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DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 260

RIN 1010-AC14

Deepwater Royalty Relief for New Leases

AGENCY: **Minerals Management Service**, Interior.

ACTION: Interim rule.

SUMMARY: The Outer Continental Shelf Deep Water Royalty Relief Act (Act) authorizes the Secretary of the Interior (Secretary) to offer Outer Continental Shelf tracts for lease with suspension of royalties for a volume, value, or period of production. The Act requires the Secretary to use this bidding system on tracts offered for lease in water depths of 200 meters or more in parts of the Gulf of Mexico through November 28, 2000. The **Minerals Management Service** (MMS) intends to hold a lease sale in April 1996. This interim rule specifies the royalty suspension terms under which the Secretary will make tracts available for that sale.

DATES: Effective Date: This interim rule is effective April 24, 1996.
    Comments: We will consider all comments we receive by April 24, 1996. We will begin review of comments at that time and may not fully consider comments we receive after April 24, 1996.

ADDRESSES: Mail or hand-carry comments to the Department of the Interior, **Minerals Management Service**, Mail Stop 4700, 381 Elden

Street, Herndon, Virginia 22070-4817, Attention: Chief, Engineering and Standards Branch.

FOR FURTHER INFORMATION CONTACT: Walter Cruickshank, Offshore **Minerals**
Analysis Division, telephone (202) 208-3822.

SUPPLEMENTARY INFORMATION:

I. Background on the New Legislation

On November 28, 1995, President Clinton signed Public Law 104-58, which included the Act. The Act contains four major provisions concerning new and existing leases. New leases are tracts leased during a sale held after the Act's enactment on November 28, 1995. Existing leases are defined as all other leases.

First, section 302 of the Act clarifies the Secretary's pre-existing authority in 43 U.S.C. 1337(a)(3) to reduce royalty rates on existing leases in order to promote development, increase production, and encourage production of marginal resources on producing or non-producing leases. This provision applies only to leases in the Gulf of Mexico west of 87 degrees, 30 minutes west longitude.

Second, section 302 also provides that ``new production'' from existing leases in water depths of 200 meters or greater qualifies for royalty suspensions if the Secretary determines that the new production would not be economic in the absence of royalty relief. The Secretary must then determine the appropriate royalty suspension volume on a case-by-case basis, subject to specified minimums for leases not in production prior to the date of enactment. This provision also applies only to leases in the Gulf of Mexico west of 87 degrees, 30 minutes west longitude.

Third, section 303 establishes a new bidding system that allows the Secretary to offer tracts with royalty suspensions for a period, volume, or value the Secretary determines. On February 2, 1996, we published a final rule modifying the regulations governing the bidding systems we use to offer OCS tracts for lease (61 FR 3800). New Sec. 260.110(a)(7) addresses the new bidding system mandated by section 303 of the Act.

Fourth, section 304 provides that all tracts offered within 5 years of the date of enactment in water depths of 200 meters or greater in the Gulf of Mexico west of 87 degrees, 30 minutes west longitude, must be offered under the new bidding system. The following

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minimum volumes of production are not subject to a royalty obligation:

<bullet> 17.5 million barrels of oil equivalent (mmboe) for leases

in 200 to 400 meters of water,

<bullet> 52.5 mmboe for leases in 400 to 800 meters of water, and

<bullet> 87.5 mmboe for leases in more than 800 meters.

II. The Proposed April 1996 Lease Sale and the Need for an Interim Rule

The Act requires the Secretary to issue implementing regulations within 180 days of enactment. We published an advance notice of proposed rulemaking (ANPR) in the Federal Register on February 23, 1996 (61 FR 6958), and informed the public of our intent to develop comprehensive regulations implementing the Act. It sought comments and recommendations to assist us in that process. We continue to collect comments and conducted a public meeting in New Orleans on March 12-13, 1996, about the matters the ANPR addressed.

In accordance with the current 5-year OCS program, which provides for annual lease sales in the Central and Western Gulf of Mexico, we have scheduled a lease sale for April 24, 1996, for tracts in the Central Gulf of Mexico. Many of these tracts are in water depths of 200 meters or more. Therefore, before we proceed with the sale, we must issue regulations to implement section 304 of the Act.

We estimate that bonus bids at this sale could be as much as $300 million. Thus, delay of this sale would be contrary to the public interest.

