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Dated: June 10, 1997.

**William K. Hubbard,**  
Associate Commissioner for Policy  
Coordination.

[FR Doc. 97-19428 Filed 7-23-97; 8:45 am]

BILLING CODE 4160-01-F

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**DEPARTMENT OF THE INTERIOR**
**Minerals Management Service****30 CFR Parts 250 and 256**

RIN 1010-AC04

**Pipeline Right-of-Way Applications and  
Assignment Fees; Requirements for  
Filing of Lease Transfers**
AGENCY: Minerals Management Service,  
Interior.

ACTION: Final rule.

**SUMMARY:** The Minerals Management Service (MMS) amends its regulations governing the filing fees charged for processing pipeline right-of-way applications and assignments, and applications for approval of instruments of transfer of a lease or interest. This amendment increases the filing fees for these documents, which will allow MMS to recover the full processing costs.

EFFECTIVE DATE: September 22, 1997.

**FOR FURTHER INFORMATION CONTACT:** John Mirabella, Engineering and Operations Division, at (703) 787-1607.

**SUPPLEMENTARY INFORMATION:** MMS last increased the filing fees for pipeline right-of-way applications and assignments on April 1, 1988. At that time, the fee for a pipeline right-of-way application was increased to \$1,400, and the fee for a pipeline right-of-way assignment was increased to \$50. MMS has not changed the \$25 filing fee for instruments of transfer of a lease or interest since the administration of regulations concerning Outer Continental Shelf (OCS) minerals and rights-of-way was transferred to MMS from the Bureau of Land Management in 1982.

During the years since MMS last adjusted these filing fees, the costs to process these documents have increased. MMS conducted in-house cost analyses based on the costs of salaries and benefits, computer time, and overhead in each of the regional offices to determine the average processing cost for each of these documents. The results showed that MMS is undercharging for these services, and, therefore, MMS is increasing the fees.

This rule increases the filing fee for a pipeline right-of-way application from \$1,400 to \$2,350; the filing fee for a pipeline right-of-way assignment from \$50 to \$60; and the filing fee for instruments of transfer of a lease or an interest from \$25 to \$185.

MMS published a notice of proposed rulemaking (NPRM) on August 11, 1995 (60 FR 41034). We received eight comment letters responding to the proposed rule. The comments all opposed the increase in fees. The principal comments and MMS's responses are as follows:

*Comment:* Commenters opposed the large increase in the fee for transfer of leases. They pointed out that the MMS had proposed an increase of 640 percent. Comments suggested a lesser increase based on the increase in the Consumer Price Index (CPI) or the increase in the Council of Petroleum Accountants Society's (COPAS) Wage Index. Others suggested a specific amount.

*Response:* Under the Independent Offices Appropriation Act of 1952 (IOAA), 31 U.S.C. 9701, and Department of the Interior (DOI) implementing policy, MMS is required to charge the full cost for services which provide special benefits or privileges to an identifiable non-Federal recipient above and beyond those which accrue to the public at large. We do not have the option of choosing to charge less.

*Comment:* The bonus, royalty, and rental payments lessees make are more than sufficient to cover any fee increases that might be needed.

*Response:* Bonus, royalty, and rental payments are compensation for the right to explore for, develop, and produce oil and gas on the lease. Fees covering pipeline rights-of-way applications or transfers and fees covering transfers of leases provide additional benefits not covered by bonus, royalty, and rental payments.

*Comment:* MMS should improve its business practices and look to reduce costs internally before passing on costs to lessees.

*Response:* MMS is continuously looking for ways to improve efficiency and lower costs. This increase reflects both the effects of inflation and the effects of added complexity of reviewing lease transfers. These added complexities result from necessary bond reviews.

*Comment:* Establish a fee schedule for "multiples" of interests transferred when one lessee transfers a number of interests to another party (i.e., \$X per 10 transfers). Also, establish a ceiling on the total cost for these types of "bulk" transfers.

*Response:* The new fees are based on the total cost of reviewing and approving many applications and requests for transfers. The fee charged for each transaction is an average. If MMS were to set up a system allowing a lesser fee for simple transfers or "bulk" transfers, then the fee for others would need to be higher. MMS chose to charge the same fee for all transactions rather than a higher fee for some transactions and a lower fee for others. A variable fee structure would be difficult to administer and would add unnecessary administrative costs.

*Comment:* MMS should not index the fees to the CPI. The commenter believed that with automatic increases in costs, MMS would not strive to control expenses or improve work efficiency, and lessees would be precluded from any future comment on fee increases. Others suggested the COPAS Wage Index as the appropriate choice of an index.

*Response:* We kept the proposed provision to allow future automatic adjustments in the amount of the fee based on the CPI "U". We believe that a broader inflation index such as the CPI "U" is a better indicator of changes in MMS costs than the suggested COPAS Wage Index which specifically reflects costs in the petroleum industry. (Note: the CPI "U" refers to the CPI for all urban consumers.)

