

PRE-PUBLICATION NOTICE. The Department of Interior Principal Deputy Assistant Secretary for Land and Minerals Management signed this Joint BOEM/BSEE final rule on January 12, 2023, via eSignature, and BSEE is submitting it for publication in the Federal Register (FR). BOEM and BSEE are providing this document solely for the convenience of interested parties. This document is not disseminated for purposes of BOEM's or BSEE's Information Quality Guidelines and does not represent the Agencies determination or policy. While we have taken steps to ensure the accuracy of this Internet version of the rule, it is not the official version of the final rule. Please refer to the official version in a forthcoming FR publication, which can be found at <https://www.regulations.gov>, Docket Numbers: BSEE-2022-0015 and BOEM-2022-0042. Once the official version of this document is published in the FR, this version will be removed from the Internet and replaced with a link to the official version.

4310-MR-P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

30 CFR Part 285

[Docket No. BSEE-2022-0015; EEEE500000 223E1700D2 ET1SF0000.EAQ000]

RIN 1082-AA03

Bureau of Ocean Energy Management

30 CFR Parts 585 and 586

[Docket No. BOEM-2022-0042]

Reorganization of Title 30—Renewable Energy and Alternate Uses of Existing Facilities on the Outer Continental Shelf

AGENCIES: Bureau of Safety and Environmental Enforcement (BSEE) and Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Final rule.

SUMMARY: This rule of agency organization reassigns responsibilities for the administration of certain regulations governing renewable energy development and alternate uses of existing facilities on the Outer Continental Shelf (OCS), consistent with the Secretary of the Interior's orders and the Departmental Manual. This final rule transfers the applicable renewable energy Departmental regulations from BOEM to BSEE. Furthermore, this final rule reassigns renewable energy regulations pertaining to safety, environmental oversight, and enforcement from BOEM to BSEE. For

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convenience in this rule, the provisions that are reassigned to BSEE are referred to as BSEE's provisions and those that are retained by BOEM as BOEM's provisions. This rule does not make substantive changes to current regulatory requirements and does not impose additional regulatory burdens on the public or the regulated community.

Therefore, this rule is exempt from notice-and-comment rulemaking requirements.

DATES: This final rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The transfer of the incorporation by reference of certain publications to a new regulatory location is approved by the Director of the Federal Register as of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: For questions regarding BSEE's provisions under this rule, contact: Dennis Yang, Regulations and Standards Branch, BSEE, 45600 Woodland Road, Sterling, VA 20166; email: regs@bsee.gov; telephone: 713-220-9203. For questions regarding BOEM's provisions under this rule, contact: Georgeann Smale, Office of Regulations, BOEM, 1849 C Street, N.W., Mailstop 5243, Washington, D.C. 20240; email: Georgeann.Smale@boem.gov; telephone: 703-544-9246.

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7. Presidential Memorandum of June 1, 1998, on Regulation Clarity

I. Preamble Glossary of Abbreviations, Terms, and Acronyms

The following are abbreviations, terms, and acronyms used in the preamble:

APA	Administrative Procedure Act
ASLM	Assistant Secretary for Land and Minerals Management
BOEM	Bureau of Ocean Energy Management
BSEE	Bureau of Safety and Environmental Enforcement
CFR	Code of Federal Regulations
COP	Construction and Operations Plan
CRA	Congressional Review Act
CVA	Certified Verification Agent
CZMA	Coastal Zone Management Act
DOE	Department of Energy
DOI or Department	Department of the Interior
EIA	Energy Information Administration
ESA	Endangered Species Act
FDR	Facility Design Report
FERC	Federal Energy Regulatory Commission
FIR	Fabrication and Installation Report
GAP	General Activities Plan

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IC	Information Collection
MMPA	Marine Mammal Protection Act
MMS	Minerals Management Service (former DOI agency)
NARA	National Archives and Records Administration
NEPA	National Environmental Policy Act
OCS	Outer Continental Shelf
OCSLA	Outer Continental Shelf Lands Act
OIG	Office of Inspector General
OMB	Office of Management and Budget
ONRR	Office of Natural Resources Revenue
Pub. L.	Public Law
RIN	Regulation Identifier Number
ROCIS	Regulatory Information Service Center (RISC) and Office of Information & Regulatory Affairs (OIRA) Consolidated Information System
ROW	Right-of-way
RUE	Right-of-use and easement
SAP	Site Assessment Plan
Secretary	Secretary of the Interior
SMS	Safety Management System
Stat.	U.S. Statutes at Large
U.S.C.	United States Code

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II. Background

A. Statutory Authority

In the Energy Policy Act of 2005 (2005 Act), Congress authorized the Secretary to grant OCS leases for renewable energy activities.¹ Specifically, the 2005 Act amended OCSLA to add a new subsection 8(p).² Under subsection 8(p), the Secretary has the authority to issue leases, easements, and ROWs for activities that produce, or that support the production, transportation, or transmission of, energy from sources other than oil and gas. The 2005 Act also allows the Secretary to authorize the use of existing OCS facilities for energy- and marine-related activities. The Secretary is required to award any lease, ROW, or RUE competitively unless the Secretary determines, after public notice, that competitive interest does not exist.³ The Secretary also has authority to issue regulations to implement OCSLA section 8(p).⁴

On March 20, 2006, the Secretary delegated the responsibility for regulating OCS renewable energy activities to MMS, the predecessor agency to BOEM and BSEE. On April 29, 2009, the Department published the final rule establishing MMS's program to grant leases, easements, and ROWs for OCS renewable energy activities and for alternate uses of existing OCS facilities. The 2009 rule also established the methods for sharing certain revenues generated by this program with nearby coastal States.

¹ Pub. L. 109-58, 119 Stat. 594.

² OCSLA is codified at 43 U.S.C. 1331 *et seq.* Subsection 8(p) of OCSLA is codified at 43 U.S.C. 1337(p).

³ 43 U.S.C. 1337(p)(3).

⁴ *Id.* 1337(p)(8).

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B. MMS Reorganization

Between May 19, 2010, and August 29, 2011, Secretary Salazar issued Secretary's Order 3299 and two amendments that ultimately divided MMS into three separate agencies: BOEM, BSEE, and ONRR. The Secretary emphasized the importance of separate and independent safety and environmental oversight when testifying before Congress on May 26, 2010:

The *Deepwater Horizon* tragedy and the massive spill have made the importance and urgency of a reorganization of this nature ever more clear, particularly the creation of a separate and independent safety and environmental enforcement entity. We will responsibly and thoughtfully move to establish independence and separation for this critical mission so that the American people know they have a strong and independent organization ensuring that energy companies comply with their safety and environmental protection obligations.⁵

Pursuant to section 3 of Secretary's Order 3299, Amendment No. 2, BOEM "exercise[s] the conventional (e.g., oil and gas) and renewable energy-related management functions of the [MMS] not otherwise transferred pursuant to this Order including, but not limited to, activities involving resource evaluation, planning, and leasing."⁶ Under section 4 of Secretary's Order 3299, Amendment No. 2, BSEE exercises "safety and environmental enforcement functions," including "the authority to inspect, investigate, summon witnesses and produce evidence, levy penalties, cancel or

⁵ *Minerals Management Service Reorganization: Special Hearing Before the Subcomm. on Dept. of the Interior, Environment & Related Agencies of the S. Comm. On Appropriations*, S. Hrg. 111-1035, at 12 (2010) (statement of Ken Salazar, Sec'y of the Interior).

⁶ Sec'y of the Interior Order 3299, as amended and issued Aug. 29, 2011, available at https://www.doi.gov/sites/doi.gov/files/elips/documents/3299a2-establishment_of_the_bureau_of_ocean_energy_management_the_bureau_of_safety_and_environmental_enforcement_and_the_office_of_natural_resources_revenue.pdf.

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suspend activities, and oversee safety, response, and removal preparedness.”⁷ Under section 5 of Secretary’s Order 3299, Amendment 2, ONRR exercises the royalty and revenue management functions of the former MMS, including “royalty and revenue collection, distribution, auditing and compliance, investigation and enforcement, and asset management for both onshore and offshore activities.”⁸

Section 4 of Secretary’s Order 3299, Amendment 2, assigned the renewable energy program to BOEM “until such time that the [ASLM] determines that an increase in activity justifies transferring the inspection and enforcement functions to [BSEE].”⁹ On October 18, 2011, in connection with the reorganization of the former MMS into BOEM and BSEE and the associated redistribution of the existing regulations at 30 CFR Chapter II, the offshore renewable energy regulations previously located in part 285 were assigned to BOEM and recodified in a newly created 30 CFR part 585.¹⁰

C. Need for Rulemaking

In September 2013, the DOI OIG issued a report supporting the policy of independent regulatory oversight and enforcement in the renewable energy program and recommending implementation of that policy through a transfer of those responsibilities

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* This arrangement was noted in the final rule reorganizing and reassigning the former MMS regulations between BOEM and BSEE in October 2011. “At this time, the renewable energy program will be managed under BOEM. At a later date, the renewable energy program will be reorganized and a determination will be made regarding what functions will be administered by which agency.” Reorganization of Title 30, 76 FR 64432, 64434 Table A (Oct. 18, 2011) (, discussion of then-current part 285).

¹⁰ 76 FR 64432 (Oct. 18, 2011).

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from BOEM to BSEE.¹¹ The OIG noted that “allowing the bureau responsible for planning and leasing renewable energy projects [*i.e.*, BOEM] to also formulate the policies for inspection and enforcement is contrary to the independent oversight and separation of duties envisioned in [Secretary’s Order 3299] as originally issued.”¹²

In December 2020, pursuant to Secretary’s Order 3299, Amendment 2, section 4, the Principal Deputy Assistant Secretary for Land and Minerals Management, acting with the authority of the Assistant Secretary for Land and Minerals Management, determined that OCS renewable energy activities have “reached the threshold envisioned by SO 3299, as amended.” The Secretary has since executed the necessary redelegation of authorities through the Departmental Manual.¹³ This rulemaking reassigns certain regulations from BOEM to BSEE consistent with the authorities identified in the Departmental Manual, and to further Secretary’s Order 3299 Amendment 2 and the Assistant Secretary’s direction to “transfer . . . the safety and environmental oversight and compliance functions, including inspection and enforcement, for the Department’s Offshore Renewable Energy Program from BOEM to BSEE.”

III. Overview of the Rule

A. Final Rulemaking Effective Upon Publication

¹¹ OFFICE OF INSPECTOR GEN., DEP’T OF INTERIOR, U.S. DEPARTMENT OF THE INTERIOR’S OFFSHORE RENEWABLE ENERGY PROGRAM 9 (2013) (Report No. CR-EV-BOEM-0001-2013).

¹² *Id.*

¹³ DOI Departmental Manual 218 DM 1, as amended and issued Sept. 14, 2022, available at chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.doi.gov/sites/doi.gov/files/elips/documents/218-dm-1_2.pdf.

DOI Departmental Manual 219 DM 1, as amended and issued Sept. 14, 2022, available at chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.doi.gov/sites/doi.gov/files/elips/documents/219-dm-1_0.pdf

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This rule reassigns existing regulations governing safety and environmental oversight and enforcement of OCS renewable energy activities from BOEM to BSEE. This rulemaking is neither substantive nor controversial because it merely reorganizes provisions in the Code of Federal Regulations and, therefore, does not affect the legal rights, obligations, and interests of any interested parties.

This rule implements Secretary's Order 3299—which reflects the Secretary's prudent and considered policy judgment that independent oversight and enforcement is in the national interest to best address the organizational concerns highlighted by the *Deepwater Horizon* incident—and revisions made to the Departmental Manual implementing that direction. Specifically, this rule transfers existing safety and environmental oversight and enforcement regulations governing OCS renewable energy activities from 30 CFR part 585, under BOEM's purview, to 30 CFR part 285, under BSEE's purview. This reorganization parallels the bureaus' oversight of oil and gas activities. This transfer includes a reassignment of authority to: oversee facility design, fabrication, installation, and safety management systems; ensure the safety of operations, including inspection programs and incident reporting and investigations; enforce compliance with all applicable safety, environmental, and other laws and regulations through enforcement actions (such as noncompliance notices, cessation orders, and lease suspensions); and oversee decommissioning activities. This rule also moves certain sections pertaining to Alternate Use RUEs from 30 CFR part 585 to a new 30 CFR part 586.

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This rule is a “rule[] of agency organization, procedure, or practice,” 5 U.S.C.

553(b)(A), because it implements the Department’s reassignment of responsibility for administering existing regulatory provisions from BOEM to BSEE. This rule reorganizes current regulations to be consistent with Departmental delegations without making substantive changes to those regulations or modifying substantive rights or interests. Nor does the rule impose new rights or duties or change the legal status of regulated parties. No statute requires notice or hearing for this rule. Therefore, this rule is exempt from notice-and-comment rulemaking requirements under 5 U.S.C. 553(b)(A). Additionally, for the same reasons, the Department finds for good cause shown that notice and comment on this rule are unnecessary and contrary to the public interest under 5 U.S.C. 553(b)(B). Further, because this rule makes no changes to the legal obligations or rights of nongovernmental entities, the relevant responsibilities have already been delegated to BSEE, and it is in the public interest for the regulations to reflect that delegation to provide clarity, the Department further finds that good cause exists to make this rule effective upon publication in the *Federal Register* per 5 U.S.C. 553(d)(3).¹⁴

B. Reorganization of 30 CFR parts 285 and 585

1. Description of the Transfer of Regulations to BSEE

This rule transfers existing regulations governing safety and environmental oversight and enforcement for OCS renewable energy activities from BOEM’s responsibility to

¹⁴ BOEM and BSEE intend to issue further guidance to help industry to understand the transfer of functions reflected in this rule.

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BSEE's responsibility by moving the relevant BOEM provisions, currently in 30 CFR part 585, to become BSEE provisions in 30 CFR part 285.

Among the regulations transferred to BSEE through this rulemaking are provisions related to oversight of facility design, fabrication, installation, and safety management systems; ensuring the safety of operations, including inspection programs and incident reporting and investigations; enforcing compliance with all applicable safety, environmental, and other laws and regulations through enforcement actions (such as noncompliance notices, cessation orders, and certain lease suspensions); and overseeing decommissioning activities.

Renewable energy regulations transferred to BSEE's responsibility include enforcement provisions under the existing part 585 Subpart D, various information submittal requirements under Subpart F, as well as provisions governing activities conducted under an approved plan, including the design, construction, operation, and decommissioning of facilities under Subparts G, H, and I. The requirements for and standards of review regarding the Facility Design Report (FDR) and the Fabrication and Installation Report (FIR) are unchanged: the FDR and FIR will continue to be evaluated for consistency with the approved Plan and applicable engineering standards.

BOEM will continue to identify areas that may be leased and authorize renewable energy development on the OCS, as well as alternate uses of existing OCS facilities. BOEM retains its authority to administer the renewable energy regulations pertaining to the issuance and administration of leases and grants, the requirements of payments and

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financial assurance, and plan review and approval, approval with modifications, or disapproval. Because oversight over environmental requirements for BOEM-approved plans has been retained by BOEM, these requirements were moved to Subpart F, from Subpart H, and renumbered accordingly. As a result, the renewable energy regulations that BOEM administers will now end with Subpart F, the title of which has been changed to “Plan Requirements.”

In addition, because the existing regulations in part 585 Subpart J relate to the alternate uses of existing facilities on the OCS, which require the existence of a previously or currently authorized facility, these regulations have been moved into a separate part 586 to enhance clarity.

