information. When so asked, you must respond to MMS in writing within 30 days.

(b) *Submission, inspection, and selection of geological data and information.* The Regional Director may request the permittee or third party to submit the analyzed, processed, and interpreted geologic data and

information for inspection and/or permanent retention by MMS. The data and information must be submitted within 30 days after such request.

(c) *Requirements for submission of geological data and information collected under a permit.* Unless the Regional Director specifies otherwise, geological data and information must include:

(1) An accurate and complete record of all geological (including geochemical) data and information describing each operation of analysis, processing, and interpretation;

(2) Paleontological reports identifying microscopic fossils by depth, including the reference datum to which paleontological sample depths are related and, if the Regional Director requests, washed samples that you maintain for paleontological determinations;

(3) Copies of well logs or charts in a digital format, if available;

(4) Results and data obtained from formation fluid tests;

(5) Analyses of core or bottom samples and/or a representative cut or split of the core or bottom sample;

(6) Detailed descriptions of any hydrocarbons or hazardous conditions encountered during operations, including near losses of well control, abnormal geopressures, and losses of circulation; and

(7) Other geological data and information that the Regional Director may specify.

(d) *Obligations when geological data and information collected under permit are obtained by a third party.* A third party may obtain geological data and information from a permittee, or from another third party, by sale, trade, license agreement, or other means. If this happens:

(1) The third party recipient of the data and information assumes the obligations under this section, except for the notification provisions of paragraph (a)(1), and is subject to the penalty provisions of 30 CFR part 250, subpart N; and

(2) A permittee or third party that sells, trades, licenses, or otherwise provides data and information to a third party must advise the recipient, in writing, that accepting these obligations is a condition precedent of the sale, trade, license, or other agreement; and

(3) Except for license agreements, a permittee or third party that sells, trades, or otherwise provides data and information to a third party must advise the Regional Director, in writing and within 30 days, of the sale, trade, or other agreement, including the identity

of the recipient of the data and information; or

(4) For license agreements a permittee or third party that licenses data and information to a third party must, within 30 days of a request by the Regional Director, advise the Regional Director, in writing, of the license agreement, including the identity of the recipient of the data and information.

§ 251.12 Submission, inspection, and selection of geophysical data and information collected under a permit and processed by permittees or third parties.

(a) *Availability of geophysical data and information collected under a permit.* (1) You must notify the Regional Director, in writing, when you complete the initial processing and interpretation of any geophysical data and information. Initial processing is the stage of processing where the data and information become available for in-house interpretation by the permittee, or become available commercially to third parties via sale, trade, license agreement, or other means.

(2) The Regional Director may ask if you have further processed or interpreted any geophysical data and information. When so asked, you must respond to MMS in writing within 30 days.

(b) *Submission, inspection and selection of geophysical data and information collected under a permit.* The Regional Director may request that the permittee or third party submit geophysical data and information before making a final selection for retention. MMS representatives may inspect and select the data and information on your premises, or the Regional Director can request delivery of the data and information to the appropriate MMS regional office for review.

(1) You must submit the geophysical data and information within 30 days of receiving the request, unless the Regional Director extends the delivery time.

(2) At any time before final selection, the Regional Director may return any or all geophysical data and information following review. You will be notified in writing of all or portions of those data the Regional Director decides to retain.

(c) *Requirements for submission of geophysical data and information collected under a permit.* Unless the Regional Director specifies otherwise, you must include:

(1) An accurate and complete record of each geophysical survey conducted under the permit, including digital navigational data and final location maps;

(2) All seismic data collected under a permit presented in a format and of a quality suitable for processing;

(3) Processed geophysical information derived from seismic data with extraneous signals and interference removed, presented in a quality format suitable for interpretive evaluation, reflecting state-of-the-art processing techniques; and

(4) Other geophysical data, processed geophysical information, and interpreted geophysical information including, but not limited to, shallow and deep subbottom profiles, bathymetry, sidescan sonar, gravity and magnetic surveys, and special studies such as refraction and velocity surveys.

(d) *Obligations when geophysical data and information collected under a permit are obtained by a third party.* A third party may obtain geophysical data, processed geophysical information, or interpreted geophysical information from a permittee, or from another third party, by sale, trade, license agreement, or other means. If this happens:

(1) The third party recipient of the data and information assumes the obligations under this section, except for the notification provisions of paragraph (a)(1), and is subject to the penalty provisions of 30 CFR part 250, subpart N; and

(2) A permittee or third party that sells, trades, licenses, or otherwise provides data and information to a third party must advise the recipient, in writing, that accepting these obligations is a condition precedent of the sale, trade, license, or other agreement; and

(3) Except for license agreements, a permittee or third party that sells, trades, or otherwise provides data and information to a third party must advise the Regional Director, in writing and within 30 days, of the sale, trade, or other agreement, including the identity of the recipient of the data and information; or

(4) For license agreements, a permittee or third party that licenses data and information to a third party must, within 30 days of a request by the Regional Director, advise the Regional Director, in writing, of the license agreement, including the identity of the recipient of the data and information.

§ 251.13 Reimbursement for the costs of reproducing data and information and certain processing costs.