However, in response to the comment, we revised the rule to allow MMS to increase the fee by a percentage equal to the percentage increase in MMS costs to process applications. MMS will attempt to minimize cost increases. The rule provides that if the percentage increase in MMS costs is greater than the percentage increase in the CPI "U", MMS will provide notice and opportunity for comment before changing the fee. Author: This document was prepared by John V. Mirabella, Engineering and Operations Division.

**Executive Order (E.O.) 12866**

This rule is a significant rule under E.O. 12866 and has been reviewed by the Office of Management and Budget (OMB). MMS estimates that the rule will cost industry approximately \$670,000 per year. This is based on the average number of applications, assignments, and transfers handled by the Regions in the past.

**E.O. 12988**

DOI certified to OMB that this rule meets the applicable civil justice reform standards provided in sections 3(a) and 3(b)(2) of E.O. 12988.

### Unfunded Mandates Reform Act of 1995

DOI 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 State, local, and tribal governments, or the private sector.

### Regulatory Flexibility Act

DOI determined that this rule will not have a significant effect on a substantial number of small entities. The increase in fees charged by MMS is small relative to the cost of operating on the OCS. We expect that the increase in the fees will not affect the number of leases or pipelines that are transferred each year or the number of pipeline right-of-way applications requested each year.

### Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) provides that 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. Although OMB previously approved the collections of information required by these regulations prior to this revision, the amount of the filing fees was not subject to OMB review at the time the NPRM was published. Therefore, we did not submit the collections in the NPRM to OMB for review. However, under the new Paperwork Reduction Act, MMS is now required to obtain OMB approval as part of the final rulemaking process. The collections of information in this final rule remain unchanged from the proposed rule. Comments received on the NPRM are discussed earlier in the preamble. The applicable OMB control numbers for the information collections in this final rule are 1010-0050 (30 CFR 250.160 and 250.163) and 1010-0006 (30 CFR 256.64). The information collection aspects of this final rule will not take effect until approved by OMB.

MMS has submitted to OMB information collection packages for 30 CFR part 250, Subpart J, Pipelines and Pipeline Rights-of-Way, which includes the revised requirements in §§ 250.160 and 250.163 (OMB control number 1010-0050); and 30 CFR part 256, Leasing of Sulphur or Oil and Gas in the Outer Continental Shelf, which includes the revised requirements in § 256.64 (OMB control number 1010-0006). MMS invites the public and other Federal agencies to comment on the collections of information as discussed below. Send comments regarding any aspect of these collections to the Office

of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Interior Department (1010-0050 or 1010-0006), 725 17th Street NW., Washington, D.C. 20503. Send a copy of your comments to the Information Collection Clearance Officer, Minerals Management Service, 1849 C Street NW., MS 4230, Washington, D.C. 20240. OMB is required to make a decision concerning the collection of information contained in this final regulation between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, your comments are best assured of being considered by OMB if OMB receives them by August 25, 1997.

MMS collects the information under regulations implementing the OCS Lands Act, as amended. MMS uses the information to ensure the qualification of assignees and that assignees comply with all requirements for holding a pipeline right-of-way. The information required is mandatory and/or required to obtain or retain a benefit under 43 U.S.C. 1331 *et seq.* MMS will protect information considered confidential or proprietary under applicable law and under regulations at 30 CFR 250.18.

The average reporting burden estimates currently approved by OMB for the individual sections revised by this rulemaking are: 140 hours per new right-of-way application (§ 250.160), 8 hours per assignment of right-of-way (§ 250.163), and 5 hours per application for approval of any instrument of transfer (§ 256.64). The total average burden estimates currently approved for OMB control number 1010-0050 are 36 reporting hours and 20 recordkeeping hours. The total average burden estimate currently approved for OMB control number 1010-0006 is 3.5 reporting hours. This includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection. In addition to the hour burden, the application filing fees represent a cost burden to the respondents. MMS estimates the annual burdens for the application fees are: \$246,750. (new right-of-way applications, § 250.160), \$4,560 (assignments of right-of-way, § 250.163), and \$420,875 (applications for approval of any instrument of transfer, § 256.64).

In calculating the burdens, MMS may have assumed that respondents perform some of the requirements and maintain records in the normal course of their activities. MMS considers these to be usual and customary. Commenters are invited to provide information if they disagree with this assumption and they

should tell us what the burden hours and costs are that are imposed by this collection of information.

(1) MMS specifically solicits comments on the following questions:

(a) Is the proposed collection of information necessary for the proper performance of MMS's functions, and will it be useful?

(b) Are the burden hours estimates reasonable for the proposed collection?

(c) Do you have any suggestions that would enhance the quality, clarity, or usefulness of the information to be collected?

(d) Is there a way to minimize the information collection burden on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology?