Also, a significant delay of the lease sale could seriously disrupt investment activity important to both the national and regional economies. The natural gas and oil industry relies on regularly scheduled lease sales in the Gulf of Mexico to enable it to conduct its annual land acquisition and exploration activities in an orderly and predictable manner.

A full notice and comment rulemaking could not be completed prior to the proposed April 1996 sale. Since the Act does apply to Central and Western Gulf of Mexico lease sales for the next 5 years, we are publishing this interim rule to allow the sale of deep-water tracts in the Central Gulf of Mexico to proceed with a minimum of delay from the original sale date established under the current 5-year OCS program. We invite comments on this interim rule, and we also will consider them as part of our review of responses to the ANPR mentioned above. Based on comments received and experience gained at the upcoming sale, we may include changes to the matters this interim rule addresses in the comprehensive rulemaking that implements the remaining provisions of the Act.

III. How To Implement Section 304 of the Act

Section 304 of the Act does not provide specific guidance on how to

apply the royalty suspension volumes to leases issued during sales after November 28, 1995. The primary question is how to apply the minimum royalty suspension volumes laid out in the statute. There are several possibilities. One is to apply the royalty suspension volumes on a unitary basis, so that there would be only one royalty suspension volume in each water depth category in the entire area of the Gulf subject to section 304. A second possibility is to apply the royalty suspension volumes on the basis of geological fields, so that all tracts producing from a single field collectively would receive the royalty suspension volume. A third possibility is to apply the full royalty suspension volume to each qualifying lease.

Ultimately, the choice among these alternatives is dictated by the meaning of the statute. Unfortunately, the statutory language, as discussed further below, does not unambiguously resolve this issue.

Turning first to the statutory text, section 304 is quite indistinct. The first thing to note is that it is framed in the passive voice (``suspension of royalties shall be set at [the following volumes]''). This fails to make clear against what the royalty suspension volumes should be applied. The section does speak in the plural or multiple, referring to ``all tracts'' and ``any lease sale.'' This suggests that the royalty suspension volumes were not to be applied on an individual lease basis. In section 302, by contrast, Congress specified quite clearly that the owner(s) of each individual lease could apply for a royalty suspension. (E.g., ``Such application may be made on the basis of an individual lease or unit.'')

The legislative history helps clarify the meaning of the statutory language. In bringing before the full Senate for vote the language that eventually became law, Senator Johnston, the bill's primary sponsor, explained that it was intended only to provide incentives for drilling leases that would not otherwise be drilled and to bring new fields on production:

It is only with respect to those leases that would not otherwise be drilled, either existing or future leases, that this amendment would provide that incentive. * * * The Secretary of the Interior wanted the incentive to be sufficient but not too much. That took a lot of negotiating. * * * [The legislation] should bring on at least two new fields with approximately 150 million barrels of oil equivalent from existing leases and it significantly improves the economics of 10 to 12 possible and probable fields. ______ Cong. Rec. S. 6731 (daily ed., May 16, 1995) [emphasis added].

This statement by the bill's prime sponsor, the most pertinent in the legislative record, strongly suggests that the legislation was not intended to provide each new lease in deep water the full royalty suspension volume. If the legislation were interpreted to apply the

full royalty suspension volume to each lease, each new deep-water lease issued for the next 5 years in fields already in production on the date of enactment (November 28, 1995) would be entitled to the full royalty suspension volume. That hardly would further the Act's purpose of providing an economic incentive to develop new fields and ``leases that otherwise would not be drilled.'' It might also skew production because producers could slow development of existing leases to await new leases in the field that would have royalty suspension volumes.

Legislators' statements in committee hearings sounded the same theme--that the purpose was to bring new fields into production. Senate Energy Committee Chairman Murkowski noted that the development of OCS deep-water areas ``are dependent on the economics of the field * * *'' and Senator Johnston emphasized that ``the volumes [the royalty suspension volumes specified in the legislation] were based on assumptions of the economic field size relative to cost.'' Hearing on S. 158 Before the Committee on Energy and Natural Resources, 104th Cong., 1st Sess. 7, 39 (March 23, 1995).