This rule also reallocates the regulations pertaining to suspensions. In the context of the renewable energy regulations, a lease or grant suspension as described in Subpart D of part 585 is used primarily to manage the running of the lease term, not to address noncompliance or respond to the kind of operational concerns that predominate lease suspensions in the conventional energy context. Therefore, consistent with BOEM's role as the leasing agency, BOEM will retain the authority to grant a suspension of a lease or grant if the lessee or grantee requests one. BOEM will also retain the authority to order a lease or grant suspension to comply with a judicial decree or when a suspension is necessary for reasons of National security or defense.

However, in keeping with BSEE's mission, BSEE is assigned the regulations for ordering a lease or grant suspension when continued activities pose an imminent threat of

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serious or irreparable harm or damage to natural resources; life; property; the marine, coastal, or human environment; or sites, structures, or objects of historical or archaeological significance. BSEE may also order a suspension when necessary to comply with a judicial decree. Under the rule, BSEE is also assigned the regulations relating to issuance of cessation orders to address noncompliance on the part of the grantee or lessee.

Regarding suspensions for Alternate Use RUEs, the Department does not suspend such grants upon the grantee's request, but only by order. BOEM will retain authority to order suspensions required for National security, and BSEE will assume authority to order suspensions to address a threat of harm from continued operations. Either bureau may order a suspension when necessary to comply with a judicial decree. BSEE may order a suspension of an Alternate Use RUE when operation of the existing OCS facility has been suspended or temporarily prohibited and BSEE has determined that continued activities under the Alternate Use RUE are unsafe or cause undue interference with the original OCSLA-approved activity.

The Secretary of the Interior retains authority to cancel any renewable energy lease or grant for reasons outlined in the existing regulations under Subpart D. Because either BOEM or BSEE may have information relevant to the Secretary's decision to cancel a lease or grant, this rule allocates to both BOEM and BSEE responsibility under the regulations related to bureau recommendations for Secretarial cancellation of a lease or

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grant. Similarly, both bureaus retain responsibility under the regulations related to cancellation of an Alternate Use RUE.

Enforcement functions transferred to BSEE in the new part 285 Subpart D, entitled Lease and Grant Administration, include authority to issue notices of noncompliance and cessation orders and to pursue civil penalties and recommend criminal penalties. BSEE assumes authority for oversight and enforcement of the design, construction, operation, and decommissioning phases of offshore wind development, as well as enforcement of requirements related to Alternate Use RUEs. BOEM remains responsible for ensuring requirements are met during the leasing, site characterization, and plan review stages, as well as for ensuring financial assurance requirements are met. BOEM has relocated its enforcement authority to Subpart A, General Provisions, from part 585 Subpart D, Lease and Grant Administration, to focus the remaining Subpart D provisions on lease and grant administrative actions that include, but are not limited to, designations of operator, assignments, renewals, relinquishments, contractions, and terminations.

2. Future Rules

The Department has initiated additional rulemaking related to OCS renewable energy development. In the Renewable Energy Modernization Rule, the Department has proposed updates to the regulations based on the experience it has gained over the last decade of managing offshore wind energy development on the OCS. In addition, the Department has begun work on a rule (Renewable Energy Safety and Assurance Rule, RIN Number 1014-AA59) to modernize, streamline, and clarify certain provisions that

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this rule is moving to part 285. The reorganization of the renewable energy regulations in this rule will be reflected in the regulatory structure of any future final OCS renewable energy development rule. Any final rule that includes revisions to both part 285 and part 585 regulations will reflect the division of authorities among BOEM and BSEE.

3. Technical Changes and Corrections

In addition to the organizational changes noted in the derivation table, this rule makes minor technical changes and corrections necessitated by the reassignment of responsibilities and makes non-substantive corrections to previous errors. The substantive regulatory requirements are not changed. These technical changes and corrections generally fall under the following categories:

- Updated cross-references to reflect the reorganized regulations and the division of responsibilities between BOEM and BSEE.
- Changed references from BOEM to BSEE as applicable.
- Changed references from “subchapter” to “part” where appropriate.
- Corrected spelling and grammar.
- Changed physical and website addresses.
- Updated organizational titles.
- Replaced “BOEM” with “ONRR” in provisions related to lease and grant payments to reflect that ONRR is the correct payee for lease and grant payments.

4. Information Collection and Forms

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This rule does not affect the information collection burdens on the regulated community other than redirecting the submittal of certain required reports to BSEE rather than to BOEM. BSEE expects that OMB will issue an IC control number to BSEE shortly after publication of this rule. See the analysis and burden table *infra* Section IV.3, Paperwork Reduction Act. BOEM continues to use its current renewable energy information collection forms previously approved by OMB; those forms are unchanged by this rule. Presently, BSEE is not issuing new forms to manage the reporting requirements reassigned to it, though it may in the future.

5. Incorporation by Reference

This rule transfers one regulation that incorporates a document by reference from the former part 585 to the new part 285. Under the rules of the Office of the Federal Register, material incorporated by reference in a rule published in the *Federal Register* is approved by the Director of the Federal Register for a specific section in that rule. Consequently, transferring a regulation that incorporates a document by reference from the existing part 585 to the new part 285 required that BSEE request a new approval to incorporate the document by reference. Following the submittal of BSEE's request, approval to incorporate this document by reference in the new part 285 will be made effective by the Director of the Federal Register as of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The document incorporated by reference in part 285 is:

API RP 2A-WSD, Recommended Practice for Planning, Designing and Constructing Fixed Offshore Platforms—Working Stress Design; Twenty-

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first Edition, December 2000; Errata and Supplement 1, December 2002; Errata and Supplement 2, September 2005; Errata and Supplement 3, October 2007; Product No. G2AWSO.

The American Petroleum Institute (API) published this document, which outlines best practices for the design and construction of new fixed offshore platforms and for the relocation of existing platforms. The reference to the twenty-first edition of this document is retained in this rule to avoid any substantive effect on the regulated community that might arise if BSEE were to incorporate the newer twenty-second edition. BSEE may update the regulations to incorporate newer editions of the documents incorporated by reference in a future rulemaking.

The recommended practices described in this document are legally binding to the extent the regulatory text incorporates relevant material. BSEE will refer to this document to hold lessees, grantees, operators, and other regulated parties accountable for complying with the material incorporated by reference in the regulations.

This document is available for free viewing online by visiting <http://publications.api.org>. Once there, either log-in or create a new account, accept the terms and conditions, click “Browse read only documents now,” and select “Exploration and Production.” RP 2A-WSD should be one of the documents listed. Hardcopies and printable digital versions are available for purchase at <http://www.api.org/publications-standards-and-statistics/publications/government-cited-safety-documents>. Additionally, the document may be reviewed at BSEE’s office, 45600 Woodland Road, Sterling, Virginia 20166, phone: 703-787-1665.

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Though the same API document is incorporated in the regulation transferred from the former § 585.115 to the new § 285.115, the regulatory text differs between the two sections. The Office of the Federal Register mandated that the language introduced to part 285 conform to its formatting and content requirements; part 585 had been exempted previously. The formatting and language changes do not affect the substance of the regulatory requirement.

Under this rulemaking, BOEM does not incorporate by reference any material into part 585. BOEM may decide in the future to incorporate material by reference through notice-and-comment rulemaking as appropriate. Section 585.115 is reserved in this rulemaking for that purpose.

C. Derivation Table for 30 CFR Parts 285, 585, and 586

Table A—Derivation Table

BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
<p align="center">Subpart A—General Provisions</p> <p>The general regulatory requirements in this subpart are relevant to both BOEM and BSEE. Between the two parts, subpart A includes some sections that are identical, some that are similar, and others that are unique to one bureau, as explained below. Subpart A in both the BOEM and BSEE parts refers to a “BOEM lease.”</p>		
285.100 <i>Authority.</i>	585.100 <i>Authority.</i>	This section remains in part 585, the OCSLA authority is updated and limited to the renewable energy program. The full authority is now at § 285.100 in part 285.
285.101 <i>What is the purpose of this part?</i>	585.101 <i>What is the purpose of this part?</i>	In part 585, references to the alternate use RUEs are removed. Existing paragraphs (b) and (c) of § 585.101 are included in § 285.101. The paragraphs are renumbered accordingly.

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
285.102 <i>What are BSEE's responsibilities under this part?</i>	585.102 <i>What are BOEM's responsibilities under this part?</i>	This section remains in part 585. In part 285, paragraphs (a)(8)-(11) and (e) of § 585.102 are not included in § 285.102. The paragraphs are renumbered accordingly.
285.103 <i>When may BSEE prescribe or approve departures from these regulations?</i>	585.103 <i>When may BOEM prescribe or approve departures from these regulations?</i>	This section remains in existing part 585 and is included in part 285.
285.104 [Reserved]	585.104 <i>Do I need a BOEM lease or other authorization to produce or support the production of electricity or other energy product from a renewable energy resource on the OCS?</i>	This section remains in part 585 only. Section 285.104 is reserved in part 285.
285.105 <i>What are my responsibilities under this part?</i>	585.105 <i>What are my responsibilities under this part?</i>	This section remains in part 585 and is included in part 285.
285.106 [Reserved]	585.106 <i>Who can hold a lease or grant under this part?</i>	This section is replaced with a new § 585.106 <i>What happens if I fail to comply with this part?</i> , formerly numbered § 585.400. In the new 585.106, paragraph (d) of 585.400 is modified by replacing “BOEM” with “BSEE,” paragraph (e) of 585.400 is omitted, and the remaining paragraphs are renumbered accordingly. Existing § 585.106 is renumbered to 585.107. Section 285.106 is reserved in part 285.
285.107 [Reserved]	585.107 <i>How do I show that I am qualified to be a</i>	This section is renumbered to 585.108. Section 285.107 is reserved in part 285.

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
	<i>lessee or grant holder?</i>	
285.108 [Reserved]	585.108 <i>When must I notify BOEM if an action has been filed alleging that I am insolvent or bankrupt?</i>	This section is renumbered to 585.109. Section 285.108 is reserved in part 285.
285.109 [Reserved]	585.109 <i>When must I notify BOEM of mergers, name changes, or changes of business form?</i>	This section is renumbered to 585.110. Section 285.109 is reserved in part 285.
285.110 <i>How do I submit applications, reports, or notices required by this part?</i>	585.110 <i>How do I submit plans, applications, or notices required by this part?</i>	This section is renumbered to 585.111 and is included in part 285.
285.111 <i>When and how does BSEE charge me processing fees on a case-by-case basis?</i>	585.111 <i>When and how does BOEM charge me processing fees on a case-by-case basis?</i>	This section is renumbered to 585.112 and is included in part 285.
285.112 <i>Definitions.</i>	585.112 <i>Definitions.</i>	This section is renumbered to 585.113 and is included in part 285. In the new 585.113, definitions related to Alternate Use RUEs were moved to part 586.113 <i>Definitions.</i>
285.113 <i>How will data and information obtained by BSEE under this part be disclosed to the public?</i>	585.113 <i>How will data and information obtained by BOEM under this part be disclosed to the public?</i>	This section is renumbered to 585.114 and is included in part 285.
285.114 <i>Paperwork Reduction Act</i>	585.114 <i>Paperwork Reduction Act</i>	This section is renumbered to 585.115 and is included in part 285.

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
<i>statements— information collection.</i>	<i>statements— information collection.</i>	
285.115 <i>Documents incorporated by reference.</i>	585.115 <i>Documents incorporated by reference.</i>	The content of existing 585.115 is removed from part 585 and moved to 285.115. The revisions made to conform to the Office of the Federal Register requirements result in no substantive changes.
285.116 <i>Requests for information on the state of the offshore renewable energy industry.</i>	585.116 <i>Requests for information on the state of the offshore renewable energy industry.</i>	This section remains in part 585.116 and is included in part 285. Paragraph (b) of existing 585.116 was not moved to 285.116. The paragraphs in § 285.116 are renumbered accordingly.
285.117 [Reserved]	585.117 [Reserved]	This section remains reserved in part 585 and is included as reserved in part 285.
285.118 <i>What are my appeal rights?</i>	585.118 <i>What are my appeal rights?</i>	This section remains in part 585 and is included in part 285. Only paragraphs (a) and (b) are moved to § 285.118.
Subpart B—Issuance of OCS Renewable Energy Leases		
The regulatory requirements in this subpart are administered by BOEM; therefore, the subpart remains in part 585 only. Subpart B is reserved in part 285.		
General Lease Information		
	585.200 <i>What rights are granted with a lease issued under this part?</i>	This section remains in part 585 only.
	585.201 <i>How will BOEM issue leases?</i>	This section remains in part 585 only.
	585.202 <i>What types of leases will BOEM issue?</i>	This section remains in part 585 only.
	585.203 <i>With whom will BOEM consult before issuance of a lease?</i>	This section remains in part 585 only.

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
	585.204 <i>What areas are available for leasing consideration?</i>	This section remains in part 585 only.
	585.205 <i>How will leases be mapped?</i>	This section remains in part 585 only.
	585.206 <i>What is the lease size?</i>	This section remains in part 585 only.
	585.207 – 585.209 [Reserved]	These sections remain reserved in part 585.
Competitive Lease Process		
	585.210 <i>How does BOEM initiate the competitive leasing process?</i>	This section remains in part 585 only.
	585.211 <i>What is the process for competitive issuance of leases?</i>	This section remains in part 585 only.
	585.212 <i>What is the process BOEM will follow if there is reason to believe that competitors have withdrawn before the Final Sale Notice is issued?</i>	This section remains in part 585 only.
	585.213 <i>What must I submit in response to a Request for Interest or a Call for Information and Nominations?</i>	This section remains in part 585 only.
	585.214 <i>What will BOEM do with information from the Requests for</i>	This section remains in part 585 only.

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
	<i>Information or Calls for Information and Nominations?</i>	
	585.215 <i>What areas will BOEM offer in a lease sale?</i>	This section remains in part 585 only.
	585.216 <i>What information will BOEM publish in the Proposed Sale Notice and Final Sale Notice?</i>	This section remains in part 585 only.
	585.217 – 585.219 [Reserved]	These sections remain reserved in part 585.
Competitive Lease Award Process		
	585.220 <i>What auction format may BOEM use in a lease sale?</i>	This section remains in part 585 only.
	585.221 <i>What bidding systems may BOEM use for commercial leases and limited leases?</i>	This section remains in part 585 only.
	585.222 <i>What does BOEM do with my bid?</i>	This section remains in part 585 only.
	585.223 <i>What does BOEM do if there is a tie for the highest bid?</i>	This section remains in part 585 only.
	585.224 <i>What happens if BOEM accepts my bid?</i>	This section remains in part 585 only.
	585.225 <i>What happens if my bid is rejected, and what</i>	This section remains in part 585 only.

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
	<i>are my appeal rights?</i>	
	585.226 – 585.229 [Reserved]	These sections remain reserved in part 585.
Noncompetitive Lease Award Process		
	585.230 <i>May I request a lease if there is no Call?</i>	This section remains in part 585 only.
	585.231 <i>How will BOEM process my unsolicited request for a noncompetitive lease?</i>	This section remains in part 585 only.
	585.232 <i>May I acquire a lease noncompetitively after responding to a Request for Interest or Call for Information and Nominations?</i>	This section remains in part 585 only.
	585.233 and 585.234 [Reserved]	These sections remain reserved in part 585.
Commercial and Limited Lease Terms		
	585.235 <i>If I have a commercial lease, how long will my lease remain in effect?</i>	This section remains in part 585 only.
	585.236 <i>If I have a limited lease, how long will my lease remain in effect?</i>	This section remains in part 585 only.
	585.237, <i>What is the effective date of a lease?</i>	This section remains in part 585 only.
	585.238, <i>Are there any other</i>	This section is renumbered to § 585.239 and replaced with § 585.238

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
	<i>renewable energy research activities that will be allowed on the OCS?</i>	<i>May I develop my commercial lease in phases?, formerly 585.629 May I develop my lease in phases?</i>
Subpart C—Rights-of-Way (ROW) and Rights-of-Use and Easement (RUE) Grants for Renewable Energy Activities The regulatory requirements related to ROW grants and RUE grants in this subpart are administered by BOEM and remain in part 585 only. Subpart C is reserved in part 285.		
ROW Grants and RUE Grants		
	585.300 <i>What types of activities are authorized by ROW grants and RUE grants issued under this part?</i>	This section remains in part 585 only.
	585.301 <i>What do ROW grants and RUE grants include?</i>	This section remains in part 585 only.
	585.302 <i>What are the general requirements for ROW grant and RUE grant holders?</i>	This section remains in part 585 only.
	585.303 <i>How long will my ROW grant or RUE grant remain in effect?</i>	This section remains in part 585 only.
	585.304 [Reserved]	This section remains reserved in part 585.
Obtaining ROW Grants and RUE Grants		
	585.305 <i>How do I request an ROW grant or RUE grant?</i>	This section remains in part 585 only.
	585.306 <i>What action will BOEM take on my request?</i>	This section remains in part 585 only.

