boost, adjustment to the torque of the FCU Ng servo valve, test for leakage or restrictions of the FCU pnuematic system, or overhaul of the FCU), per the applicable service bulletin. Repeat the tests (checks) after that at intervals not to exceed 90 days.

Note 2: Tests, checks, and follow-on actions accomplished before the effective date of this AD per Shorts Service Bulletin SD3 SHERPA–71–2, SD360 SHERPA–71–2, SD360–71–19, or SD330–71–24; all dated February 5, 2001; as applicable; are acceptable for compliance with paragraph (a) of this AD.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The actions shall be done in accordance with Shorts Service Bulletin SD3 SHERPA–71–2, Revision 1, dated August 2, 2001; Shorts Service Bulletin SD360 SHERPA–71–2, Revision 1, dated August 2, 2001; Shorts Service Bulletin SD360–71–19, Revision 1, dated August 2, 2001; or Shorts Service Bulletin SD330–71–24, Revision 1, dated August 2, 2001; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Short Brothers, Airworthiness & Engineering Quality, P.O. Box 241, Airport Road, Belfast BT3 9DZ, Northern Ireland. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in British airworthiness directives 002–02–2001, 003–02–2001, 004–02–2001, and 005–02–2001.

Effective Date

(e) This amendment becomes effective on January 7, 2002.

Issued in Renton, Washington, on November 21, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–29590 Filed 11–30–01; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 256

RIN 1010–AC68

Leasing of Sulphur or Oil and Gas in the Outer Continental Shelf—Revision of Requirements Governing Surety Bonds for Outer Continental Shelf Leases

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: This rule modifies requirements governing surety bonds for activities on the Outer Continental Shelf (OCS). These changes codify the terms and conditions under which a surety will be relieved of responsibility when MMS terminates the period of liability of a bond. Codifying these terms and conditions is necessary to clarify the responsibilities of the lessee and the surety after the lease expires.

DATES: This rule is effective January 2, 2002.

FOR FURTHER INFORMATION CONTACT: John Mirabella, Engineering and Operations Division, (703) 787–1600.

SUPPLEMENTARY INFORMATION: OCS lessees must comply with regulations governing operations, payments of rents and royalties, and end-of-lease obligations. To ensure that the lessee will be financially able to meet all requirements, including end-of-lease requirements, MMS requires the lessee to post a bond. This rule amends the provisions of 30 CFR 256.58 concerning the cancellation of a bond.

It sometimes happens that a problem arising during the period covered by a bond is only discovered after the coverage period ends. For example, an audit may reveal that the lessee owes us additional royalty. As a rare example, a plugged well may start to leak. In either case, the lessee is responsible for correcting the problem.

This rule addresses how long MMS will hold a bond to ensure that situations of this type are covered. The current regulation does not set a limit on the period that MMS may continue to hold the bond company responsible for a problem that occurs during the liability period.

On January 8, 2001, MMS published a proposed rule in the **Federal Register** (66 FR 1277). The rule provides for a period of 7 years (plus such additional time taken for appeals or litigation) during which MMS may hold the bond to cover any claims based upon obligations that accrued during the liability period. During this 7-year period, we will retain security or collateral pledged to us in lieu of a surety. We will cancel the bond after 7 years. We believe that the 7-year period provides adequate protection to the Government and will provide a measure of certainty to bond companies.

The 7-year provision applies to all base bonds, unless we find that less security needs to be retained. If you are a supplemental bond provider, this rule would release you from liability after completion of the bonded work, unless we find that potential liability is greater than the amount of the base bond. We will normally release the supplemental bond upon completion of the bonded work because, in most cases, we anticipate that the general bond will be sufficient to cover our estimate of potential residual liabilities.

The rule does not change the provision in 30 CFR 256.58(c) that allows MMS to reinstate your bond in extraordinary circumstances. That provision allows us to reinstate your bond as if no cancellation or release had occurred if: (1) You make a payment under the lease and the payment is rescinded or must be repaid by the recipient because you are insolvent, bankrupt, subject to reorganization, or placed in receivership; or (2) you represent to us that you have discharged your obligations under the lease and your representation was materially false.

The notice of proposed rulemaking requested comments during a 60-day public comment period. MMS received three comment letters during the comment period—one from an oil company, one from a trade association representing companies that write surety bonds, and one from an individual representing two companies that provide surety bonds for the OCS.