In fact, the royalty suspension volumes set forth in section 304 for new tracts offered for lease originated with MMS. They were developed out of technical analyses conducted by MMS of the royalty suspension volumes needed for capital cost recovery in developing unproduced oil and gas fields at various water depths in the Gulf of Mexico. This helps explain the fact that the chief congressional sponsor, Senator Johnston, expressly linked the royalty suspension volumes in the Act to the cost of developing a field. It also counsels that section 304 should, in order to be faithful to its proponents' intent, be applied to make royalty suspension volumes available on a field basis, rather than giving each and every individual lease the full royalty suspension volume.

For the same reasons, section 304 should be read more broadly than simply providing one royalty suspension volume at each specified depth range (e.g., 200 to 400 meters) across the entire area of the Gulf eligible for royalty relief. Such an application, done without regard for fields or numbers of leases at those depth ranges, would not grant sufficient incentive for any more than one new field at each water depth. Such a reading, while possible to fit within the statutory language, is clearly not in accord with the purposes of the Act.

The middle ground, applying the royalty suspension volumes in section 304 on a field basis, is the most reasonable approach. In the words of the bill's sponsor, only it fulfills what the Secretary wanted, i.e., sufficient incentive to bring new fields into production.

Two other considerations support this outcome. First, as Congress was doubtless aware when it enacted deepwater royalty relief, section

8(b), of the Outer Continental Shelf Lands Act (OSCLA) (43 U.S.C. 1337(b)) contains no fixed maximum tract size for a single lease. Instead, it authorizes the Secretary to aggregate a large acreage into a single tract for leasing if the Secretary ``finds a larger area is necessary to comprise a reasonable economic production unit.'' Even if section 304 were interpreted to mandate the Secretary to apply royalty suspension volumes on an individual lease basis, the Secretary would nevertheless retain the discretion, by virtue of section 8(b), to choose a larger tract size for a single lease. Rather than going that route, we have determined that section 304 is best interpreted to apply royalty suspension volumes on a field basis. If royalty suspension volumes were to be mandated on a lease basis, the Secretary would have to seriously examine whether to lease larger tracts.

Second, as Congress was also doubtless aware when it enacted deepwater royalty relief, the OCSLA sets no maximum royalty on Federal oil and gas leases. Instead, it authorizes the Secretary to set an initial royalty rate of ``no less than 12\1/2\ per centum'' (emphasis added) per unit of production for new leases issued under the new bidding system established by section 303 and mandated for use for the next 5 years. If section 304 required the Secretary to provide a full royalty suspension volume to each and every lease, the Secretary would still have the discretion to set an initial royalty rate above the statutory minimum or the rate traditionally used for Gulf of Mexico leases. This higher royalty would kick in after the royalty-free volumes for new leases in deep water terminated. This approach would allow the Secretary to ensure that the development incentive provided in the Act is consistent with giving the public a fair return on the oil and gas resources that it owns. Once again, the interim rule, by adopting the approach of applying the royalty suspension volumes on a field basis, may avoid the need for including a higher royalty in the lease at this time.

As these considerations illustrate, Congress preserved the Secretary's broad discretion over tract size and royalty rate when it came to enact deepwater royalty relief. By doing so, it in effect preserved the authority of the Secretary to apply the royalty relief volumes to fields rather than individual leases. This comports with what we believe is the best and most reasonable interpretation of the statutory language.

Based on our careful consideration of the Act, and its history, the Secretary has settled upon this regulation. It provides for a suspension of royalty payments for any one lease or several leases in a field that finds and produces first the royalty-exempt volume of oil equivalent from a new field. Thus, one lease may receive the whole suspension volume or several leases may share it depending on which lease(s) first produces the volume from the field.

IV. What the Interim Rule Provides

For the purposes of this rule, an ``eligible'' lease is a lease that results from a sale held after November 28, 1995; is located in the Gulf of Mexico in water depths 200 meters or deeper; lies wholly west of 87 degrees, 30 minutes west longitude; and is offered subject to a royalty suspension volume authorized by statute. We will add this definition to 30 CFR 260.102.

The rule implementing section 304 of the Act will be in 30 CFR 260.110. As explained above, under Sec. 206.110(d)(1), we will allow only one royalty suspension volume per new field (i.e., a field not producing prior to November 28, 1995). That suspension volume is available to the eligible leases in a new field based on which lease or leases first produce the oil or gas until the suspension volume is reached.