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
	585.307 <i>How will BOEM determine whether competitive interest exists for ROW grants and RUE grants?</i>	This section remains in part 585 only.
	585.308 <i>How will BOEM conduct an auction for ROW grants and RUE grants?</i>	This section remains in part 585 only.
	585.309 <i>When will BOEM issue a noncompetitive ROW grant or RUE grant?</i>	This section remains in part 585 only.
	585.310 <i>What is the effective date of an ROW grant or RUE grant?</i>	This section remains in part 585 only.
	585.311 – 585.314 [Reserved]	These sections remain reserved in part 585.
Financial Requirements for ROW Grants and RUE Grants		
	585.315 <i>What deposits are required for a competitive ROW grant or RUE grant?</i>	This section remains in part 585 only.
	585.316 <i>What payments are required for ROW grants or RUE grants?</i>	This section remains in part 585 only. The reference to BOEM in subparagraph (a) is changed to ONRR, to reflect the fact that bid payments are submitted to ONRR rather than BOEM.
Subpart D—Lease and Grant Administration (Part 585) Subpart D—Lease and Grant Administration (Part 285)		

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
Some regulatory requirements in subpart D are relevant to both BOEM and BSEE; thus, they appear in both parts. Subpart D is entitled, “Lease and Grant Administration” in both part 285 and part 585.		
Noncompliance (The phrase “and Cessation Orders” is removed in part 285. The heading “Noncompliance and Cessation Orders” is removed in part 585. A new undesignated center heading “Cessation Orders” is added before § 285.401 only.)		
285.400 <i>What happens if I fail to comply with this part?</i>	585.400 <i>What happens if I fail to comply with this part?</i>	This part is included in part 285. In part 585, this section is removed from subpart D and moved to subpart A as 585.106, paragraph (d) is modified by replacing “BOEM” with “BSEE”, paragraph (e) of existing 585.400 is not included, and the paragraphs are renumbered accordingly.
Cessation Orders		
285.401 <i>When may BSEE issue a cessation order?</i>	585.401 <i>When may BOEM issue a cessation order?</i>	This section is removed and reserved in part 585 and is included in part 285.
285.402 <i>What is the effect of a cessation order?</i>	585.402 <i>What is the effect of a cessation order?</i>	This section is removed and reserved in part 585 and is included in part 285.
285.403 and 285.404 [Reserved]	585.403 and 585.404 [Reserved]	These sections remain reserved in part 585 and are included as reserved in part 285.
Responsibility for Fulfilling Obligations (used in part 285) Designation of Operator (used in part 585)		
285.405 [Reserved]	585.405 <i>How do I designate an operator?</i>	This section remains in part 585 and is included as reserved in part 285.
285.406 <i>Who is responsible for fulfilling lease and grant obligations?</i>	585.406 <i>Who is responsible for fulfilling lease and grant obligations?</i>	This section remains in part 585 and is included in part 285. Existing paragraph (b) is modified in § 285.406 by replacing “BOEM” with “BSEE.”
285.407 [Reserved]	585.407 [Reserved]	This section remains reserved in part 585 and is included as reserved in part 285.
Lease or Grant Assignment		

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
285.408 [Reserved]	585.408 <i>May I assign my lease or grant interest?</i>	This section remains in part 585 and is included as reserved in part 285.
285.409 [Reserved]	585.409 <i>How do I request approval of a lease or grant assignment?</i>	This section remains in part 585 and is included as reserved in part 285.
285.410 [Reserved]	585.410 <i>How does an assignment affect the assignor's liability?</i>	This section remains in part 585 and is included as reserved in part 285.
285.411 [Reserved]	585.411 <i>How does an assignment affect the assignee's liability?</i>	This section remains in part 585 and is included as reserved in part 285.
285.412 – 285.414 [Reserved]	585.412 – 585.414 [Reserved]	These sections remain reserved in part 585 and are included as reserved in part 285.
Lease or Grant Suspension		
285.415 <i>What is a lease or grant suspension?</i>	585.415 <i>What is a lease or grant suspension?</i>	This section remains in part 585 and is included in part 285.
285.416 [Reserved]	585.416 <i>How do I request a lease or grant suspension?</i>	This section remains in part 585 and is included as reserved in part 285.
285.417 <i>When may BSEE order a suspension?</i>	585.417 <i>When may BOEM order a suspension?</i>	This section remains in part 585 and is included in part 285. Section 585.417 is revised to combine only existing paragraphs (a)(1) and (a)(3) into a single paragraph. Section 285.417 includes similar content from current 585.417 but combines only existing paragraphs (a)(1) and (a)(2) of § 585.417 into a single paragraph.
285.418 <i>How will BSEE issue a suspension?</i>	585.418 <i>How will BOEM issue a suspension?</i>	This section remains in part 585 and is included in part 285.
285.419 <i>What are my immediate</i>	585.419 <i>What are my immediate</i>	This section remains in part 585 and is included in part 285.

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
<i>responsibilities if I receive a suspension order?</i>	<i>responsibilities if I receive a suspension order?</i>	
285.420 <i>What effect does a suspension order have on my payments?</i>	585.420 <i>What effect does a suspension order have on my payments?</i>	This section remains in part 585 and is included in part 285. Only existing paragraph (c) is included in part 285.
285.421 <i>How long will a suspension be in effect?</i>	585.421 <i>How long will a suspension be in effect?</i>	This section remains in part 585 and is included in part 285.
285.422 – 285.424 [Reserved]	585.422- 585.424 [Reserved]	Existing section 585.437 is moved to § 585.422 and is included under heading Lease or Grant Cancellation. Sections 585.423 and 585.424 remain reserved in part 585. These sections are included as reserved in part 285.
Lease or Grant Renewal		
285.425 [Reserved]	585.425 <i>May I obtain a renewal of my lease or grant before it terminates?</i>	This section remains in part 585 and is included as reserved in part 285.
285.426 [Reserved]	585.426 <i>When must I submit my request for renewal?</i>	This section remains in part 585 and is included as reserved in part 285.
285.427 [Reserved]	585.427 <i>How long is a renewal?</i>	This section remains in part 585 and is included as reserved in part 285.
285.428 [Reserved]	585.428 <i>What effect does applying for a renewal have on my activities and payments?</i>	This section remains in part 585 and is included as reserved in part 285.
285.429 [Reserved]	585.429 <i>What criteria will BOEM consider in deciding whether to renew a lease or grant?</i>	This section remains in part 585 and is included as reserved in part 285.

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
285.430 and 285.431 [Reserved]	585.430 and 585.431 [Reserved]	These sections remain reserved in part 585 and are included as reserved in part 285.
Lease or Grant Termination		
285.432 [Reserved]	585.432 <i>When does my lease or grant terminate?</i>	This section remains in part 585 and is included as reserved in part 285.
285.433 <i>What must I do after my lease or grant terminates?</i>	585.433 <i>What must I do after my lease or grant terminates?</i>	This section remains in part 585 and is included in part 285.
285.434 [Reserved]	585.434 [Reserved]	Existing section 585.909 is moved to § 585.434. This section is included as reserved in part 285.
Lease or Grant Relinquishment		
285.435 [Reserved]	585.435 <i>How can I relinquish a lease or a grant or parts of a lease or grant?</i>	This section remains in part 585 and is included as reserved in part 285.
Lease or Grant Contraction		
285.436 [Reserved]	585.436 <i>Can BOEM require lease or grant contraction?</i>	This section remains in part 585 and is included as reserved in part 285.
Lease or Grant Cancellation		
285.437 <i>When can my lease or grant be cancelled?</i>	585.437 <i>When can my lease or grant be cancelled?</i>	This section is moved in part 585 to 585.422 and is included in part 285.
Subpart E—Payments and Financial Assurance Requirements		
The regulatory requirements in this subpart are administered by BOEM and remain in part 585 only. Subpart E is reserved in part 285.		
Payments		
	585.500 <i>How do I make payments under this part?</i>	This section remains in part 585 only.
	585.501 <i>What deposits must I submit for a competitively</i>	This section remains in part 585 only.

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
	<i>issued lease, ROW grant, or RUE grant?</i>	
	<i>585.502 What initial payment requirements must I meet to obtain a noncompetitive lease, ROW grant, or RUE grant?</i>	This section remains in part 585 only.
	<i>585.503 What are the rent and operating fee requirements for a commercial lease?</i>	This section remains in part 585 only.
	<i>585.504 How are my payments affected if I develop my lease in phases?</i>	This section remains in part 585 only.
	<i>585.505 What are the rent and operating fee requirements for a limited lease?</i>	This section remains in part 585 only.
	<i>585.506 What operating fees must I pay on a commercial lease?</i>	This section remains in part 585 only.
	<i>585.507 What rent payments must I pay on a project easement?</i>	This section remains in part 585 only.
	<i>585.508 What rent payments must I pay on ROW grants or RUE grants associated with renewable energy projects?</i>	This section remains in part 585 only.

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
	585.509 <i>Who is responsible for submitting lease or grant payments to BOEM?</i>	This section remains in part 585 only.
	585.510 <i>May BOEM reduce or waive my lease or grant payments?</i>	This section remains in part 585 only.
	585.511 – 585.514 [Reserved]	These sections remain reserved in part 585.
Financial Assurance Requirements for Commercial Leases		
	585.515 <i>What financial assurance must I provide when I obtain my commercial lease?</i>	This section remains in part 585 only.
	585.516 <i>What are the financial assurance requirements for each stage of my commercial lease?</i>	This section remains in part 585 only.
	585.517 <i>How will BOEM determine the amounts of the supplemental and decommissioning financial assurance requirements associated with commercial leases?</i>	This section remains in part 585 only.
	585.518 and 585.519 [Reserved]	These sections remain reserved in part 585.
Financial Assurance for Limited Leases, ROW Grants, and RUE Grants		
	585.520 <i>What financial assurance must I provide when I obtain my</i>	This section remains in part 585 only.

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
	<i>limited lease, ROW grant, or RUE grant?</i>	
	585.521 <i>Do my financial assurance requirements change as activities progress on my limited lease or grant?</i>	This section remains in part 585 only.
	585.522 – 585.524 [Reserved]	These sections remain reserved in part 585.
Requirements for Financial Assurance Instruments		
	585.525 <i>What general requirements must a financial assurance instrument meet?</i>	This section remains in part 585 only.
	585.526 <i>What instruments other than a surety bond may I use to meet the financial assurance requirement?</i>	This section remains in part 585 only.
	585.527 <i>May I demonstrate financial strength and reliability to meet the financial assurance requirement for lease or grant activities?</i>	This section remains in part 585 only.
	585.528 <i>May I use a third-party guaranty to meet the financial</i>	This section remains in part 585 only.

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
	<i>assurance requirement for lease or grant activities?</i>	
	<i>585.529 Can I use a lease- or grant-specific decommissioning account to meet the financial assurance requirements related to decommissioning?</i>	This section remains in part 585 only.
Changes in Financial Assurance		
	<i>585.530 What must I do if my financial assurance lapses?</i>	This section remains in part 585 only.
	<i>585.531 What happens if the value of my financial assurance is reduced?</i>	This section remains in part 585 only.
	<i>585.532 What happens if my surety wants to terminate the period of liability of my bond?</i>	This section remains in part 585 only.
	<i>585.533 How does my surety obtain cancellation of my bond?</i>	This section remains in part 585 only.
	<i>585.534 When may BOEM cancel my bond?</i>	This section remains in part 585 only.
	<i>585.535 Why might BOEM call for forfeiture of my bond?</i>	This section remains in part 585 only.

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
	585.536 <i>How will I be notified of a call for forfeiture?</i>	This section remains in part 585 only.
	585.537 <i>How will BOEM proceed once my bond or other security is forfeited?</i>	This section remains in part 585 only.
	585.538 and 585.539 [Reserved]	These sections remain reserved in part 585.
Revenue Sharing With States		
	585.540 <i>How will BOEM equitably distribute revenues to the States?</i>	This section remains in part 585 only.
	585.541 <i>What is a qualified project for revenue sharing purposes?</i>	This section remains in part 585 only.
	585.542 <i>What makes a State eligible for payment of revenues?</i>	This section remains in part 585 only.
	585.543 <i>Example of how the inverse distance formula works.</i>	This section remains in part 585 only.
<p align="center">Subpart F—Plan Requirements (Part 585) Subpart F—Information Requirements (Part 285)</p> <p>Some regulatory requirements in this subpart are relevant to both BOEM and BSEE; therefore, they appear in both parts. In part 285, subpart F is entitled, “Information Requirements”; in part 585, it is entitled, “Plan Requirements.”</p>		
285.600 [Reserved]	585.600 <i>What plans and information must I submit to BOEM before I conduct activities</i>	This section remains in part 585 and is included as reserved in part 285.

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
	<i>on my lease or grant?</i>	
285.601 [Reserved]	585.601 <i>When am I required to submit my plans to BOEM?</i>	This section remains in part 585 and is included as reserved in part 285.
285.602 <i>What records must I maintain?</i>	585.602 <i>What records must I maintain?</i>	This section is reserved in part 585 and is included in part 285.
285.603 and 285.604 [Reserved]	585.603 and 585.604 [Reserved]	These sections remain reserved in part 585 and are included as reserved in part 285.
Site Assessment Plan and Information Requirements for Commercial Leases		
285.605 [Reserved]	585.605 <i>What is a Site Assessment Plan (SAP)?</i>	This section remains in part 585 and is included as reserved in part 285.
285.606 [Reserved]	585.606 <i>What must I demonstrate in my SAP?</i>	This section remains in part 585 and is included as reserved in part 285.
285.607 [Reserved]	585.607 <i>How do I submit my SAP?</i>	This section remains in part 585 and is included as reserved in part 285.
285.608 and 285.609 [Reserved]	585.608 and 585.609 [Reserved]	These sections remain reserved in part 585 and are included as reserved in part 285.
Contents of the Site Assessment Plan		
285.610 [Reserved]	585.610 <i>What must I include in my SAP?</i>	This section remains in part 585 and is included as reserved in part 285.
285.611 [Reserved]	585.611 <i>What information and certifications must I submit with my SAP to assist BOEM in complying with NEPA and other relevant laws?</i>	This section remains in part 585 and is included as reserved in part 285.
285.612 [Reserved]	585.612 <i>How will my SAP be processed for</i>	This section remains in part 585 and is included as reserved in part 285.