One comment requested clarification of how termination and cancellation of a bond will affect responsibilities of the surety and the lessee. Termination of the period of liability is important because it ends the surety's responsibility for further activities on a lease. The surety is responsible for all obligations that accrue during the period of liability. Accrued obligations include those associated with plugging of wells drilled and removal of platforms installed during the period of liability. In addition, obligations accrue for all wells or platforms that were on the lease during any portion of the period of liability. Obligations can also accrue when the operator takes other actions, such as installing a piece of equipment, which must later be removed. When the period of liability is terminated, the surety continues to be liable for accrued obligations. When MMS cancels the bond, the cancellation ends all obligations for the surety, including previously accrued obligations.

A commenter recommended that the rules provide for cancellation of a bond when a new lessee has sufficient financial strength to provide for security without a supplemental bond. We agree with the commenter. The proposed rules already had specified conditions for cancellation of a bond when the lessee obtains a replacement bond. We agree that the proposal should be broadened. When a new lessee has sufficient financial strength on the basis of which MMS determines that a supplemental bond is unnecessary, we will cancel the supplemental bond because that financial strength provides a similar level of security as a bond.

A commenter recommended that a supplemental bond be cancelled when replaced by a new supplemental bond and that MMS not require the new bond issuer to accept all liabilities of the previous bond issuer. We revised the proposed rule so that accepting liabilities of the previous bond issuer applies only to base bonds and not to supplemental bonds, unless the Regional Director (1) determines that the base bond may not be adequate to cover liabilities accruing during the period of liability of the supplemental bond and which the replacement supplemental bond would not cover, and (2) notifies the provider of the bond that all or part of the supplemental bond will not be cancelled unless the issuer of the replacement bond accepts the liabilities of the previous supplemental bond issuer to the extent the Regional Director specifies.

One commenter recommended that the bond be cancelled 7 years after the termination of the lease rather than 7 years after meeting all lease obligations. Another commenter recommended that the bond be cancelled after 6 years instead of 7. The time difference between the termination of the lease and the meeting of all obligations is typically less than 1 year but can be longer. The lease covering offshore operations requires that the lessee remove all devices, works, and structures from the lease within 1 year of lease termination. The lease provides that MMS can allow the devices, works, and structures to remain longer for drilling or producing on other leases. When MMS grants a lessee additional time to meet these end-of-lease obligations, we require that the lessee maintain the bond until the obligations are met. In this situation, the period of liability does not end until the lessee has met the obligations, and we believe that the time period should not start until the lessee has met the obligations. However, when more than a year has elapsed between the end of the lease and the meeting of all lease obligations, we believe that an additional 6 years will be sufficient. Accordingly, we have modified the rule to provide for bond cancellation at the latest of 7 years after the termination of the lease, 6 years after completion of all bonded obligations, or the conclusion of any appeals or litigation related to your bonded obligations.

A commenter recommended that MMS make mandatory the provision that allows the Regional Director to reduce the amount of bond. MMS has maintained a policy of not requiring more bond than is necessary to ensure that obligations are met. The rule has been revised to address the commenter's concern. Under the final rule, the lessee may request a reduction in the level of the bond or the amount of security. The Regional Director will then reduce the bond or return a portion of the security if the Regional Director determines that the lessee needs less than the full amount of the base bond to meet any possible future obligation.

A commenter recommended that the bond form should reflect the 90-day termination provision in the rule. This notice addresses the rule and not the bond form. MMS will consider the comment during any revisions to the bond form. However, the provision for termination will be available and can be exercised by the surety whether or not the provision appears on the bond form.

Editorial Corrections: With this final rule, MMS is also making two minor editorial corrections to 30 CFR 256.52.

(1) Section 256.52(b) lists the three MMS OCS areas. We are correcting the first area listed to state that it is ''The Gulf of Mexico and the area offshore the Atlantic Coast.''

(2) In several paragraphs under § 256.52, the word ''alternate'' is used when referring to another form or type of security. This word is corrected to the more accurate term ''alternative'' in each place that it appears.

Procedural Matters

Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget (OMB) under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This rule, in many important ways, follows aspects of current policy. The rule will also extend that policy to other forms of security, such as escrow accounts, which are not currently used for base bonds. Since this rule normally will not apply to supplemental bonds without specific action by the Regional Supervisor, the impact of this change is minimal.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. Other agencies are not affected by the bonds and other forms of surety that protect the Department of the Interior's interests.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. This rule will have no effect on the rights of the recipients of entitlements, grants, user fees, or loan programs.