As an example, for eligible leases in a new field in 850 meters of water, no royalties will be due from the first 87.5 mmboe of production from all eligible leases producing from that field. [For the purpose of this preamble, the Act's minimum royalty suspension volumes for each water depth are assumed to apply although, for any particular lease sale, we could increase the volume specified in the Act.] That production could come from only one eligible lease, several eligible leases, or all eligible leases in the field. In any event, only a total of 87.5 mmboe will be allowed royalty free for that new field. Under this rule, any lease-use production that otherwise is not subject to royalty does not count toward the royalty suspension volume.

Under Sec. 206.110(d)(2), in each Final Notice of Sale, we will specify the water depth of each tract offered for lease that is in at least 200 meters of water. Once the lease is issued, our determination of water depth is final. This rule applies even if the lease could be shown actually to be in deeper water. We will not change the depth determination and the applicable royalty suspension volume since one factor we consider in determining the **adequacy** of the bonus **bid** is the water depth specific royalty suspension volume that could apply to the lease. As a result, the interim rule provides that the depth classification by MMS is final and unappealable upon **bid** acceptance, lease issuance, and lease acceptance by the high bidder for a tract. To allow otherwise significantly alters the nature of the property right offered at the lease sale, renders the lease auction and **bid adequacy** process unreliable, and unfairly conveys an excessive benefit to the successful bidder (or to the Federal Government if the water depth later were determined to be shallower). It also would encourage endless administrative and judicial litigation and appeals over varying measurements of water depths. The Final Notice of Sale will also specify the royalty suspension volumes for each of the prescribed water depths, subject to the minimums stated in the Act.

Since all eligible leases in a field could share the royalty suspension volume, each eligible lease must be assigned to a new or existing field by the time production from that lease begins. In accordance with our practice for over 20 years, we will assign a lease to a field when a well on a lease qualifies as capable of producing in paying quantities under the regulations at 30 CFR 250.11. If a well does not qualify under the rule, we will assign the lease to a field when hydrocarbons are first produced from the lease or the lease is allocated production under an approved unit agreement.

We will either assign the lease to an existing field or designate a new field. This interim rule includes the definition of field for this purpose in 30 CFR 260.102. The definition is based on geology. We issue the OCS Operations Field Names Master List each quarter,

with monthly updates, which lists all the tracts in each field on the OCS.

Fields in deep water may consist of one or more leases, including leases issued before and after November 28, 1995, and leases in different water depths. Therefore, we must specify how to determine the royalty suspension volume in many different circumstances. The simplest factual case would be where a single eligible lease produces a new field. The lessee would receive the entire royalty suspension volume if that lease produces it. (See Sec. 206.110(d)(5).)

However, other cases will arise. Accordingly, in determining individual lease eligibility for, and the volume of, royalty suspensions, this is how the rule applies:

1. Under Sec. 206.110(d)(2), the Final Notice of Sale will specify the royalty suspension volume for new fields in each of the specified water depth ranges. Under Sec. 206.110(d)(3), at the time of first production (not including test production) from an eligible lease in a field, we will determine the royalty suspension volume available to eligible lease(s) in that field based on the volumes specified in the Final Notice of Sale.

2. If a new field consists of leases in different water depth categories, the royalty suspension volume associated with the deepest eligible lease applies. This is set forth in Sec. 206.110(d)(4).

3. If an eligible lease is designated as part of a field where any current lease produced prior to November 28, 1995, that eligible lease will not receive a royalty suspension volume from that field. Under these circumstances, Congress certainly recognized that it is not necessary to encourage production.

4. If an eligible lease is designated as part of a field where no production from any current lease occurred prior to November 28, 1995, a royalty suspension volume will apply to the eligible lease(s). The royalty suspension volume will equal the volume specified for the

relevant water depth in the Final Notice of Sale. In this case, we view the specified royalty suspension volume as the amount Congress determined is needed to make a field economic to produce.

5. If a field did not produce before November 28, 1995, and consists of more than one lease, no royalty is due on the first production from any eligible leases in that field until they have cumulatively produced the royalty suspension volume specified in the Final Notice of Sale. Under Sec. 260.110(d)(6), the suspension volume attributable to each lease depends upon which lease produces it first. For example, if two eligible leases are producing from a new field in 300 meters of water, their royalty suspension would end when production from those leases reaches 17.5 mmboe, the royalty suspension volume for that water depth. If one lease had produced 10.0 mmboe and the second lease had produced 7.5 mmboe, that would determine their respective suspension volumes.