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
	<i>Federal consistency under the Coastal Zone Management Act?</i>	
285.613 [Reserved]	585.613 <i>How will BOEM process my SAP?</i>	This section remains in part 585 and is included as reserved in part 285.
Activities Under an Approved SAP		
285.614 <i>When may I begin conducting activities under my approved SAP?</i>	585.614 <i>When may I begin conducting activities under my approved SAP?</i>	This section remains in part 585 and is included in part 285.
285.615 <i>What other reports or notices must I submit to BSEE under my approved SAP?</i>	585.615 <i>What other reports or notices must I submit to BOEM under my approved SAP?</i>	This section remains in part 585 and is included in part 285. Only existing paragraph (b) remains in part 585.
285.616 [Reserved]	585.616 [Reserved]	This section remains reserved in part 585 and is included as reserved in part 285.
285.617 [Reserved]	585.617 <i>What activities require a revision to my SAP, and when will BOEM approve the revision?</i>	This section remains in part 585 and is included as reserved in part 285.
285.618 [Reserved]	585.618 <i>What must I do upon completion of approved site assessment activities?</i>	This section remains in part 585 and is included as reserved in part 285.
285.619 [Reserved]	585.619 [Reserved]	This section remains reserved in part 585 and is included as reserved in part 285.
Construction and Operations Plan for Commercial Leases		
285.620 [Reserved]	585.620 <i>What is a Construction and Operations Plan?</i>	This section remains in part 585 and is included as reserved in part 285.

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
285.621 [Reserved]	585.621 <i>What must I demonstrate in my COP?</i>	This section remains in part 585 and is included as reserved in part 285.
285.622 [Reserved]	585.622 <i>How do I submit my COP?</i>	This section remains in part 585 and is included as reserved in part 285.
285.623 – 285.625 [Reserved]	585.623 – 585.625 [Reserved]	These sections remain reserved in part 585 and are included as reserved in part 285.
Contents of the Construction and Operations Plan		
285.626 [Reserved]	585.626 <i>What must I include in my COP?</i>	This section remains in part 585 and is included as reserved in part 285.
285.627 [Reserved]	585.627 <i>What information and certificates must I submit with my COP to assist the BOEM in complying with NEPA and other relevant laws?</i>	This section remains in part 585 and is included as reserved in part 285. Existing paragraph (c) is modified to read, “You must submit your oil spill response plan to BSEE...” Existing paragraph (d) is modified to read, “You must submit your safety management system to BSEE...”
285.628 [Reserved]	585.628 <i>How will BOEM process my COP?</i>	This section remains in part 585 and is included as reserved in part 285.
285.629 [Reserved]	585.629 <i>May I develop my lease in phases?</i>	This content of this section is moved to 585.238, under the leasing provisions, and is included as reserved in parts 285 and 585.
285.630 [Reserved]	585.630 [Reserved]	This section remains reserved in part 585 and is included as reserved in part 285.
Activities Under an Approved COP		
285.631 <i>When must I initiate activities under an approved COP?</i>	585.631 <i>When must I initiate activities under an approved COP?</i>	This section remains in part 585 and is included in part 285.
285.632 <i>What documents must I submit before I may</i>	585.632 <i>What documents must I submit before I may</i>	This section remains in part 585 and is included in part 285.

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
<i>construct and install facilities under my approved COP?</i>	<i>construct and install facilities under my approved COP?</i>	
285.633 <i>How do I comply with my COP?</i>	585.633 <i>How do I comply with my COP?</i>	This section is removed and reserved in part 585 and is included in part 285.
285.634 [Reserved]	585.634 <i>What activities require a revision to my COP, and when will BOEM approve the revision?</i>	This section remains in part 585 and is included as reserved in part 285.
285.635 [Reserved]	585.635 <i>What must I do if I cease activities approved in my COP before the end of my commercial lease?</i>	This section remains in part 585 and is included as reserved in part 285.
285.636 <i>What notices must I provide BSEE following approval of my COP?</i>	585.636 <i>What notices must I provide BOEM following approval of my COP?</i>	This section is removed and reserved in part 585 and is included in part 285.
285.637 <i>When may I commence commercial operations on my commercial lease?</i>	585.637 <i>When may I commence commercial operations on my commercial lease?</i>	This section is removed and reserved in part 585 and is included in part 285.
285.638 <i>What must I do upon completion of my commercial operations as approved in my COP or FERC license?</i>	585.638 <i>What must I do upon completion of my commercial operations as approved in my COP or FERC license?</i>	This section is removed and reserved in part 585 and is included in part 285.

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
285.639 [Reserved]	585.639 [Reserved]	This section remains reserved in part 585 and is included as reserved in part 285.
General Activities Plan Requirements for Limited Leases, ROW Grants, and RUE Grants		
285.640 [Reserved]	585.640 <i>What is a General Activities Plan (GAP)?</i>	This section remains in part 585 and is included as reserved in part 285.
285.641 [Reserved]	585.641 <i>What must I demonstrate in my GAP?</i>	This section remains in part 585 and is included as reserved in part 285.
285.642 [Reserved]	585.642 <i>How do I submit my GAP?</i>	This section remains in part 585 and is included as reserved in part 285.
285.643 and 285.644 [Reserved]	585.643 and 585.644 [Reserved]	These sections remain reserved in part 585 and are included as reserved in part 285.
Contents of the General Activities Plan		
285.645 [Reserved]	585.645 <i>What must I include in my GAP?</i>	This section remains in part 585 and is included as reserved in part 285.
285.646 [Reserved]	585.646 <i>What information and certifications must I submit with my GAP to assist BOEM in complying with NEPA and other relevant laws?</i>	This section remains in part 585 and is included as reserved in part 285.
285.647 [Reserved]	585.647 <i>How will my GAP be processed for Federal consistency under the Coastal Zone Management Act?</i>	This section remains in part 585 and is included as reserved in part 285.
285.648 [Reserved]	585.648 <i>How will BOEM process my GAP?</i>	This section remains in part 585 and is included as reserved in part 285.

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
285.649 [Reserved]	585.649 [Reserved]	This section remains reserved in part 585 and is included as reserved in part 285.
Activities Under an Approved GAP		
285.650 <i>When may I begin conducting activities under my GAP?</i>	585.650 <i>When may I begin conducting activities under my GAP?</i>	This section remains in part 585 and is included in part 285.
285.651 <i>When may I construct complex or significant OCS facilities on my limited lease or any facilities on my project easement proposed under my GAP?</i>	585.651 <i>When may I construct complex or significant OCS facilities on my limited lease or any facilities on my project easement proposed under my GAP?</i>	This section remains in part 585 and is included in part 285.
285.652 [Reserved]	285.652 <i>How long do I have to conduct activities under an approved GAP?</i>	This section remains in part 585 and is included as reserved in part 285.
285.653 <i>What other reports or notices must I submit to BSEE under my approved GAP?</i>	585.653 <i>What other reports or notices must I submit to BOEM under my approved GAP?</i>	This section remains in part 585 and is included in part 285. Only existing paragraph (b) remains in part 585.
285.654 [Reserved]	585.654 [Reserved]	This section remains reserved in part 585 and is included as reserved in part 285.
285.655 [Reserved]	585.655 <i>What activities require a revision to my GAP, and when will BOEM approve the revision?</i>	This section remains in part 585 and is included as reserved in part 285.

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
285.656 [Reserved]	585.656 <i>What must I do if I cease activities approved in my GAP before the end of my term?</i>	This section remains in part 585 and is included as reserved in part 285.
285.657 [Reserved]	585.657 <i>What must I do upon completion of approved activities under my GAP?</i>	This section remains in part 585 and is included as reserved in part 285.
Cable and Pipeline Deviations		
285.658 [Reserved]	585.658 <i>Can my cable or pipeline construction deviate from my approved COP or GAP?</i>	This section remains in part 585 and is included as reserved in part 285.
285.659 [Reserved]	585.659 <i>What requirements must I include in my SAP, COP, or GAP regarding air quality?</i>	This section is moved to 585.700 in part 585, under the heading Environmental Protection Requirements Under Approved Plans. Part 585.659 is reserved in part 585 and part 285.
Subpart G—Facility Design, Fabrication, and Installation		
The regulatory requirements in this subpart are administered by BSEE and are included in part 285 only. Subpart G is removed and reserved in part 585.		
Reports		
285.700 <i>What reports must I submit to BSEE before installing facilities described in my approved SAP, COP, or GAP?</i>	585.700 <i>What reports must I submit to BOEM before installing facilities described in my approved SAP, COP, or GAP?</i>	This section is included in part 285. In part 585, the contents of existing section 585.659 are relocated to 585.700, under the heading Environmental Protection Requirements Under Approved Plans.
285.701 <i>What must I include in my Facility Design Report?</i>	585.701 <i>What must I include in my</i>	This section is included in part 285. In part 585, the contents of existing section 585.801 are relocated to

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
	<i>Facility Design Report?</i>	585.701, under the heading Environmental Protection Requirements Under Approved Plans.
285.702 <i>What must I include in my Fabrication and Installation Report?</i>	585.702 <i>What must I include in my Fabrication and Installation Report?</i>	This section is included in part 285. In part 585, the contents of existing section 585.802 are relocated to 585.702, under the heading Environmental Protection Requirements Under Approved Plans and
285.703 <i>What reports must I submit for project modifications and repairs?</i>	585.703 <i>What reports must I submit for project modifications and repairs?</i>	This section is included in part 285. In part 585, the contents of existing section 585.803 are relocated to § 585.703, under the heading Environmental Protection Requirements Under Approved Plans.
285.704 [Reserved]	585.704 [Reserved]	This section is removed and reserved in part 585 and is included as reserved in part 285.
Certified Verification Agent		
285.705 <i>When must I use a Certified Verification Agent (CVA)?</i>	585.705 <i>When must I use a Certified Verification Agent (CVA)?</i>	This section is removed and reserved in part 585 and is included in part 285.
285.706 <i>How do I nominate a CVA for BSEE approval?</i>	585.706 <i>How do I nominate a CVA for BOEM approval?</i>	This section is removed and reserved in part 585 and is included in part 285.
285.707 <i>What are the CVA's primary duties for facility design review?</i>	585.707 <i>What are the CVA's primary duties for facility design review?</i>	This section is removed and reserved in part 585 and is included in part 285.
285.708 <i>What are the CVA's or project engineer's primary duties for fabrication and installation review?</i>	585.708 <i>What are the CVA's or project engineer's primary duties for fabrication and installation review?</i>	This section is removed and reserved in part 585 and is included in part 285.
285.709 <i>When conducting onsite</i>	585.709 <i>When conducting onsite</i>	This section is removed and reserved in part 585 and is included in part 285.

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
<i>fabrication inspections, what must the CVA or project engineer verify?</i>	<i>fabrication inspections, what must the CVA or project engineer verify?</i>	
285.710 <i>When conducting onsite installation inspections, what must the CVA or project engineer do?</i>	585.710 <i>When conducting onsite installation inspections, what must the CVA or project engineer do?</i>	This section is removed and reserved in part 585 and is included in part 285.
285.711 [Reserved]	585.711 [Reserved]	This section remains reserved in part 585 and is included as reserved in part 285.
285.712 <i>What are the CVA's or project engineer's reporting requirements?</i>	585.712 <i>What are the CVA's or project engineer's reporting requirements?</i>	This section is removed and reserved in part 585 and is included in part 285.
285.713 <i>What must I do after the CVA or project engineer confirms conformance with the Fabrication and Installation Report on my commercial lease?</i>	585.713 <i>What must I do after the CVA or project engineer confirms conformance with the Fabrication and Installation Report on my commercial lease?</i>	This section is removed and reserved in part 585 and is included in part 285.
285.714 <i>What records relating to SAPs, COPs, and GAPs must I keep?</i>	585.714 <i>What records relating to SAPs, COPs, and GAPs must I keep?</i>	This section is removed and reserved in part 585 and is included in part 285.
<p>Subpart H—Environmental and Safety Management, Inspections, and Facility Assessments for Activities Conducted Under SAPs, COPs, and GAPs (Part 285)</p> <p>Subpart H—[Reserved] (Part 585)</p> <p>Most regulatory requirements in this subpart are administered by BSEE and are included in part 285 only; requirements administered by BOEM are moved to other sections in BOEM's part 585. In part 285, subpart H is entitled, "Environmental and</p>		

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
Safety Management, Inspections, and Facility Assessments for Activities Conducted under SAPS, COPs, and GAPS.” In part 585, subpart H is entitled, “[Reserved].”		
285.800 <i>How must I conduct my activities to comply with safety and environmental requirements?</i>	585.800 <i>How must I conduct my activities to comply with safety and environmental requirements?</i>	This section is removed and reserved in part 585 and is included in part 285.
285.801 <i>How must I conduct my approved activities to protect marine mammals, threatened and endangered species, and designated critical habitat?</i>	585.801 <i>How must I conduct my approved activities to protect marine mammals, threatened and endangered species, and designated critical habitat?</i>	This section is moved to 585.701 and reserved in subpart H of part 585, and is included in part 285, as a cross-reference to 585.701.
285.802 <i>What must I do if I discover a potential archaeological resource while conducting my approved activities?</i>	585.802 <i>What must I do if I discover a potential archaeological resource while conducting my approved activities?</i>	This section is moved to § 585.702 and reserved in subpart H of part 585, and is included in part 285, as a cross-reference to 585.702.
285.803 <i>How must I conduct my approved activities to protect essential fish habitats identified and described under the Magnuson-Stevens Fishery Conservation and Management Act?</i>	585.803 <i>How must I conduct my approved activities to protect essential fish habitats identified and described under the Magnuson-Stevens Fishery Conservation and Management Act?</i>	This section is moved to § 585.703 and reserved in subpart H of part 585, and is included in part 285, as a cross-reference to 585.703.

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
285.804-285.809 [Reserved]	585.804-585.809 [Reserved]	These sections remain reserved in part 585 and are included as reserved in part 285.
Safety Management Systems		
285.810 <i>What must I include in my Safety Management System?</i>	585.810 <i>What must I include in my Safety Management System?</i>	This section is removed and reserved in part 585 and is included in part 285.
285.811 <i>When must I follow my Safety Management System?</i>	585.811 <i>When must I follow my Safety Management System?</i>	This section is removed and reserved in part 585 and is included in part 285.
285.812 [Reserved]	585.812 [Reserved]	This section remains reserved in part 585 and is included as reserved in part 285.
Maintenance and Shutdowns		
285.813 <i>When do I have to report removing equipment from service?</i>	585.813 <i>When do I have to report removing equipment from service?</i>	This section is removed and reserved in part 585 and is included in part 285.
285.814 [Reserved]	585.814 [Reserved]	This section remains reserved in part 585 and is included as reserved in part 285.
Equipment Failure and Adverse Environmental Effects		
285.815 <i>What must I do if I have facility damage or an equipment failure?</i>	585.815 <i>What must I do if I have facility damage or an equipment failure?</i>	This section is removed and reserved in part 585 and is included in part 285.
285.816 <i>What must I do if environmental or other conditions adversely affect a cable, pipeline, or facility?</i>	585.816 <i>What must I do if environmental or other conditions adversely affect a cable, pipeline, or facility?</i>	This section is removed and reserved in part 585 and is included in part 285.

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
285.817-285.819 [Reserved]	585.817-585.819 [Reserved]	These sections remain reserved in part 585 and are included as reserved in part 285.
Inspections and Assessment		
285.820 <i>Will BSEE conduct inspections?</i>	585.820 <i>Will BOEM conduct inspections?</i>	This section is removed and reserved in part 585 and is included in part 285.
285.821 <i>Will BSEE conduct scheduled and unscheduled inspections?</i>	585.821 <i>Will BOEM conduct scheduled and unscheduled inspections?</i>	This section is removed and reserved in part 585 and is included in part 285.
285.822 <i>What must I do when BSEE conducts an inspection?</i>	585.822 <i>What must I do when BOEM conducts an inspection?</i>	This section is removed and reserved in part 585 and is included in part 285.
285.823 <i>Will BSEE reimburse me for my expenses related to inspections?</i>	585.823 <i>Will BOEM reimburse me for my expenses related to inspections?</i>	This section is removed and reserved in part 585 and is included in part 285.
285.824 <i>How must I conduct self-inspections?</i>	585.824 <i>How must I conduct self-inspections?</i>	This section is removed and reserved in part 585 and is included in part 285.
285.825 <i>When must I assess my facilities?</i>	585.825 <i>When must I assess my facilities?</i>	This section is removed and reserved in part 585 and is included in part 285.
285.826-285.829 [Reserved]	585.826-585.829 [Reserved]	These sections remain reserved in part 585 and are included as reserved in part 285.
Incident Reporting and Investigation		
285.830 <i>What are my incident reporting requirements?</i>	585.830 <i>What are my incident reporting requirements?</i>	This section is removed and reserved in part 585 and is included in part 285.
285.831 <i>What incidents must I report, and when must I report them?</i>	585.831 <i>What incidents must I report, and when must I report them?</i>	This section is removed and reserved in part 585 and is included in part 285.