(a) MMS will reimburse you or a third party for reasonable costs of reproducing data and information that the Regional Director requests if:

(1) You deliver G&C data and information to MMS for the Regional

Director to inspect or select and retain (according to §§ 251.11 or 251.12);

(2) MMS receives your request for reimbursement and the Regional Director determines that the requested reimbursement is proper; and

(3) The cost is at your lowest rate (or a third party's) or at the lowest commercial rate established in the area, whichever is less.

(b) MMS will reimburse you or the third party for the reasonable costs of processing geophysical information (which does not include cost of data acquisition):

(1) If, at the request of the Regional Director, you processed the geophysical data or information in a form or manner other than that used in the normal conduct of business; or

(2) If you collected the information under a permit that MMS issued to you before October 1, 1985, and the Regional Director requests and retains the information.

(c) When you request reimbursement, you must identify reproduction and processing costs separately from acquisition costs.

(d) MMS will not reimburse you or a third party for data acquisition costs or for the costs of analyzing or processing geological information or interpreting geological or geophysical information.

§ 251.14 Protecting and disclosing data and information submitted to MMS under a permit.

(a) *Disclosure of data and information to the public by MMS.* (1) In making data and information available to the public, the Regional Director will follow the applicable requirements of:

(i) The Freedom of Information Act (5 U.S.C. 552);

(ii) The implementing regulations at 43 CFR part 2;

(iii) The Act; and

(iv) The regulations at 30 CFR parts 250 and 252.

(2) Except as specified in this section or in 30 CFR parts 250 and 252, if the Regional Director determines any data or information is exempt from public disclosure under paragraph (a) of this section, MMS will not provide the data and information to any State or to the executive of any local government or to the public, unless you and all third parties agree to the disclosure.

(3) MMS will keep confidential the identity of third party recipients of data and information collected under a permit. MMS will not release the identity unless you and the third parties agree to the disclosure.

(4) When you detect any significant hydrocarbon occurrences or environmental hazards on unleased

lands during drilling operations, the Regional Director will immediately issue a public announcement. The announcement must further the national interest, but without unduly damaging your competitive position.

(b) *Timetable for release of G&C data and information that MMS acquires.* MMS will release data and information that you or a third party submits and MMS retains, in accordance with paragraphs (b)(1) and (b)(2) of this section.

(1) If the data and information are not related to a deep stratigraphic test, MMS will release them to the public in accordance with the following table:

If you or a third party submit and MMS retains	The Regional Director will disclose them to the public
Geological data and information.	10 years after issuing the permit.
Geophysical data	50 years after you or a third party submit the data.
Geophysical information.	25 years after you or a third party submit the information.

(2) If the data and information are related to a deep stratigraphic test, MMS will release them to the public at the earlier of the following times:

(i) Twenty-five years after you complete the test; or

(ii) If a lease sale is held after you complete a test well, 60 calendar days after MMS issues the first lease, any portion of which is located within 50 geographic miles (82.7 kilometers) of the test.

(c) *Procedure that MMS follows to disclose acquired data and information to a contractor for reproduction, processing, and interpretation.*

(1) When practical, the Regional Director will advise the person who submitted data and information under §§ 251.11 or 251.12 of the intent to disclose the data or information to an independent contractor or agent.

(2) The person so notified will have at least 5 working days to comment on the action.

(3) When the Regional Director advises the person who submitted the data and information, all other owners of the data or information will be considered to have been so notified.

(4) Before disclosure, the contractor or agent must sign a written commitment not to sell, trade, license, or disclose data or information to anyone without the Regional Director's consent.

(d) *Sharing data and information with coastal States.* (1) When MMS solicits nominations for leasing lands located within 3 geographic miles (5.6

kilometers) of the seaward boundary of any coastal State, the Regional Director, in accordance with 30 CFR 252.7 (a)(4) and (b) and subsections 8(g) and 26(c) of the Act (43 U.S.C. 1337(g) and 1352(e)), will provide the Governor with:

(i) All information on the geographical, geological, and ecological characteristics of the areas and regions MMS proposes to offer for lease;

(ii) An estimate of the oil and gas reserves in the areas proposed for leasing; and

(iii) An identification of any field, geological structure, or trap on the OCS within 3 geographic miles (5.6 kilometers) of the seaward boundary of the State.

(2) After receiving nominations for leasing an area of the OCS within 3 geographic miles of the seaward boundary of any coastal State, MMS will carry out a tentative area identification according to 30 CFR part 256, subparts D and E. At that time, the Regional Director will consult with the Governor to determine whether any tracts further considered for leasing may contain any oil or gas reservoirs that underlie both the OCS and lands subject to the jurisdiction of the State.

(3) Before a sale, if a Governor requests, the Regional Director, in accordance with 30 CFR 252.7(a)(4) and (b) and sections 8(g) and 26(c) of the Act (43 U.S.C. 1337(g) and 1352(e)), will share with the Governor information that identifies potential and/or proven common hydrocarbon bearing areas within 3 geographic miles of the seaward boundary of that State.