6. The addition of an eligible lease to a field that has an established royalty suspension volume will not change the field's royalty suspension volume, even if the added lease is in deeper water. Under Sec. 260.110(d)(7), the added lease will benefit from the field's royalty suspension only to the extent of its production before cumulative production from all eligible leases in the field equals the field's previously established royalty suspension volume.

7. Under Sec. 260.110(d)(8), if we reassign a well on an eligible lease to another field, the past production from that well will count toward the royalty suspension volume, if any, specified for the new field to which it is assigned. The past production will not be counted toward the suspension volume, if any, for the first field.

8. Section 260.110(d)(9) provides that you may receive the royalty relief only if your entire lease is west of 87 degrees, 30 minutes west longitude. This requirement is expressly provided in the Act. A new field that lies on both sides of this meridian will receive a royalty suspension volume only for those new leases lying west of the meridian and in 200 meters of water or more.

9. The Act provides royalty suspension volumes only to leases in at least 200 meters of water. We will establish the water depth for each lease in the Final Notice of Sale. If a field includes leases in both less than 200 meters and more than 200 meters of water, only those eligible leases in water depths of at least 200 meters may share in the royalty suspension volume.

10. Under Sec. 260.110(d)(10), a lease may obtain more than one royalty suspension volume. If a new field is discovered on an eligible lease that already benefits from the royalty suspension volume for another field, production from that new field receives a separate royalty suspension. For example, assume an eligible lease already receives up to 17.5 mmboe of royalty-free production from a field in 300 meters of water. If another new field is discovered under that

lease, the lease may obtain a second royalty suspension of up to 17.5 mmboe on production prescribed for that second field. Your royalty suspension volume for the second field depends upon whether other eligible leases produce in that second field. This second royalty suspension volume may occur even if the same production facilities develop both fields. However, the royalty suspension volumes are specific to the individual fields. Thus, for example, if the lease eventually produces 10 mmboe from wells in one field and 50 mmboe from wells in the other, and there are no other eligible leases in either field, the total royalty-free production will be 27.5 mmboe (i.e., 10 plus 17.5 mmboe).

We understand that other factual situations may arise under this rule. Those situations must be resolved consistent with the principles described above.

V. Additional Examples

The following examples further clarify the situations listed above.

1. If a field consists only of two eligible leases, one in 750 meters of water and one in more than 800 meters, the field will have a royalty suspension volume of 87.5 mmboe. The first 87.5 mmboe produced from either or both leases in the field would be royalty-free.

2. If an eligible lease in 300 meters of water is added to a field consisting of leases issued from a sale held prior to November 28, 1995, and that field begins production after that eligible lease is added, the field's suspension volume would be 17.5 mmboe. The eligible lease may produce up to 17.5 mmboe royalty-free. However, if that lease only produces 10 mmboe over its productive life and no other eligible leases are part of the field, that field will receive only 10 mmboe of relief.

3. If an eligible lease in 600 meters of water is added to a producing field consisting of leases issued from sales held prior to November 28, 1995, and there are no other eligible leases in the field, and that field started continuous production (other than test production) after November 28, 1995, the lease could receive 52.5 mmboe of royalty suspension regardless of the previous production. However, if the new lease only produces 10 mmboe over its productive life and no other eligible lease is added to the field, that field will receive only 10 mmboe of relief under this provision.

4. If an eligible lease in 850 meters of water is added to a field that already has an established royalty suspension volume from other eligible leases in the field in shallower water, the field's royalty suspension volume will not change. For example, if production from the field already amounts to 30 mmboe of its 52.5 mmboe royalty suspension volume when the additional lease

begins production, that lease may share in the field's remaining 22.5 mmboe of royalty-free production to the extent that it first produces some portion of the remaining 22.5 mmboe. This example also shows that even though the added lease was in deeper water, it does not increase the royalty suspension volume already established for that field by a shallower lease.

VI. Technical Issues Related to Royalty Suspension Volumes

For purposes of accounting for production accruing to the royalty suspension volume, 5.62 thousand cubic feet of natural gas equal one barrel of oil equivalent, as measured at 15.025 pounds per square inch (psi) pressure, 60 degrees Fahrenheit, and fully saturated (Sec. 260.110(d)(11)). This is the conversion factor which has been used traditionally in the Gulf of Mexico.

A royalty suspension will continue until the end of the month in which the cumulative production from eligible leases in the field reaches the royalty suspension volume for the field.