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
285.832 <i>How do I report incidents requiring immediate notification?</i>	585.832 <i>How do I report incidents requiring immediate notification?</i>	This section is removed and reserved in part 585 and is included in part 285.
285.833 <i>What are the reporting requirements for incidents requiring written notification?</i>	585.833 <i>What are the reporting requirements for incidents requiring written notification?</i>	This section is removed and reserved in part 585 and is included in part 285.
<p style="text-align: center;">Subpart I—Decommissioning</p> <p>Most regulatory requirements in this subpart are administered by BSEE and are included in part 285 only; these requirements are removed from BOEM's regulations. BOEM retains decision-making authority on whether lease or grant facilities should be allowed to remain in place upon decommissioning.</p>		
Decommissioning Obligations and Requirements (Part 285)		
285.900 <i>Who must meet the decommissioning obligations in this subpart?</i>	585.900 <i>Who must meet the decommissioning obligations in this subpart?</i>	This section is removed in part 585 and is included in part 285.
285.901 <i>When do I accrue decommissioning obligations?</i>	585.901 <i>When do I accrue decommissioning obligations?</i>	This section is removed in part 585 and is included in part 285.
285.902 <i>What are the general requirements for decommissioning for facilities authorized under my SAP, COP, or GAP?</i>	585.902 <i>What are the general requirements for decommissioning for facilities authorized under my SAP, COP, or GAP?</i>	This section is removed in part 585 and is included in part 285.
285.903 <i>What are the requirements for decommissioning FERC-licensed hydrokinetic facilities?</i>	585.903 <i>What are the requirements for decommissioning FERC-licensed</i>	This section is removed in part 585 and is included in part 285.

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
	<i>hydrokinetic facilities?</i>	
285.904 <i>Can I request a departure from the decommissioning requirements?</i>	585.904 <i>Can I request a departure from the decommissioning requirements?</i>	This section is removed in part 585 and is included in part 285.
Decommissioning Applications		
285.905 <i>When must I submit my decommissioning application?</i>	585.905 <i>When must I submit my decommissioning application?</i>	This section is removed in part 585 and is included in part 285.
285.906 <i>What must my decommissioning application include?</i>	585.906 <i>What must my decommissioning application include?</i>	This section is removed in part 585 and is included in part 285.
285.907 <i>How will BSEE process my decommissioning application?</i>	585.907 <i>How will BOEM process my decommissioning application?</i>	This section is removed in part 585 and is included in part 285.
285.908 <i>What must I include in my decommissioning notice?</i>	585.908 <i>What must I include in my decommissioning notice?</i>	This section is removed in part 585 and is included in part 285.
Facility Removal		
285.909 <i>When may facilities remain in place following termination of a lease or grant?</i>	585.909 <i>When may BOEM authorize facilities to remain in place following termination of a lease or grant?</i>	This section is removed in part 585 and is included in part 285. The section heading in part 285 is revised.
285.910 <i>What must I do when I remove my facility?</i>	585.910 <i>What must I do when I remove my facility?</i>	This section is removed in part 585 and is included in part 285.
585.911 [Reserved]	585.911 [Reserved]	This section is removed in part 585 and is included as reserved in part 285.
Decommissioning Report		

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
285.912 <i>After I remove a facility, cable, or pipeline, what information must I submit?</i>	585.912 <i>After I remove a facility, cable, or pipeline, what information must I submit?</i>	This section is removed in part 585 and is included in part 285.
Compliance with an Approved Decommissioning Application		
285.913 <i>What happens if I fail to comply with my approved decommissioning application?</i>	585.913 <i>What happens if I fail to comply with my approved decommissioning application?</i>	This section is removed in part 585 and is included in part 285.
<p align="center">Subpart J—Rights of Use and Easement for Energy- and Marine-Related Activities Using Existing OCS Facilities</p> <p>The Department is relocating the regulations related to alternate use RUEs to a new part 586, accompanied by certain general authority provisions copied from part 585 Subpart A. Some regulatory requirements in this subpart are relevant to both BOEM and BSEE; therefore, they appear in both parts 285 and 586. BSEE has the administrative responsibility for the decommissioning of an alternate use RUE, and those sections are included in part 285 only. Subpart J of part 585 is removed and is replaced with a new part 586 entitled, <i>Alternate Uses of Existing Facilities on the Outer Continental Shelf</i>.</p>		
Regulated Activities		
	585.100 <i>Authority</i>	This section is included in part 586, the OCSLA authority is updated and it is limited to Alternate Use RUEs. Section 586.100 is a new section under a new Subpart A-General Provisions in a new part 586.
	585.101 <i>What is the purpose of this part?</i>	Paragraphs (a), (b), (c) and (d) of this section are included in 586.100, re-numbered to accommodate inclusion of the paragraphs of 585.1000 <i>What activities does this subpart regulate?</i> Section 586.101 is a new section under a new Subpart A-General Provisions in a new part 586.
	585.102 <i>What are BOEM's</i>	This section is included in part 586 as 586.103, which is a new section under a

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
	<i>responsibilities under this part?</i>	new Subpart A-General Provisions in a new part 586.
	<i>585.103 When may BOEM prescribe or approve departures from these regulations</i>	This section is included in part 586 as 586.104 which is a new section under a new Subpart A-General Provisions.
	<i>585.104 Do I need a BOEM lease or other authorization to produce or support the production of electricity</i>	This section is removed in the new part 586.
	<i>585.105 What are my responsibilities under this part?</i>	This section is included as 586.105 and the undesignated paragraph references to “lessee”, “ROW grant”, and “RUE grant” have been deleted. This is a new section under a new Subpart A-General Provisions of the new part 586.
	<i>585.106 Who can hold a lease or grant under this part?</i>	This section is included in part 586 as 586.107, with the references to “lease” deleted. Section 585.106 is now entitled, <i>What happens if I fail to comply with this part?</i> , to mirror the General Provisions of the Renewable Energy part 585 regulations.
	<i>585.107 How do I show that I am qualified to be a lease or grant holder?</i>	This section is included in part 586 and renumbered 586.108. This is a new section under a new Subpart A-General Provisions in a new part 586.
	<i>585.108 When must I notify BOEM if an action has been filed alleging that I am insolvent or bankrupt?</i>	This section is included as 586.109. This is a new section under a new Subpart A-General Provisions in a new part 586.

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
	585.109 <i>When must I notify BOEM of mergers, name changes, or changes of business form?</i>	This section is included as 586.110. This is a new section under a new Subpart A-General Provisions in a new part 586.
	585.110 <i>How do I submit plans, applications, reports, or notices required in this part?</i>	This section is included as 586.111. This is a new section under a new Subpart A-General Provisions in a new part 586.
	585.111 <i>When and how does BOEM charge me processing fees on a case-by-case basis?</i>	This section is included as 586.112. This is a new section under a new Subpart A-General Provisions in a new part 586.
	585.112 <i>Definitions.</i>	This section is included as 586.113. Definitions for terms not included in part 586 have been removed. This is a new section under a new Subpart A-General Provisions in a new part 586.
	585.113 <i>How will data and information obtained by BOEM under this part be disclosed to the public?</i>	This section is included as section 586.114. This is a new section under a new Subpart A-General Provisions in a new part 586.
	585.114 <i>Paperwork Reduction Act statements-information collection</i>	This section is included as section 586.115. This is a new section under a new Subpart A-General Provisions in a new part 586.
	585.116 <i>Requests for information on the state of the</i>	The content of existing 585.116 is not included in new part 586. Section 586.116 is reserved.

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
	<i>offshore renewable energy industry</i>	
	585.117 [Reserved]	This section is reserved as section 586.117 under a new Subpart A-General Provisions in a new part 586.
	585. 118 <i>What are my appeal rights?</i>	This section is included as 586.118 under a new Subpart A-General Provisions in a new part 586.
285.1000 <i>What activities does this subpart regulate?</i>	585.1000 <i>What activities does this subpart regulate?</i>	This section is removed and its contents relocated to § 586.102 under a new Subpart A-General Provisions in a new part 586. This section is also included in part 285.
285.1001-285.1003 [Reserved]	585.1001-585.1003 [Reserved]	These sections are removed in part 585 and are included as reserved in part 285.
Requesting an Alternate Use RUE		
285.1004 [Reserved]	585.1004 <i>What must I do before I request an Alternate Use RUE?</i>	This section is removed and relocated to a new part 586, to § 586.200 under a new Subpart B-Issuance of Alternate Use RUEs for Energy- and Marine-Related Activities Using Existing OCS Facilities. This section is also included as reserved in part 285.
285.1005 [Reserved]	585.1005 <i>How do I request an Alternate Use RUE?</i>	This section is removed and relocated to a new part 586, to § 586.201 under a new Subpart B-Issuance of Alternate Use RUEs for Energy- and Marine-Related Activities Using Existing OCS Facilities. This section is also included as reserved in part 285.
285.1006 [Reserved]	585.1006 <i>How will BOEM decide whether to issue an Alternate Use RUE?</i>	This section is removed and relocated to a new part 586, to § 586.202 under a new Subpart B-Issuance of Alternate Use RUEs for Energy- and Marine-Related Activities Using Existing OCS Facilities. This section is also included as reserved in part 285.

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
285.1007 [Reserved]	585.1007 <i>What process will BOEM use for competitively offering an Alternate Use RUE?</i>	This section is removed and relocated to a new part 586, to § 586.203 under a new Subpart B-Issuance of Alternate Use RUEs for Energy- and Marine-Related Activities Using Existing OCS Facilities. This section is also included as reserved in part 285.
285.1008 and 285.1009 [Reserved]	585.1008 and 585.1009 [Reserved]	These sections are removed in part 585 and are included as reserved in part 285. Sections 586.204 through 586.209 are also reserved.
Alternate Use RUE Administration		
285.1010 [Reserved]	585.1010 <i>How long may I conduct activities under an Alternate Use RUE?</i>	This section is removed and relocated to a new part 586, to § 586.210 under a new Subpart B-Issuance of Alternate Use RUEs for Energy- and Marine-Related Activities Using Existing OCS Facilities. This section is also included as reserved in part 285.
285.1011 [Reserved]	585.1011 <i>What payments are required for an Alternate Use RUE?</i>	This section is removed and relocated to a new part 586, to § 586.211 under a new Subpart B-Issuance of Alternate Use RUEs for Energy- and Marine-Related Activities Using Existing OCS Facilities. This section is also included as reserved in part 285.
285.1012 [Reserved]	585.1012 <i>What financial assurance is required for an Alternate Use RUE?</i>	This section is removed and relocated to a new part 586, to § 586.212 under a new Subpart B-Issuance of Alternate Use RUEs for Energy- and Marine-Related Activities Using Existing OCS Facilities. This section is also included as reserved in part 285.
285.1013 [Reserved]	585.1013 <i>Is an Alternate Use RUE assignable?</i>	This section is removed and relocated to a new subpart, to § 586.213 under a new Subpart B-Issuance of Alternate Use RUEs for Energy- and Marine-Related Activities Using Existing OCS

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
		Facilities. This section is also included as reserved in part 285.
285.1014 <i>When will BSEE suspend an Alternate Use RUE?</i>	585.1014 <i>When will BOEM suspend an Alternate Use RUE?</i>	This section is removed and relocated to a new subpart 586, to § 586.214 under a new Subpart B-Issuance of Alternate Use RUEs for Energy- and Marine-Related Activities Using Existing OCS Facilities. Paragraphs (a)(1) and (3) and paragraph (b) remain BOEM's responsibility and are renumbered accordingly. This section is also included in part 285; paragraphs (a)(1), (2), and (4) and paragraph (b) are transferred to BSEE's responsibility.
285.1015 [Reserved]	585.1015 <i>How do I relinquish an Alternate Use RUE?</i>	This section is removed and relocated to a new subpart 586, to § 586.215 under a new Subpart B-Issuance of Alternate Use RUEs for Energy- and Marine-Related Activities Using Existing OCS Facilities. This section is also included as reserved in part 285.
285.1016 <i>When will an Alternate Use RUE be cancelled?</i>	585.1016 <i>When will an Alternate Use RUE be cancelled?</i>	This section is removed and relocated to a new subpart 586, to § 586.216 under a new Subpart B-Issuance of Alternate Use RUEs for Energy- and Marine-Related Activities Using Existing OCS Facilities. This section is also included in part 285.
285.1017 [Reserved]	585.1017 [Reserved]	This section is removed from part 585 and is reserved in part 285.
Decommissioning an Alternate Use RUE		
285.1018 <i>Who is responsible for decommissioning an OCS facility subject to an Alternate Use RUE?</i>	585.1018 <i>Who is responsible for decommissioning an OCS facility subject to an Alternate Use RUE?</i>	The content of § 585.1018 is removed. This section is reserved and the content is now in new § 586.218, under a new Subpart B-Issuance of Alternate Use RUEs for Energy- and Marine-Related Activities Using Existing OCS

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BSEE Part 285 Section (New Section)	BOEM Part 585 Section (Existing Section)	Description of Reorganized Sections
		Facilities. This section is also included in part 285.
285.1019 <i>What are the decommissioning requirements for an Alternate Use RUE?</i>	585.1019 <i>What are the decommissioning requirements for an Alternate Use RUE?</i>	This section is removed and relocated to a new subpart 586, to § 586.219 under a new Subpart B-Issuance of Alternate Use RUEs for Energy- and Marine-Related Activities Using Existing OCS Facilities. This section is also included in part 285.

IV. Procedural Matters

A. Statutes

1. Data Quality Act

In developing this rule, BOEM and BSEE neither conducted nor used studies, experiments, or surveys requiring peer review under the Data Quality Act (Pub. L. No. 106-554, app. C § 515, 114 Stat. 2763, 2763A-153-154).

2. National Environmental Policy Act

This rule is not a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4332) is not required because this rule is administrative and procedural in nature and is, therefore, covered by a categorical exclusion (see 43 CFR 46.210(i)). We also have determined that this rule does not involve any of the extraordinary circumstances described in 43 CFR § 46.215 that would require further analysis under

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NEPA. Consequently, neither an environmental assessment nor an environmental impact statement is required.

3. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. 3501-3521) 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. Collections of information include requests and requirements that an individual, partnership, or corporation obtain information and report it to a Federal agency (44 U.S.C. 3502(3); 5 CFR 1320.3(c) and (k)).

This rule simply transfers some regulations associated with currently approved IC burdens from BOEM’s responsibility to BSEE’s responsibility; this rule contains no substantive changes to current IC burdens. In some cases, the requirements are administered by both BOEM and BSEE, and for this reason, please consult the burden table for an accurate breakdown of responses and burden hours. The regulations addressed in this rule are the subject of currently approved IC burdens for BOEM under OMB Control Number 1010-0176 (expiration March 31, 2023). Though OMB has approved the transfer of IC burdens from BOEM to BSEE, ROCIS software precludes OMB from issuing a control number to BSEE until this rule’s publication in the *Federal Register*. BSEE expects to publish a rule correction containing OMB’s IC control number soon. Under this rule, the regulated community submits some existing reports to

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BSEE that were previously submitted to BOEM. The following burden table shows how this rulemaking shifts certain collection of information burdens from BOEM to BSEE.