(4) Information received and knowledge gained by a State official under paragraph (d) of this section is subject to applicable confidentiality requirements of:

(i) The Act; and

(ii) The regulations at 30 CFR parts 250, 251, and 252.

§251.15 Authority for information collection.

(a) The Office of Management and Budget has approved the information collection requirements in this part under 44 U.S.C. 3501 *et seq.* and assigned OMB control number 1010-0048. The title of this information collection is "30 CFR Part 251, Geological and Geophysical (G&G) Explorations of the OCS."

(b) We 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.

(c) We use the information collected under this part to:

(1) Evaluate permit applications and monitor scientific research activities for environmental and safety reasons.

(2) Determine that explorations do not harm resources, result in pollution, create hazardous or unsafe conditions, or interfere with other users in the area.

(3) Approve reimbursement of certain expenses.

(4) Monitor the progress and activities carried out under an OCS G&G permit.

(5) Inspect and select G&G data and information collected under an OCS G&G permit.

(i) Respondents are Federal OCS permittees and Notice filers. Responses are mandatory or are required to obtain or retain a benefit. We will protect information considered proprietary under applicable law and under regulations at §251.14 and part 250 of this chapter.

(e) Send comments regarding any aspect of the collection of information under this part, including suggestions for reducing the burden, to the Information Collection Clearance Officer, Minerals Management Service, Mail Stop 4230, 1849 C Street, N.W., Washington, D.C. 20240; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Department of the Interior (1010-0048), 725 17th Street, N.W., Washington, D.C. 20503.

[FR Doc. 97-33530 Filed 12-23-97; 8:45 am] BILING CODE 4910-MR-P

DEPARTMENT OF DEFENSE

Defense Special Weapons Agency

32 CFR Part 318

[DSWA Instruction 6400.11B]

Defense Special Weapons Agency Privacy Program

AGENCY: Defense Special Weapons Agency, DOD.
ACTION: Final rule.

SUMMARY: The Defense Special Weapons Agency (DSWA) is adding two sections to its procedural rule for the DSWA Privacy Program. The two sections are entitled Disclosure of records to persons other than the individual to whom it pertains and Fees. The addition of these two sections helps an individual to better understand the DSWA Privacy Program.

EFFECTIVE DATE: December 3, 1997.

ADDRESSES: General Counsel, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310-3398.

FOR FURTHER INFORMATION CONTACT: Mrs. Sandy Barker at (703) 325-7681.

SUPPLEMENTARY INFORMATION:

Executive Order 12866. It has been determined that this Privacy Act rule for the Department of Defense does not constitute "significant regulatory action". Analysis of the rule indicates that it does not have an annual effect on the economy of \$100 million or more; does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; does not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866 (1993).

Regulatory Flexibility Act. It has been determined that this Privacy Act rule for the Department of Defense does not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Paperwork Reduction Act. It has been determined that the Privacy Act rule for the Department of Defense imposes no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

The Defense Special Weapons Agency is adopting the changes previously published as a proposed rule on October 3, 1997, at 62 FR 51821. No comments were received, therefore, the Defense Special Weapons Agency is adopting the rule as previously published.

List of Subjects in 32 CFR Part 318

Privacy.

Accordingly, the Defense Special Weapons Agency amends 32 CFR part 318 as follows:

PART 318—DEFENSE SPECIAL WEAPONS AGENCY PRIVACY PROGRAM—[AMENDED]

1. The authority citation for 32 CFR part 318 continues to read as follows:

AUTHORITY: Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a).

2. Section 318.9 is redesignated as 318.11.

3. Sections 318.9 and 318.10 are added as follows:



The Department of the Interior Mission

As the Nation's principal conservation agency, the Department of the Interior has responsibility for most of our nationally owned public lands and natural resources. This includes fostering sound use of our land and water resources; protecting our fish, wildlife, and biological diversity; preserving the environmental and cultural values of our national parks and historical places; and providing for the enjoyment of life through outdoor recreation. The Department assesses our energy and mineral resources and works to ensure that their development is in the best interests of all our people by encouraging stewardship and citizen participation in their care. The Department also has a major responsibility for American Indian reservation communities and for people who live in Island territories under U.S. administration.



The Minerals Management Service Mission

As a bureau of the Department of the Interior, the Minerals Management Service's (MMS) primary responsibilities are to manage the mineral resources located on the Nation's Outer Continental Shelf (OCS), collect revenue from the Federal OCS and onshore Federal and Indian lands, and distribute those revenues.

Moreover, in working to meet its responsibilities, the Offshore Minerals Management Program administers the OCS competitive leasing program and oversees the safe and environmentally sound exploration and production of our Nation's offshore natural gas, oil and other mineral resources. The MMS Royalty Management Program meets its responsibilities by ensuring the efficient, timely and accurate collection and disbursement of revenue from mineral leasing and production due to Indian tribes and allottees, States and the U.S. Treasury.

The MMS strives to fulfill its responsibilities through the general guiding principles of: (1) being responsive to the public's concerns and interests by maintaining a dialogue with all potentially affected parties and (2) carrying out its programs with an emphasis on working to enhance the quality of life for all Americans by lending MMS assistance and expertise to economic development and environmental protection.