When a field is not being jointly developed, lessees may not know when the field has produced all of its royalty suspension volume. We will provide monthly field production data to all lessees in a field. However, this data may not become available until shortly after a field's production exceeds the royalty suspension volume. In such cases, royalties still will be due on the last day of the second month following the month in which cumulative production from the field reaches the royalty suspension volume. Any royalties paid late will be subject to interest pursuant to 30 CFR 218.54.

Nothing in this interim rule affects the eligibility of a lessee to apply for royalty relief under the other provisions of the Act or under existing regulatory authority. Lessees of leases issued as the result of a lease sale held before November 28, 1995, whether or not they are part of a field that produced prior to that date, may apply for a royalty suspension volume under section 302 of the Act. Content, supporting documentation, and procedures for submission and review of such applications will be addressed in the comprehensive rulemaking mentioned above. Further, any OCS lessee may apply for a reduction or elimination of its lease royalty rate or net profit share under section 8(a)(3) of the OCSLA (as amended by the Act with respect to leases in parts of the Gulf of Mexico).

VII. Administrative Matters

Executive Order (E.O.) 12866

The interim rule is significant due to novel policy issues arising

out of legal mandates, and the Office of **Management** and Budget (OMB) has reviewed this rule. A copy of this determination is available from MMS.

Offering tracts subject to royalty suspension volumes should result in accelerated investment on the OCS. In deep water, exploration wells can cost more than $30 million, and field development can cost as much as $1 billion. However, the best assumption is that most of this investment would eventually occur under any royalty terms; the royalty suspension tends to make this activity occur earlier.

We analyzed two alternatives for implementing section 304 of the Act. The approach in this interim rule (MMS approach) is where there is a single suspension volume for each field at the volumes designated in the legislation. The alternative approach is where the full royalty suspension volume applies to each lease.

For scheduled 1996 lease sales in the deep-water Gulf of Mexico, the alternative approach results in more resources being leased (905 mmboe versus 680 mmboe) and higher bonuses ($261 million versus $113 million) than the MMS approach. However, the MMS approach generates higher royalty payments over the productive life of the lease ($352 million versus $40 million) than the alternative approach. On a net present value basis, the MMS approach also collects more revenue for the Treasury ($284 million versus $277 million). On the basis of revenues-per-boe, the MMS approach generates more than twice the nominal revenues and 35 percent more revenues-per-boe in net present value than the alternative approach.

We chose the approach embodied in this interim rule because:

<bullet> The Act's primary author stated that he intended the Act to encourage production from new fields without providing too much relief,

<bullet> The MMS approach provides a substantial incentive for new investment and production in deep water while still ensuring a reasonable return to the Treasury, and

<bullet> The minimum suspension volumes specified in the Act were derived from an analysis of fields, not individual leases.

Regulatory Flexibility Act

The Department of the Interior (DOI) has determined that this interim rule will not have a significant effect on a substantial number of small entities. In general, the entities that engage in offshore activities in the deep waters of the Gulf of Mexico are not considered small due to the technical and financial resources and experience necessary to safely conduct such activities.

Administrative Procedure Act

We have determined, in accordance with 5 U.S.C. 553(b)(3)(B) of the Administrative Procedure Act, that a notice of proposed rulemaking is not required and is impracticable in the issuance of this rule. The comment period associated with a proposed rulemaking would require that we delay the upcoming lease sale in the Central Gulf of Mexico for a significant period. The public interest is best served by collecting the sale revenues for the Treasury in a timely manner and avoiding direct detrimental effects on the offshore industry's investment plans. We invite comments on this interim rule so changes can be made in the future, if warranted.

Paperwork Reduction Act

The rule contains no new reporting and recordkeeping requirements.

Takings Implication Assessment

The DOI certifies that this rule does not represent a governmental action capable of interference with constitutionally protected property rights. A Takings Implication Assessment prepared pursuant to E.O. 12630, Government Action and Interference with Constitutionally Protected Property Rights, is not required.

E.O. 12988

The DOI has certified to the OMB that this regulation meets the applicable standards provided in section 3(b)(2) of E.O. 12988.

National Environmental Policy Act

The MMS has examined the interim rulemaking and have determined that this rule does not constitute a major Federal action significantly affecting the quality of the human environment pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

List of Subjects in 30 CFR Part 260

Continental shelf, Government contracts, **Minerals** royalties, Oil and gas exploration, Public lands--mineral resources.