Table B—Burden Table

Section(s) in 30 CFR 285	Section(s) in 30 CFR 585	Section(s) in 30 CFR 586	Reporting and Recordkeeping Requirement	Hour Burden	Average No. of Annual Responses	Annual Burden Hours Currently Approved	BOEM Annual Burden Hours	BSEE Annual Burden Hours
					Non-hour Cost Burdens			
Subpart A – General Provisions								
102; 105; 110	102; 105; 110		These sections contain general references to submitting comments, requests, applications, plans, notices, reports, payments, modifications, and/or supplemental information to BOEM/BSEE—burdens covered under specific requirements.					
	102(e)		State and local governments enter into task force or joint planning or coordination agreement with BOEM.	1	2 agreements	2	2	0
103; 904	103; 586.104		Request general departures not specifically covered elsewhere in part 285/part 585.	2	6 requests	12	9	3
105(c)	105(c); 586.105(c)		Make oral requests or notifications and submit written follow up within 3 business days not specifically covered elsewhere in part 285/part 585.	1	5 requests	5	3	2
	106; 107; 213(e); 230(f); 302(a); 408(b)(7); 409(c); 586.107; 586.203-.213(b)(7)		Submit evidence of qualifications to hold a lease or grant; submit required supporting information (electronically if required).	2	20 submissions	40	40	0
	106(b)(1); 586.107(b)		Request exception from exclusion or disqualification from participating in transactions covered by Federal non-procurement debarment and suspension system.	1	1 exception	1	1	0
1016	106(b)(2), 118(c), 225(b); 436; 437; 527(c); 586.107		Request reconsideration and/or hearing.	Requirement not considered IC under 5 CFR 1320.3(h)(9).		0	0	0
	108; 530(b); 586.109		Notify BOEM within 3 business days after learning of any action filed alleging respondent is insolvent or bankrupt.	1	1 notice	1	1	0

Section(s) in 30 CFR 285	Section(s) in 30 CFR 585	Section(s) in 30 CFR 586	Reporting and Recordkeeping Requirement	Hour Burden	Average No. of Annual Responses	Annual Burden Hours Currently Approved	BOEM Annual Burden Hours	BSEE Annual Burden Hours
					Non-hour Cost Burdens			
	109; 586.110		Notify BOEM in writing of merger, name change, or change of business form no later than 120 days after earliest of either the effective date or filing date.	Requirement not considered IC under 5 CFR 1320.3(h)(1).		0	0	0
111(b)(3); (b)(5); (b)(6)	111(b)(3); (b)(5); (b)(6); 586.112(b)(3); (b)(5), (b)(6)		Within 30 days of receiving bill, submit processing fee payments for BOEM/BSEE document or study preparation to process applications and other requests.	.5	4 submissions	2	1	1
				4 payments x \$4,000 = \$16,000			2 payments x \$4,000 = \$8,000	2 payments x \$4,000 = \$8,000
111(b)(2), (3)	111(b)(2), (3); 586.112(b), (3)		Submit comments on proposed processing fee or request approval to perform or directly pay contractors for all or part of any document, study, or other activity, to reduce BOEM/BSEE processing costs.	2	4 requests	8	4	4
111(b)(3)	111(b)(3); 586.112(b)(3)		Perform, conduct, develop, etc., all or part of any document, study, or other activity; and provide results to BOEM/BSEE to reduce processing fee. Pay contractors for all or part of any document, study, or other activity, and provide results to BOEM/BSEE to reduce processing costs.	12,000	1 submission	12,000	6,000	6,000
				3 contractor payments x \$950,000 = \$2,850,000			2 contract or payments x \$950,000 = \$1,900,000	1 contractor payment x \$950,000 = \$950,000

Section(s) in 30 CFR 285	Section(s) in 30 CFR 585	Section(s) in 30 CFR 586	Reporting and Recordkeeping Requirement	Hour Burden		Average No. of Annual Responses	Annual Burden Hours Currently Approved	BOEM Annual Burden Hours	BSEE Annual Burden Hours
						Non-hour Cost Burdens			
111(b)(7);	111(b)(7); 118(a); 436(c); 586.112(b)(7); 586.118(a)		Appeal BOEM/BSEE estimated processing costs, decisions, or orders pursuant to 43 CFR part 4.	Exempt under 5 CFR 1320.4(a)(2), (c).		0	0	0	
115			Request approval to use later edition of a document incorporated by reference or alternative compliance.	1	1 request	1	0	1	
118	118; 225(b); 586.118		Request appeal within 15 days of bid rejection, request reconsideration of bid decision or rejection.	Requirement not considered IC under 5 CFR 1320.3(h)(9).		0	0	0	
			Subtotal		45 responses	12,072 hours	6,061 BOEM hours	6,011 BSEE hours	
					\$2,866,000 non-hour costs		\$1,908,000 non-hour costs	\$958,000 non-hour costs	
Subpart B – Issuance of OCS Renewable Energy Leases									
	200; 224; 231; 235; 236; 238		These sections contain references to information submissions, approvals, requests, applications, plans, payments, etc., the burdens for which are covered elsewhere in part 585.			0	0	0	
	210; 211(a-c); 212 thru 216		Submit nominations and general comments in response to <i>Federal Register</i> notices on Request for Interest in OCS Leasing, Call for Information and Nominations (Call), Area Identification, and Notices of Sale. Includes industry, State & local governments.	Not considered IC as defined in 5 CFR 1320.3(h)(4).		0	0	0	

Section(s) in 30 CFR 285	Section(s) in 30 CFR 585	Section(s) in 30 CFR 586	Reporting and Recordkeeping Requirement	Hour Burden	Average No. of Annual Responses	Annual Burden Hours Currently Approved	BOEM Annual Burden Hours	BSEE Annual Burden Hours
					Non-hour Cost Burdens			
	210; 211(a-c); 212 thru 216		Submit comments and required information in response to <i>Federal Register</i> notices on Request for Interest in OCS Leasing, Call for Information and Nominations (Call), Area Identification, and Notices of Sale. Includes industry, State & local governments.	4	30 comments	120	120	0
	211(d); 216; 220 thru 223; 231(c)(2)		Submit bid, payments, and required information in response to <i>Federal Register</i> Final Sale Notice.	5	12 bids	60	60	0
	224		Within 10 business days, execute 3 copies of lease form and return to BOEM with required payments, including evidence that agent is authorized to act for bidder; if applicable, submit information to support delay in execution—competitive leases.	1	2 lease executions	2	2	0
	230; 231(a)		Submit unsolicited request and acquisition fee for a commercial or limited lease.	5	2 requests	10	10	0
	231(b)		Submit comments in response to <i>Federal Register</i> notice re interest of unsolicited request for a lease.	4	4 comments	16	16	0
	231(g)		Within 10 business days of receiving lease documents, execute lease; file financial assurance and supporting documentation—noncompetitive leases.	2	2 leases	4	4	0
	231(g)		Within 45 days of receiving lease copies, submit rent and rent information.	Burdens covered by information collections approved for ONRR 30 CFR Chapter XII.		0	0	0
	235(b); 236(b)		Request additional time to extend preliminary or site assessment term of commercial or limited lease, including revised schedule for SAP, COP, or GAP submission.	1	3 requests	3	3	0
	237(b)		Request lease be dated and effective 1 st day of month in which signed.	1	1 request	1	1	0

Section(s) in 30 CFR 285	Section(s) in 30 CFR 585	Section(s) in 30 CFR 586	Reporting and Recordkeeping Requirement	Hour Burden	Average No. of Annual Responses	Annual Burden Hours Currently Approved	BOEM Annual Burden Hours	BSEE Annual Burden Hours
					Non-hour Cost Burdens			
	238		Submit other renewable energy research activities.	4	1 request	4	4	0
Subtotal					57 responses	220 hours	220 BOEM hours	0 BSEE hours
Subpart C – ROW Grants and RUE Grants for Renewable Energy Activities								
	306; 309; 315; 316		These sections contain references to information submissions, approvals, requests, applications, plans, payments, etc., the burdens for which are covered elsewhere in part 585.			0	0	0
	302(a); 305; 306		Submit copies of a request for a new or modified ROW or RUE and required information, including qualifications to hold a grant, in format specified.	5	1 request	5	5	0
	307; 308(a)(1)		Submit information in response to <i>Federal Register</i> notice of proposed ROW or RUE grant area or comments on notice of grant auction.	4	2 comments	8	8	0
	308(a)(2), (b); 315; 316		Submit bid and payments in response to <i>Federal Register</i> notice of auction for a ROW or RUE grant.	5	1 bid	5	5	0
	309		Submit decision to accept or reject terms and conditions of noncompetitive ROW or RUE grant.	2	1 submission	2	2	0
Subtotal					5 responses	20 hours	20 BOEM hours	0 BSEE hours
Subpart D – Lease and Grant Administration								
400; 401; 402	400; 405; 409; 416; 433		These sections contain references to information submissions, approvals, requests, applications, plans, payments, etc., the burdens for which are covered elsewhere in part 285/585.			0	0	0
401(b)			Take measures directed by BSEE in cessation order and submit reports to resume activities.	100	1 report	100	0	100
	405(d)		Submit written notice of change of address.	Requirement not considered IC under 5 CFR 1320.3(h)(1).		0	0	0

Section(s) in 30 CFR 285	Section(s) in 30 CFR 585	Section(s) in 30 CFR 586	Reporting and Recordkeeping Requirement	Hour Burden	Average No. of Annual Responses	Annual Burden Hours Currently Approved	BOEM Annual Burden Hours	BSEE Annual Burden Hours
					Non-hour Cost Burdens			
	405(e); Form BOEM-0006		If designated operator (DO) changes, notify BOEM and identify new DO for BOEM approval.	1	1 notice	1	1	0
	408 thru 411; Forms BOEM-0002 and BOEM-0003		Within 90 days after last party executes a transfer agreement, submit copies of a lease or grant assignment application, including originals of each instrument creating or transferring ownership of record title, eligibility, and other qualifications; and evidence that agent is authorized to execute assignment, in format specified.	1 (30 minutes per form x 2 forms = 1 hour)	2 requests/submissions	2	2	0
417(b)			Request suspension. Conduct and, if required, pay for, site-specific study to evaluate cause of harm or damage; and submit copies of study and results, in format specified.	110	1 study/submission	110	0	110
				1 study x \$950,000 = \$950,000				
	425 thru 428; 652(a); 235(a), (b)		Request lease or grant renewal no later than 180 days before termination date of your limited lease or grant, or no later than 2 years before termination date of operations term of commercial lease. Submit required information.	6	1 request	6	6	0
	435; 658(c)(2); Form BOEM-0004		Submit copies of application to relinquish lease or grant, in format specified.	1	1 submission	1	1	0
437	436; 437		Provide information for reconsideration of BOEM decision to contract or cancel lease or grant area.	Requirement not considered IC under 5 CFR 1320.3(h)(9).		0	0	0
Subtotal					8 responses	220 hours	10 BOEM hours	210 BSEE hours

Section(s) in 30 CFR 285	Section(s) in 30 CFR 585	Section(s) in 30 CFR 586	Reporting and Recordkeeping Requirement	Hour Burden	Average No. of Annual Responses	Annual Burden Hours Currently Approved	BOEM Annual Burden Hours	BSEE Annual Burden Hours
					Non-hour Cost Burdens			
					\$950,000 non-hour costs		\$0 non-hour costs	\$950,000 non-hour costs
Subpart E – Payments and Financial Assurance Requirements								
An * indicates the primary cites for providing bonds or other financial assurance, and the burdens include any previous or subsequent references throughout part 585 to furnish, replace, or provide additional bonds, securities, or financial assurance (including riders, cancellations, replacements). This subpart contains references to other information submissions, payments, approvals, requests, applications, plans, etc., the burdens for which are covered elsewhere in part 585. In the future, BOEM may require electronic filings of certain submissions.								
	500 thru 509; 586.211		Submit payor information, payments, and payment information, and maintain auditable records according to ONRR regulations or guidance.	Burdens covered by information collections approved for ONRR 30 CFR Chapter XII.		0	0	0
	506(c)(4)		Submit documentation of the gross annual generation of electricity produced by the generating facility on the lease - use same form as authorized by the EIA.	Burden covered under DOE/EIA OMB Control Number 1905-0129		0	0	0
	510; 506(c)(3)		Submit application and required information for waiver or reduction of rental or other payment.	1	1 submission	1	1	0
	* 515; 516; 525(a) thru (f)		Execute and provide \$100,000 minimum lease-specific bond or other approved security; or increase bond level if required.	1	2 bonds	2	2	0
	* 516(a)(2), (3), (b), (c); 517; 525(a) thru (f)		Execute and provide commercial lease supplemental bonds in amounts determined by BOEM.	1	2 bonds	2	2	0
	516(a)(4); 521(c)		Execute and provide decommissioning bond or other financial assurance; schedule for providing the appropriate amount.	1	1 bond	1	1	0

Section(s) in 30 CFR 285	Section(s) in 30 CFR 585	Section(s) in 30 CFR 586	Reporting and Recordkeeping Requirement	Hour Burden	Average No. of Annual Responses	Annual Burden Hours Currently Approved	BOEM Annual Burden Hours	BSEE Annual Burden Hours
					Non-hour Cost Burdens			
	517(c)(1)		Submit comments on proposed adjustment to bond amounts.	1	1 submission	1	1	0
	517(c)(2)		Request bond reduction and submit evidence to justify.	5	1 request	5	5	0
	* 520; 521; 525(a) thru (f); Form BOEM-0005		Execute and provide \$300,000 minimum limited lease or grant-specific bond or increase financial assurance and required information.	1	1 bond	1	1	0
	525(g)		Surety notice to lessee or ROW/RUE grant holder and BOEM within 5 business days after initiating surety insolvency or bankruptcy proceeding, or Treasury decertifies surety.	1	1 surety notice	1	1	0
	* 526 Form BOEM-0005		In lieu of surety bond, pledge other types of securities, including authority for BOEM to sell and use proceeds and submit required information (1 hour for form).	2	1 pledge	2	2	0
	526(c)		Provide annual certified statements describing the nature and market value, including brokerage firm statements/reports.	1	1 statement	1	1	0
	* 527; 531		Demonstrate financial worth/ability to carry out present and future financial obligations, annual updates, and related or subsequent actions/records/reports, etc.	10	1 demonstration	10	10	0
	528		Provide third-party indemnity; financial information/statements; additional bond info; executed guarantor agreement and supporting information/documentation/agreements.	10	1 submission	10	10	0
	528(c)(6); 532(b)		Guarantor/Surety requests BOEM terminate period of liability and notifies lessee or ROW/RUE grant holder, etc.	1	1 request	1	1	0
	* 529		In lieu of surety bond, request authorization to establish decommissioning account, including written authorizations and approvals associated with account.	2	1 request	2	2	0