(4) This rule does not raise novel legal or policy issues. The rule more clearly conforms MMS practice to that of the private sector and provides certainty with respect to the cancellation of surety bonds and other lease security.

Regulatory Flexibility (RF) Act

The Department certifies that this rule will not have a significant economic effect on a substantial number of small entities under the RF Act (5 U.S.C. 601 *et seq.*).

This rule will affect lessees and operators of leases on the OCS. This includes about 130 different companies. These companies are generally classified under the North American Industry Classification System (NAICS) code 211111, Crude Petroleum and Natural Gas Extraction, which includes companies that extract crude petroleum and natural gas. For this NAICS classification, a small company is one with fewer than 500 employees. Based on these criteria, we estimate that about 54 percent of the companies are considered small. This rule, therefore, affects a substantial number of small entities.

The companies that are considered small have an average of about 15 offshore facilities. We estimate that the small companies have annual sales between $1 million and $380 million.

As discussed above, we do not expect this rule to have a significant effect on any company, large or small. Under current regulations, when a lessee meets all of the lease requirements, the period of liability ends. If MMS later discovers a problem with the way the work was performed, we will hold the lessee responsible. If the lessee is not able to meet the obligation, we hold the bond company responsible. This regulation establishes a time period during which MMS will hold the bond before cancellation. The codification of a policy on bond cancellation is new. The other change from current practice is that MMS will retain pledged securities for the same length of time that we will wait before canceling surety bonds. While this new provision is needed to ensure consistency of agency practice, the provision will not have a significant effect since, in almost all cases, companies currently do not use instruments other than surety bonds to meet the basic bond requirement.

This rule will also affect companies that sell surety bonds or provide other types of security to OCS lessees. For those companies, this rule will provide certainty with regard to residual liabilities. Since the provisions in this rule are generally the same as current practice, any effects on bonding companies will be minor. Those minor effects will be reflected in costs charged to oil and gas lessees and will ultimately be borne by oil and gas lessees. These effects are included in the estimates addressing the oil and gas lessees.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small business about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MMS, call toll-free (888) 734–3247.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

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

(a) Does not have an annual effect on the economy of $100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises.

We do not expect this rule to have a significant effect because, as discussed earlier, this rule would, generally, codify policies already in use. The substantive change for securities other than surety bonds will not have a significant effect because the rule applies to the general bond requirement, and surety bonds are used by almost all MMS lessees to satisfy the base bond requirement.

Paperwork Reduction Act (PRA) of 1995

The PRA provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information and assigns a control number, you are not required to respond. OMB approved the information collection requirements in current 30 CFR part 256 regulations under OMB control number 1010–0006, with a current expiration date of March 31, 2004. The information collection aspects of this rule remain unchanged from current regulations, contain no additional paperwork requirements, and an OMB form 83–I submission to OMB under the PRA is not required.

Federalism (Executive Order 13132)

With respect to Executive Order 13132, the rule does not have Federalism implications. This rule does not substantially and directly affect the relationship between the Federal and State governments. The bonding requirements apply to leases between the Federal Government and its oil and gas lessees. The bond does not affect obligations between the lessee and any State or local government. This rule does not impose costs on States or localities. State or local governments do not provide bonds and do not need to comply with bonding requirements.

Takings (Executive Order 12630)

With respect to Executive Order 12630, this rule does not have significant Takings implications. A Takings Implication Assessment is not required. This rulemaking is not a governmental action capable of interfering with constitutionally protected property rights.

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

This rule is not a significant rule and is not subject to review by OMB under Executive Order 12866. The rule does not have a significant effect on energy supply, distribution, or use because the rule, in many important ways, follows aspects of current policy for bonds. The rule will also extend that policy to other forms of security such as escrow accounts. The new policy will apply only in the rare times when the other forms of security are used for a base bond. Thus, a Statement of Energy Effects is not required.

Civil Justice Reform (Executive Order 12988)

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

National Environmental Policy Act of 1969

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A Categorical Exclusion Review determined that this action is considered a categorically excluded action, as it results only in administrative effects causing no significant impacts on the environment and does not require preparation of an environmental assessment. The rulemaking does not represent an exception to the established criteria for categorical exclusions.