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Dated: March 13, 1996.
Bob Armstrong,

Assistant Secretary, Land and **Minerals Management**.

For the reasons set forth in the preamble, the **Minerals Management Service** amends 30 CFR part 260, Subpart B--Bidding Systems, as follows:

PART 260--[AMENDED]

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

Authority: 43 U.S.C. 1331 and 1337.

2. Section 260.102 is amended by adding in alphabetical order the definitions for ``Eligible Lease'' and ``Field'' which read as follows:

Sec. 260.102 Definitions.

* * * * *

Eligible lease means a lease that results from a sale held after November 28, 1995; is located in the Gulf of Mexico in water depths 200 meters or deeper; lies wholly west of 87 degrees, 30 minutes west longitude; and is offered subject to a royalty suspension volume authorized by statute.

Field means an area consisting of a single reservoir or multiple reservoirs all grouped on, or related to, the same general geological structural feature and/or stratigraphic trapping condition. There may be two or more reservoirs in a field that are separated vertically by intervening impervious strata, or laterally by local geologic barriers, or by both.

* * * * *

3. In Sec. 260.110, paragraph (d) is added to read as follows:

Sec. 260.110 Bidding systems.

* * * * *

(d) This paragraph explains how the royalty suspension volumes in section 304 of the Outer Continental Shelf Deep Water Royalty Relief Act, Pub. L. 104-58, apply to eligible leases. For purposes of this paragraph, any volumes of production that are not royalty bearing under the lease or the regulations in this chapter do not count against royalty suspension volumes. Also, for the purposes of this paragraph, production includes volumes allocated to a lease under an approved unit agreement.

(1) Your eligible lease may receive a royalty suspension volume

only if your lease is in a field where no current lease produced oil or gas (other than test production) before November 28, 1995. Paragraph (d) of this section applies only to eligible leases in fields meeting this condition.

(2) The Final Notice of Sale will specify the water depth for each eligible lease. Our determination of water depth for each lease is final once we issue the lease. The Notice also will specify the royalty suspension volume applicable to each water depth. The minimum royalty suspension volumes for fields are:

(i) 17.5 mmboe in 200 to 400 meters of water;

(ii) 52.5 mmboe in 400 to 800 meters of water; and

(iii) 87.5 mmboe in more than 800 meters of water.

(3) When production (other than test production) first occurs from any of the eligible leases in a field, we will determine what royalty suspension volume applies to the eligible lease(s) in that field. The determination is based on the royalty suspension volumes specified in paragraph (d)(2) of this section.

(4) If a new field consists of eligible leases in different water depth categories, the royalty suspension volume associated with the deepest eligible lease applies.

(5) If your eligible lease is the only eligible lease in a field, you do not owe royalty on the production from your lease up to the applicable royalty suspension volume.

(6) If a field consists of more than one eligible lease, payment of royalties on the eligible leases' initial production is suspended until their cumulative production equals the field's established royalty suspension volume. The royalty suspension volume for each eligible lease is equal to each lease's actual production (or production allocated under an approved unit agreement) until the field's established royalty suspension volume is reached.

(7) If an eligible lease is added to a field that has an established royalty suspension volume, the field's royalty suspension volume will not change even if the added lease is in deeper water. The additional lease may receive a royalty suspension volume only to the extent of its production before the cumulative production from all eligible leases in the field equals the field's previously established royalty suspension volume.

(8) If we reassign a well on an eligible lease to another field, the past production from that well will count toward the royalty suspension volume, if any, specified for the new field to which it is assigned. The past production will not be counted toward the suspension volume, if any, from the first field.

(9) You may receive a royalty suspension volume only if your entire lease is west of 87 degrees, 30 minutes west longitude. A field that lies on both sides of this meridian will receive a royalty suspension volume only for those eligible leases lying entirely west of the

meridian.

(10) Your lease may obtain more than one royalty suspension volume. If a new field is discovered on your eligible lease that already benefits from the royalty suspension volume for another field, production from that new field receives a separate royalty suspension.

(11) You must measure natural gas production subject to the royalty suspension volume as follows: 5.62 thousand cubic feet of natural gas equals one barrel of oil equivalent, as measured at 15.025 psi, 60 degrees Fahrenheit, and fully saturated.

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