(2) In addition, the Paperwork Reduction Act requires agencies to estimate the total annual cost burden to respondents or recordkeepers resulting from the collection of information. The MMS needs your comments on this item. Your response should split the cost estimate into two components:

(a) Total capital and startup cost component and

(b) Annual operation, maintenance, and purchase of services component. Your estimates should consider the costs to generate, maintain, and disclose or provide the information. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information; monitoring, sampling, drilling, and testing equipment; and record storage facilities. Generally, your estimates should not include equipment or services purchased: (i) Before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

### Takings Implication Assessment

DOI determined that this rule does not represent a governmental action capable of interfering with constitutionally protected rights. Thus, DOI does not need to prepare a Takings Implication Assessment pursuant to E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

**National Environmental Policy Act**

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

**List of Subjects in 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.

**List of Subjects for 30 CFR Part 256**

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

Dated: May 9, 1997.

**Bob Armstrong,**

*Assistant Secretary, Land and Minerals Management.*

For the reasons stated in the preamble, the Minerals Management Service (MMS) amends 30 CFR parts 250 and 256 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. 1331 *et seq.*

2. Section 250.160 is amended by revising the fifth sentence in paragraph (a) and adding three new sentences following the fifth sentence to read as follows:

**§ 250.160 Applications for a pipeline right-of-way grant.**

(a) \* \* \* A nonrefundable filing fee of \$2,350 and the rental required under § 250.159(c)(2) of this part must accompany a new right-of-way application. MMS periodically will amend the filing fee based on its experience with the costs for administering pipeline right-of-way applications. If the costs change by a percentage of not more than the percentage change in the CPI "U" since the last change to the filing fee, MMS will amend the application fee by the

percentage of the change in costs without notice and opportunity for comment. If costs increase by a percentage more than the percentage change in the CPI "U" since the last change to the filing fee, MMS will provide notice and an opportunity to comment before it changes the filing fee.

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3. Section 250.163 is amended by revising the last sentence in paragraph (b) and adding three new sentences following the last sentence to read as follows:

**§ 250.163 Assignment of a right-of-way grant.**

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(b) \* \* \* A nonrefundable filing fee of \$60 must accompany the application for the approval of an assignment. MMS periodically will amend the filing fee based on its experience with the costs for administering pipeline right-of-way assignment applications. If the costs increase by more than the CPI "U," MMS will provide notice and opportunity for comment before changing the filing fee. For lesser cost increases or cost reductions MMS will change the fee without such procedures.

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

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

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

5. Section 256.64 is amended by revising the first sentence in paragraph (a) (8) as redesignated at 62 FR 27959, May 22, 1997, effective August 20, 1997, and adding three new sentences following the first sentence to read as follows:

**§ 256.64 Requirements for filing of transfers.**

(a) \* \* \*

(8) A nonrefundable filing fee of \$185 must accompany an application for approval of any instrument of transfer required to be filed. MMS periodically will amend the filing fee based on its experience with the costs for administering lease transfer applications. If the costs increase by more than the CPI "U," MMS will provide notice and opportunity for comment before changing the filing fee. For lesser cost increases or cost reductions MMS will change the fee without such procedures. \* \* \*

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[FR Doc. 97-19383 Filed 7-23-97; 8:45 am]  
BILLING CODE 4310-MR-P

**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

**33 CFR Part 100**

[CGD 05-97-055]

RIN 2115-AE46

**Special Local Regulations for Marine Events; Chesapeake Bay Offshore Powerboat Challenge, Chesapeake Bay, Kent Island, Maryland**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** Temporary special local regulations are being adopted for the Chesapeake Bay Offshore Powerboat Challenge race to be held in the Chesapeake Bay, Kent Island, Maryland. These temporary special local regulations are necessary to control vessel traffic in the immediate vicinity of this event. The effect will be to restrict general navigation in the regulated area for the safety of spectators and participants.

**EFFECTIVE DATES:** This regulation is effective from 10 a.m. to 6 p.m. EDT (Eastern Daylight Time) on July 26 and 27, 1997.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant James Driscoll, Marine Events Coordinator, Commander, Coast Guard Activities, Baltimore, 2401 Hawkins Point Road, Baltimore, Maryland 21226-1791, telephone number (410) 576-2676.

**SUPPLEMENTARY INFORMATION:** In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impractical. The request to hold the event was not submitted until May 15, 1997. Publishing a notice of proposed rulemaking and delaying its effective date would be contrary to safety interests, since immediate action is needed to minimize potential danger to the public posed by the large number of racing vessels participating in this event.

**Discussion of Regulations**

On July 26 and 27, 1997, the Chesapeake Bay Power Boat Association will sponsor the Chesapeake Bay Offshore Powerboat Challenge race in the Chesapeake Bay near Kent Island, Maryland. The event will consist of Offshore Performance Boats racing at high speeds along a 3 mile oval course. These regulations are necessary to