Section(s) in 30 CFR 285	Section(s) in 30 CFR 585	Section(s) in 30 CFR 586	Reporting and Recordkeeping Requirement	Hour Burden	Average No. of Annual Responses	Annual Burden Hours Currently Approved	BOEM Annual Burden Hours	BSEE Annual Burden Hours
					Non-hour Cost Burdens			
	530		Notify BOEM promptly of lapse in bond or other security/action filed alleging lessee, surety, or guarantor et al is insolvent or bankrupt.	1	1 notice	1	1	0
	533(a)(2) (ii), (iii)		Provide agreement from surety issuing new bond to assume all or portion of outstanding liabilities.	3	1 submission	3	3	0
	536(b)		Within 10 business days following BOEM notice, lessee, grant holder, or surety agrees to and demonstrates to BOEM that lease will be brought into compliance.	16	1 demonstration every 2 years	8	8	0
Subtotal					19 responses	52 hours	52 BOEM hours	0 BSEE hours
Subpart F – Plans and Information Requirements								
** indicate the primary cites for Site Assessment Plans (SAPs), Construction and Operations Plans (COPs), and General Activities Plans (GAPs); and the burdens include any previous or subsequent references throughout part 285/585 to submission and approval. This subpart contains references to other information submissions, approvals, requests, applications, plans, etc., the burdens for which are covered elsewhere in part 285/585.								
**606; 614; 810	**600(a); 601(a), (b); 605 thru 614; 238		Within time specified after issuance of a competitive lease or grant, or within time specified after determination of no competitive interest, submit copies of SAP, including required information to assist BOEM/BSEE to comply with NEPA/CZMA such as hazard info, air quality, SMS, and all required information, certifications, requests, etc., in format specified.	240	2 SAPs	480	384	96
**621; 632; 637; 810	**600(b); 601(b), (c)(1); 606(b); 618; 620 thru 629; 632; 633		If requesting an operations term for commercial lease, within time specified before the end of site assessment term, submit copies of COP, or FERC license application, including required information to assist BOEM/BSEE to comply with NEPA/CZMA such as hazard info, air quality, SMS, and all required information, surveys and/or their results, reports, certifications, project easements, supporting data and information, requests, etc., in format specified.	1,000	2 COPs	2,000	1,600	400

Section(s) in 30 CFR 285	Section(s) in 30 CFR 585	Section(s) in 30 CFR 586	Reporting and Recordkeeping Requirement	Hour Burden	Average No. of Annual Responses	Annual Burden Hours Currently Approved	BOEM Annual Burden Hours	BSEE Annual Burden Hours
					Non-hour Cost Burdens			
**641; 651; 810	**600(c); 601(a), (b); 640 thru 648; 651; 238		Within time specified after issuance of a competitive lease or grant, or within time specified after determination of no competitive interest, submit copies of GAP, including required information to assist BOEM/BSEE to comply with NEPA/CZMA such as hazard info, air quality, SMS, and all required information, surveys and reports, certifications, project easements, requests, etc., in format specified.	240	2 GAP	480	384	96
**632(c); 907	**601(c)(2); 622; 628(f); 632(c); 634; 658(c)(3)		Submit revised or modified COPs, including project easements, and all required additional information.	50	1 revised or modified COP	50	40	10
602			Until BOEM releases financial assurance, respondents must maintain, and provide to BSEE if requested, all data and information related to compliance with required terms and conditions of SAP, COP, or GAP.	2	9 records/submissions	18	0	18
	**613(a), (d), (e); 617		Submit revised or modified SAPs and required additional information.	50	1 revised or modified SAP	50	50	0
	612; 647		Submit copy of SAP or GAP consistency certification and supporting documentation, including noncompetitive leases.	1	2 leases	2	2	0
	615(a)		Notify BOEM in writing within 30 days of completion of construction and installation activities under SAP.	1	2 notices	2	2	0
	615(b)		Submit annual report summarizing findings from site assessment activities.	30	4 reports	120	120	0
615; 800(b)			Submit annual, or at other time periods as BSEE determines, SAP compliance certification, effectiveness statement, recommendations, reports, supporting documentation, etc.	40	4 certifications	160	0	160

Section(s) in 30 CFR 285	Section(s) in 30 CFR 585	Section(s) in 30 CFR 586	Reporting and Recordkeeping Requirement	Hour Burden	Average No. of Annual Responses	Annual Burden Hours Currently Approved	BOEM Annual Burden Hours	BSEE Annual Burden Hours
					Non-hour Cost Burdens			
	617(a)		Notify BOEM in writing before conducting any activities not approved, or provided for, in SAP; provide additional information if requested.	10	1 notice	10	10	0
	627(c)		Submit oil spill response plan as required by BSEE 30 CFR part 254.	193	1 submission	193	193	0
	631		Request deviation from approved COP schedule.	2	1 request	2	2	0
633; 800(b)	633(b)		Submit annual, or at other time periods as BOEM/BSEE determines, COP compliance certification, effectiveness statement, recommendations, reports, supporting documentation, etc.	50	9 certifications	450	45	405
	634(a)		Notify BOEM in writing before conducting any activities not approved or provided for in COP and provide additional information if requested.	10	1 notice	10	10	0
	635		Notify BOEM any time commercial operations cease without an approved suspension.	1	1 notice	1	1	0
636(a)			Notify BSEE in writing no later than 30 days after commencing activities associated with placement of facilities on lease area.	1	2 notices	2	0	2
636(b)			Notify BSEE in writing no later than 30 days after completion of construction and installation activities.	1	2 notices	2	0	2
636(c)			Notify BSEE in writing at least 7 days before commencing commercial operations.	1	1 notice	1	0	1
	** 642(b); 648; 655; 658(c)(3)		Submit revised or modified GAPs and required additional information.	50	1 revised or modified GAP	50	50	0
651	651		Before beginning construction of OCS facility described in GAP, demonstrate operational SMS identified in GAP, submit initial findings.	30	2 surveys/reports	60	5	55
	653(a)		Notify BOEM in writing within 30 days of completing installation activities under the GAP.	1	2 notices	2	2	0

Section(s) in 30 CFR 285	Section(s) in 30 CFR 585	Section(s) in 30 CFR 586	Reporting and Recordkeeping Requirement	Hour Burden	Average No. of Annual Responses	Annual Burden Hours Currently Approved	BOEM Annual Burden Hours	BSEE Annual Burden Hours
					Non-hour Cost Burdens			
	653(b)		Submit annual report summarizing findings from activities conducted under approved GAP.	30	4 reports	120	120	0
653(a), (b); 800(b)			Submit annual, or at other time periods as BSEE determines, GAP compliance certification, recommendations, reports, etc.	40	4 certifications	160	0	160
	655(a)		Notify BOEM in writing before conducting any activities not approved or provided for in GAP and provide additional information if requested.	10	1 notice	10	10	0
	656		Notify BOEM any time approved GAP activities cease without an approved suspension.	1	1 notice	1	1	0
	658(c)(1)		If after construction, cable or pipeline deviate from approved COP or GAP, notify affected lease operators and ROW/RUE grant holders of deviation and provide BOEM evidence of such notices.	3	1 notice/evidence	3	3	0
	659		Determine appropriate air quality modeling protocol, conduct air quality modeling, and submit 3 copies of air quality modeling report and 3 sets of digital files as supporting information to plans.	70	5 reports/information	350	350	0
Subtotal					69 responses	4,789 hours	3,384 BOEM hours	1,405 BSEE hours
Subpart G – Facility Design, Fabrication, and Installation								
*** indicate the primary cites for the reports discussed in this subpart, and the burdens include any previous or subsequent references throughout part 285/585 to submitting and obtaining approval. This subpart contains references to other information submissions, approvals, requests, applications, plans, etc., the burdens for which are covered elsewhere in part 285/585.								
***700(a)(1), (c); 701			Submit Facility Design Report, including copies of the cover letter, certification statement, and all required information (1-3 paper or electronic copies as specified).	200	1 report	200	0	200
***700(a)(2), (c); 702			Submit Fabrication and Installation Report, including copies of the cover letter, certification statement, and all required information, in format specified.	160	1 report	160	0	160

Section(s) in 30 CFR 285	Section(s) in 30 CFR 585	Section(s) in 30 CFR 586	Reporting and Recordkeeping Requirement	Hour Burden	Average No. of Annual Responses	Annual Burden Hours Currently Approved	BOEM Annual Burden Hours	BSEE Annual Burden Hours
					Non-hour Cost Burdens			
705(a); 707(a); 712			Certified Verification Agent (CVA) conducts independent assessment of the facility design and submits copies of all reports/certifications to lessee or grant holder and BSEE -- interim reports if required, in format specified.	100	1 interim report	100	0	100
				100	1 final report	100	0	100
637; 705(a); 707(b); 708; 709; 710; 712			CVA conducts independent assessments/inspections on the fabrication and installation activities, informs lessee or grant holder if procedures are changed or design specifications are modified; and submits copies of all reports/certifications to lessee or grant holder and BSEE -- interim reports if required, in format specified.	100	1 interim report	100	0	100
				100	1 final report	100	0	100
***703; 705(a); 712; 815			CVA/project engineer monitors major project modifications and repairs and submits copies of all reports/certifications to lessee or grant holder and BSEE -- interim reports if required, in format specified.	20	1 interim report	20	0	20
				15	1 final report	15	0	15
705(b), (c)	671		Request waiver of CVA requirement in writing; lessee must demonstrate standard design and best practices.	40	1 waiver	40	24	16
706	670		Submit for approval with SAP, COP, or GAP, initial nominations for a CVA or new replacement CVA nomination and required information.	16	2 nominations	32	19	13
708(b)(2)			Notify BSEE if modifications identified by CVA/project engineer are accepted.	1	1 notice	1	0	1
709(a); 710			Make fabrication quality control, installation towing, and other records available to CVA/project engineer for review (retention required by § 285.714).	1	3 records retention	3	0	3
713			Notify BSEE within 10 business days after commencing commercial operations.	1	1 notice	1	0	1

Section(s) in 30 CFR 285	Section(s) in 30 CFR 585	Section(s) in 30 CFR 586	Reporting and Recordkeeping Requirement	Hour Burden	Average No. of Annual Responses	Annual Burden Hours Currently Approved	BOEM Annual Burden Hours	BSEE Annual Burden Hours
					Non-hour Cost Burdens			
714; 703(b)			Until BOEM releases financial assurance, compile, retain, and make available to BSEE and/or CVA the as-built drawings, design assumptions/ analyses, summary of fabrication and installation examination records, inspection results, and records of repairs not covered in inspection report. Record original and relevant material test results of all primary structural materials; retain records during all stages of construction.	100	1 lessee	100	0	100
Subtotal					17 responses	972 hours	43 BOEM hours	929 BSEE hours
Subpart H – Environmental and Safety Management, Inspections, and Facility Assessments for Activities Conducted Under SAPs, COPs, and GAPs								
	701(c), (d)		Notify BOEM if endangered or threatened species, or their designated critical habitat, may be in the vicinity of the lease or grant or may be affected by lease or grant activities.	1	2 notices	2	2	0
	701(e), (f)		Submit information to ensure proposed activities will be conducted in compliance with the ESA and MMPA; including agreements and mitigating measures designed to avoid or minimize adverse effects and incidental take of endangered species or critical habitat.	6	2 submissions	12	12	0
802(a); 902(e)			Notify BSEE of archaeological resource within 72 hours of discovery.	3	1 notice	3	0	3
	702(a)		If requested, conduct further archaeological investigations, and submit report/information.	10	1 report	10	10	0
802(d)	702(d)		If applicable, submit payment for BSEE/BOEM costs in carrying out National Historic Preservation Act responsibilities.	.5	1 payment	2 (Note 1)	1	1
	703		If required, conduct additional surveys to define boundaries and avoidance distances and submit report.	15	2 survey/report	30	30	0
810; 614(b); 632(b); 651	605(d); 627(d); 651		Submit safety management system description with the SAP, COP, or GAP.	35	2 submissions	70	10	60

Section(s) in 30 CFR 285	Section(s) in 30 CFR 585	Section(s) in 30 CFR 586	Reporting and Recordkeeping Requirement	Hour Burden	Average No. of Annual Responses	Annual Burden Hours Currently Approved	BOEM Annual Burden Hours	BSEE Annual Burden Hours
					Non-hour Cost Burdens			
813(b)(1)			Report within 24 hours when any required equipment taken out of service for more than 12 hours; provide written confirmation if reported orally.	.5	2 reports	1	0	1
				1	1 written confirmation	1	0	1
813(b)(3)			Notify BSEE when equipment returned to service; provide written confirmation if reported orally.	.5	2 notices	1	0	1
815			When required, analyze cable, P/L, or facility damage or failures to determine cause and as soon as available submit comprehensive written report.	1.5	1 report	2 (Note 1)	0	2
816			Submit plan of corrective action report on observed detrimental effects on cable, P/L, or facility within 30 days of discovery; take remedial action and submit report of remedial action within 30 days after completion.	2	1 plan / report	2	0	2
822			Maintain records of design, construction, operation, maintenance, repairs, and investigation on or related to lease or ROW/RUE area; make available to BSEE for inspection.	1	4 records retention	4	0	4
823			Request reimbursement within 90 days for food, quarters, and transportation provided to BSEE reps during inspection.	2	1 request	2	0	2
824(a)			Develop annual self-inspection plan covering all facilities; retain with records and make available to BSEE upon request.	24	2 plans	48	0	48
824(b)			Conduct annual self-inspection and submit report by November 1.	36	2 reports	72	0	72
825			Based on API RP 2A-WSD, perform assessment of structures, initiate mitigation actions for structures that do not pass assessment process, retain information, and make available to BSEE upon request.	60	2 assessments / actions	120	0	120
830(a), (c); 831 thru 833			Immediately report incidents to BSEE via oral communications, submit written follow-up report within 15 business days after the incident, and submit any required additional information.	Oral .5	2 incidents	1	0	1
				Written 4	1 incident	4	0	4
830(d)			Report oil spills as required by BSEE 30 CFR part 254.	2	1 report	2	0	2

Section(s) in 30 CFR	Section(s) in 30 CFR 585	Section(s) in 30 CFR 586	Reporting and Recordkeeping Requirement			Annual		
					Non-hour Cost Burdens			
Subtotal					33 responses	388 hours	65 BOEM hours	324 BSEE hours
(Note 1: The hour burden multiplied by the annual responses does not equal the approved annual burden hours because OMB’s computer system does not accommodate decimal points. So, the approved annual burden was rounded-up. In the case of § 802(d), the BOEM and BSEE annual burden is a fraction of an hour, but both burdens were required to be rounded to one hour each, resulting in an approved annual burden of 2 hours.)								
Subpart I – Decommissioning								
**** indicate the primary cites for the reports discussed in this subpart, and the burdens include any previous or subsequent references throughout parts 285 and 585 to submitting and obtaining approval. This subpart contains references to other information submissions, approvals, requests, applications, plans, etc., the burdens for which are covered elsewhere in parts 285 and 585.								
**** 902; 905, 906; 907; 908(b), (c); 909; 638(a)	909		Submit for approval, in format specified, copies of the SAP, COP, or GAP decommissioning application and site clearance plan at least 2 years before decommissioning activities begin, 90 days after completion of activities, or 90 days after cancellation, relinquishment, or other termination of lease or grant. Include documentation of coordination efforts regarding requests that certain facilities remain in place for other activities, be converted to an artificial reef, or be toppled in place. Submit additional information/evidence requested or modify and resubmit application.	20	1 application	20	1	19
902(d); 908(a)			Notify BSEE at least 60 days before commencing decommissioning activities.	1	1 notice	1	0	1
910(b)			Within 60 days after removing a facility, verify to BSEE that site is cleared.	1	1 verification	1	0	1
912			Within 60 days after removing a facility, cable, or pipeline, submit a written report.	8	1 report	8	0	8
BSEE does not anticipate decommissioning activities for at least 5 years, so the requirements have been given a minimal burden.								
Subtotal					4 responses	30 hours	1 BOEM hours	29 BSEE hours

Section(s) in 30 CFR 285	Section(s) in 30 CFR 585	Section(s) in 30 CFR 586	Reporting and Recordkeeping Requirement	Hour Burden	Average No. of Annual Responses	Annual Burden Hours Currently Approved	BOEM Annual Burden Hours	BSEE Annual Burden Hours
					Non-hour Cost Burdens			
Part 586—Alternate Uses of Existing Facilities on the Outer Continental Shelf								
Subpart J of part 585 is removed and is replaced with a new part 586 entitled, <i>Alternate Uses of Existing Facilities on the Outer Continental Shelf</i> .								
		200, 201, 202	Contact owner of existing facility and/or lessee of the area to reach preliminary agreement to use facility and obtain concurring signatures; submit request to BOEM for an alternate use RUE, including all required information/modifications.	1	1 request	1	1	0
		203(a), (b), (c)	Submit indication of competitive interest in response to <i>Federal Register</i> notice.	4	1 submission	4	4	0
		203(c)	Submit description of proposed activities and required information in response to <i>Federal Register</i> notice of competitive offering.	5	1 submission	5	5	0
		203(f)	Lessee or owner of facility submits decision to accept or reject proposals deemed acceptable by BOEM.	1	1 submission	1	1	0
		210(c)	Request renewal of Alternate Use RUE.	6	1 request	6	6	0
		211; 216(b)	Provide financial assurance as BOEM determines in approving RUE for an existing facility, including additional security if required.	1	1 submission	1	1	0
		213	Submit request for assignment of an alternate use RUE for an existing facility, including all required information.	1	1 request	1	1	0
		215	Request relinquishment of RUE for an existing facility.	1	1 request	1	1	0
Subtotal					8 responses	20 hours	20 BOEM hours	0 BSEE hours
Total Burden					265 Responses	18,784 Hours	9,876 BOEM hours	8,908 BSEE hours

Section(s) in 30 CFR 285	Section(s) in 30 CFR 585	Section(s) in 30 CFR 586	Reporting and Recordkeeping Requirement	Hour Burden	Average No. of Annual Responses	Annual Burden Hours Currently Approved	BOEM Annual Burden Hours	BSEE Annual Burden Hours
					Non-hour Cost Burdens			
					\$3,816,000 Non-Hour Cost Burdens	\$1,908,000 Non-Hour Cost Burden s	\$1,908,000 Non-Hour Cost Burdens	

4. Regulatory Flexibility Act

A final regulatory flexibility analysis is not required for this rule because it is exempt from the notice-and-comment provisions of the APA (5 U.S.C. 553(b)(A); *see supra* III.A). Therefore, the requirements of the Regulatory Flexibility Act do not apply to this final rule (5 U.S.C. 604(a)).