Unfunded Mandate Reform Act (UMRA) of 1995

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. This rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 256

Administrative practice and procedure, Continental shelf, Government contracts, Oil and gas exploration, Public lands—mineral resources, Reporting and recordkeeping requirements, Surety bonds.

Dated: November 7, 2001.

J. Steven Griles,

Acting Assistant Secretary, Land and Minerals Management.

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

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

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

Authority: 43 U.S.C. 1331 *et seq.*, 42 U.S.C. 6213.

2. Section 256.52 is amended as follows:

A. Paragraph (b)(1) is revised to read as set forth below:

B. In paragraphs (d), (e), (g) introductory text, and (g)(1) and (2), remove the word ''alternate'' and add, in its place, the word ''alternative''.

§ 256.52 Bond requirements for an oil and gas or sulphur lease.

* * * * *

(b) * * *

(1) The Gulf of Mexico and the area offshore the Atlantic Coast.

* * * * *

3. Section 256.58 is revised to read as follows:

§ 256.58 Termination of the period of liability and cancellation of a bond.

This section defines the terms and conditions under which MMS will terminate the period of liability of a bond or cancel a bond. Terminating the period of liability of a bond ends the period during which obligations continue to accrue but does not relieve the surety of the responsibility for obligations that accrued during the period of liability. Canceling a bond relieves the surety of all liability. The liabilities that accrue during a period of liability include obligations that started to accrue prior to the beginning of the period of liability and had not been met and obligations that begin accruing during the period of liability.

(a) When the surety under your bond requests termination:

(1) The Regional Director will terminate the period of liability under your bond within 90 days after MMS receives the request; and

(2) If you intend to continue operations, or have not met all end of lease obligations, you must provide a replacement bond of an equivalent amount.

(b) If you provide a replacement bond, the Regional Director will cancel your previous bond and the surety that provided your previous bond will not retain any liability, provided that:

(1) The new bond is equal to or greater than the bond that was terminated, or you provide an alternative form of security, and the Regional Director determines that the alternative form of security provides a level of security equal to or greater than that provided for by the bond that was terminated;

(2) For a base bond submitted under § 256.52(a) or under § 256.53(a) or (b), the surety issuing the new bond agrees to assume all outstanding liabilities that accrued during the period of liability that was terminated; and

(3) For supplemental bonds submitted under § 256.53(d), the surety issuing the new supplemental bond agrees to assume that portion of the outstanding liabilities that accrued during the period of liability which was terminated and that the Regional Director determines may exceed the coverage of the base bond, and of which the Regional Director notifies the provider of the bond.

(c) This paragraph applies if the period of liability is terminated for a bond but the bond is not replaced by a bond of an equivalent amount. The surety that provided your terminated bond will continue to be responsible for accrued obligations:

(1) Until the obligations are satisfied; and

(2) For additional periods of time in accordance with paragraph (d) of this section.

(d) When your lease expires or is terminated, the surety that issued a bond will continue to be responsible, and the Regional Director will retain other forms of security as shown in the following table:

For the following type of bond	The period of liability will end	Your bond will be cancelled . . .
(1) Base bonds submitted under § 256.52(a), § 256.53(a), or (b).	When the Regional Director determines that you have met all of your obligations under the lease.	Seven years after the termination of the lease, 6 years after completion of all bonded obligations, or at the conclusion of any appeals or litigation related to your bonded obligation, whichever is the latest. The Regional Director will reduce the amount of your bond or return a portion of your security if the Regional Director determines that you need less than the full amount of the base bond to meet any possible future problems.
(2) Supplemental bonds submitted under § 256.53(d).	When the Regional Director determines that you have met all your obligations covered by the supplemental bond.	When you meet your bonded obligations, unless the Regional Director: (i) Determines that the future potential liability resulting from any undetected problems is greater than the amount of the base bond; and (ii) Notifies the provider of the bond that the Regional Director will wait 7 years before cancelling all or a part of the bond (or longer period as necessary to complete any appeals or judicial litigation related to your bonding obligation).

(e) For all bonds, the Regional Director may reinstate your bond as if no cancellation or release had occurred if:

(1) A person makes a payment under the lease and the payment is rescinded or must be repaid by the recipient because the person making the payment is insolvent, bankrupt, subject to reorganization, or placed in receivership; or

(2) The responsible party represents to MMS that it has discharged its obligations under the lease, and the representation was materially false when the bond was canceled or released.

[FR Doc. 01–29899 Filed 11–30–01; 8:45 am]