5. Congressional Review Act (CRA)

This final rule does not qualify as a major rule under the CRA (5 U.S.C. 801-808). This rule reorganizes existing regulations to reflect the transfer of responsibility for OCS renewable energy safety and environmental oversight and enforcement functions from BOEM to BSEE. This rule does not generate an annual economic effect of \$100 million or more (see below discussion at Executive Order 12866 and Executive Order 13563); cause major price increases for consumers, businesses, or governments, or geographic regions; or degrade competition, employment, investment, productivity, innovation, or the ability of U.S. businesses to compete against foreign businesses.

6. Unfunded Mandates Reform Act

This rule imposes neither an unfunded Federal mandate of more than \$100 million annually nor significant or unique effects on State, local, or Tribal governments. Thus, an Unfunded Mandates Reform Act (2 U.S.C. 1531) statement is not required.

7. Administrative Procedure Act

This rule reassigns existing regulations governing safety and environmental oversight and enforcement of OCS renewable energy activities from BOEM to BSEE. This rulemaking is neither substantive nor controversial because it merely reorganizes

provisions in the Code of Federal Regulations and, therefore, does not affect the legal rights, obligations, and interests of any interested parties.

This rule implements Secretary’s Order 3299— which reflects the Secretary’s prudent and considered policy judgment that independent oversight and enforcement is in the national interest to best address the organizational concerns highlighted by the Deepwater Horizon incident— and revisions made to the Departmental Manual implementing that direction. Specifically, this rule transfers existing safety and environmental oversight and enforcement regulations governing OCS renewable energy activities from 30 CFR part 585, under BOEM’s purview, to 30 CFR part 285, under BSEE’s purview. This reorganization parallels the bureaus’ oversight of oil and gas activities. This transfer includes a reassignment of authority to: oversee facility design, fabrication, installation, and safety management systems; ensure the safety of operations, including inspection programs and incident reporting and investigations; enforce compliance with all applicable safety, environmental, and other laws and regulations through enforcement actions (such as noncompliance notices, cessation orders, and lease suspensions); and oversee decommissioning activities. This rule also moves certain sections pertaining to Alternate Use RUEs from 30 CFR part 585 to a new 30 CFR part 586.

This rule is a “rule[] of agency organization, procedure, or practice,” 5 U.S.C. 553(b)(A), because it implements the Department’s reassignment of responsibility for administering existing regulatory provisions from BOEM to BSEE. This rule reorganizes current regulations to be consistent with Departmental delegations without making substantive changes to those regulations or modifying substantive rights or interests. Nor does the rule impose new rights or duties or change the legal status of regulated parties.

No statute requires notice or hearing for this rule. Therefore, this rule is exempt from notice-and-comment rulemaking requirements under 5 U.S.C. 553(b)(A). Additionally, for the same reasons, the Department finds for good cause shown that notice and comment on this rule are unnecessary and contrary to the public interest under 5 U.S.C. 553(b)(B). Further, because this rule makes no changes to the legal obligations or rights of nongovernmental entities, the relevant responsibilities have already been delegated to BSEE, and it is in the public interest for the regulations to reflect that delegation to provide clarity, the Department further finds that good cause exists to make this rule effective upon publication in the *Federal Register* per 5 U.S.C. 553(d)(3).

B. Executive Orders

1. Executive Order 12630 - Takings Implication Assessment

Under the criteria in Executive Order 12630 section 2(a)(2), this final rule does not have takings implications because it simply reassigns current safety and environmental oversight and enforcement regulations to BSEE from BOEM. This rulemaking is not a Federal action capable of interference with constitutionally protected private property rights. A takings implications assessment is not required.

2. Executive Order 12866 - Regulatory Planning and Review, and Executive Order 13563 - Improving Regulation and Regulatory Review

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in OMB will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant. This rule only reassigns current safety and environmental oversight and enforcement regulations from

BOEM to BSEE. This rule does not change the substance of existing regulatory requirements.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. We have developed this rule in a manner consistent with these requirements.

3. Executive Order 12988 - Civil Justice Reform

This rule complies with the requirements of Executive Order 12988. Specifically, this rule meets the criteria of both section 3(a), which requires that all regulations be reviewed to minimize litigation and to eliminate errors and ambiguity, and section 3(b)(2), which requires that all regulations be written clearly and contain clear legal standards.

This rule simply reassigns current safety and environmental oversight and enforcement regulations from BOEM to BSEE. This rule does not change the substance of existing regulatory requirements; it retains the substance of the existing part 585, which was promulgated through notice and comment rulemaking.

4. Executive Order 13132 – Federalism

This rule only transfers current safety and environmental oversight and enforcement regulations from BOEM to BSEE. This rule does not change the substance of existing regulatory requirements. This rule, therefore, does not have substantial direct effects on

either the States or the relationship between the Federal and State governments, nor does it affect the distribution of power and responsibilities between various governmental levels. Thus, a federalism impact statement is unnecessary.

5. Executive Order 13175 - Consultation and Coordination with Indian Tribal Governments

After a review under the policy criteria of both section 5 of Executive Order 13175 and section 4(a) of Secretary's Order 3317, the BOEM Tribal Consultation Team has determined that this rule will have no substantial direct effects on federally recognized Tribal Nations or Alaska Native Corporations. This rule only reassigns certain regulations from BOEM to BSEE. Thus, consultation under DOI's Tribal consultation policy is neither recommended nor required.

6. Executive Order 13211 - Effects on the Nation's Energy Supply

This rule is not a significant energy action under the definition in Executive Order 13211 section 4(b) because it likely will not have a significant adverse effect on the energy market, because OMB has not designated it as a significant energy action, and because it is not a significant regulatory action under Executive Order 12866. Thus, a statement of energy effects is not required.

7. Presidential Memorandum of June 1, 1998, on Regulation Clarity

This rule only reassigns certain existing regulatory provisions from BOEM to BSEE. This rule does not change the substance of existing regulatory requirements. Thus, like existing 30 CFR part 585, which was promulgated through notice and comment rulemaking after this Presidential Memorandum, this rule satisfies the requirements for regulation clarity outlined in this Presidential Memorandum.

List of Subjects:*30 CFR Part 285*

Continental shelf, Energy, Environmental protection, Historic preservation, Incorporation by reference, Marine resources, Marine safety, Natural resources, Ocean resources, Offshore energy, Offshore structures, Outer continental shelf, Renewable energy, Reporting and recordkeeping requirements, Safety, Wind energy.

30 CFR Part 585

Administrative practice and procedure, Coastal zone, Continental shelf, Electric power, Energy, Environmental protection, Government leases, Intergovernmental relations, Marine resources, Marine safety, Natural resources, Ocean resources, Offshore energy, Offshore structures, Outer continental shelf, Payments, Planning, Power resources, Renewable energy, Reporting and recordkeeping requirements, Revenue sharing, Rights-of-way, Rights-of-use and easement, Wind energy.

30 CFR Part 586

Coastal zone, Continental shelf, Electric power, Energy, Intergovernmental relations, Marine resources, Natural resources, Ocean resources, Offshore energy, Offshore structures, Outer continental shelf, Power resources, Renewable energy, Rights-of-way, Rights-of-use and easement, Wind energy.

Laura Daniel-Davis
Principal Deputy Assistant Secretary,
Land and Minerals Management

Date

For the reasons stated in the preamble, the Bureau of Safety and Environmental Enforcement (BSEE) amends 30 CFR chapter II, and the Bureau of Ocean Energy Management (BOEM) amends 30 CFR parts 585 and 586 as follows:

1. Add part 285 to read as follows:

**PART 285—RENEWABLE ENERGY AND ALTERNATE USES OF EXISTING
FACILITIES ON THE OUTER CONTINENTAL SHELF**

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285.1019 What are the decommissioning requirements for an Alternate Use RUE?

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

Subpart A—General Provisions

§ 285.100 Authority.

The authority for this part derives from the Outer Continental Shelf Lands Act (OCS Lands Act) (43 U.S.C. 1337). The Secretary of the Interior delegated to the Bureau of Safety and Environmental Enforcement (BSEE) the authority to regulate certain activities. These regulations specifically apply to activities that:

- (a) Produce or support production, transportation, or transmission of energy from sources other than oil and gas; or
- (b) Use, for energy-related purposes or for other authorized marine-related purposes, facilities currently or previously used for activities authorized under the OCS Lands Act.

§ 285.101 What is the purpose of this part?

The purpose of this part is to:

- (a) Inform you and third parties of your obligations when you undertake activities authorized in this part and part 585 and part 586 of this title; and
- (b) Ensure that renewable energy activities on the OCS and activities involving the alternate use of OCS facilities for energy- or marine-related purposes are conducted in a safe and environmentally sound manner, in conformance with the requirements of subsection 8(p) of the OCS Lands Act, other applicable laws and regulations, and the terms of your lease, ROW grant, RUE grant, or Alternate Use RUE grant.

§ 285.102 What are BSEE's responsibilities under this part?

(a) BSEE will ensure that any activities authorized in this part, and part 585 and part 586 of this title are carried out in a manner that provides for:

(1) Safety;

(2) Protection of the environment;

(3) Prevention of waste;

(4) Conservation of the natural resources of the OCS;

(5) Coordination with relevant Federal agencies (including, in particular, those agencies involved in planning activities that are undertaken to avoid conflicts among users and maximize the economic and ecological benefits of the OCS, including multifaceted spatial planning efforts);

(6) Protection of national security interests of the United States;

(7) Protection of the rights of other authorized users of the OCS; and

(8) Oversight, inspection, research, monitoring, and enforcement of activities authorized by a lease or grant issued under part 585 or part 586 of this title.

(b) BSEE will require compliance with all applicable laws, regulations, other requirements, and the terms of your lease or grant issued under part 585 or part 586 of this title, and approved plans. BSEE will approve, disapprove, or approve with

conditions any applications or other documents submitted to BSEE for approval under the provisions of this part.

(c) Unless otherwise provided in this part, BSEE may give oral directives or decisions whenever prior BSEE approval is required under this part. BSEE will document in writing any such oral directives within 10 business days.

(d) BSEE will establish practices and procedures to govern the collection of all payments due under this part to the Federal Government, including any cost recovery fees and other fees or payments. BSEE will do this in accordance with the terms of this part, the leasing notice, the lease or grant under part 585 or part 586 of this title, and applicable Office of Natural Resources Revenue (ONRR) regulations or guidance.

§ 285.103 When may BSEE prescribe or approve departures from these regulations?

(a) BSEE may prescribe or approve departures from these regulations when departures are necessary to:

- (1) Facilitate the appropriate activities on a lease or grant;
- (2) Conserve natural resources;
- (3) Protect life (including human and wildlife), property, or the marine, coastal, or human environment; or
- (4) Protect sites, structures, or objects of historical or archaeological significance.

(b) Any departure approved under this section and its rationale must:

(1) Be consistent with subsection 8(p) of the OCS Lands Act;

(2) Protect the environment and the public health and safety to the same degree as if there was no approved departure from the regulations;

(3) Not impair the rights of third parties; and

(4) Be documented in writing.

§ 285.104 [Reserved]

§ 285.105 What are my responsibilities under this part?

As a lessee, applicant, operator, or holder of a ROW grant, RUE grant, or Alternate Use RUE grant, you must:

(a) Design your projects and conduct all activities in a manner that ensures safety and will not cause undue harm or damage to natural resources, including their physical, atmospheric, and biological components to the extent practicable; and take measures to prevent unauthorized discharge of pollutants including marine trash and debris into the offshore environment.

(b) Submit requests, applications, notices, modifications, and supplemental information to BSEE as required by this part;

(c) Follow up, in writing, any oral request or notification you made, within 3 business days;

(d) Comply with the terms, conditions, and provisions of all reports and notices submitted to BSEE, and of all plans, revisions, and other approvals, as provided in this part and in part 585 and part 586 of this title;

(e) Make all applicable payments on time;

(f) Comply with the DOI's nonprocurement debarment regulations at 2 CFR part 1400;

(g) Include the requirement to comply with 2 CFR part 1400 in all contracts and transactions related to a lease or grant under this part;

(h) Conduct all activities authorized by the lease or grant in a manner consistent with the provisions of subsection 8(p) of the OCS Lands Act;

(i) Compile, retain, and make available to BSEE representatives, within the time specified by BSEE, any data and information related to the site assessment, design, and operations of your project; and

(j) Respond to requests from the Director in a timely manner.

§§ 285.106-285.109 [Reserved]

§ 285.110 How do I submit applications, reports, or notices required by this part?

(a) You must submit all applications, reports, or notices required by this part to BSEE at the following address: Renewable Energy Program Coordinator, Bureau of Safety and Environmental Enforcement, 45600 Woodland Road, Sterling, VA 20166.

(b) Unless otherwise stated, you must submit one paper copy and one electronic copy of all applications, reports, or notices required by this part.

§ 285.111 When and how does BSEE charge me processing fees on a case-by-case basis?

(a) BSEE will charge a processing fee on a case-by-case basis under the procedures in this section with regard to any application or request under this part if we decide at any time that the preparation of a particular document or study is necessary for the application or request and it will have a unique processing cost.

(1) Processing costs will include contract oversight and efforts to review and approve documents prepared by contractors, whether the contractor is paid directly by the applicant or through BSEE.

(2) We may apply a standard overhead rate to direct processing costs.

(b) We will assess the ongoing processing fee for each individual application or request according to the following procedures:

(1) Before we process your application or request, we will give you a written estimate of the proposed fee based on reasonable processing costs.

(2) You may comment on the proposed fee.

(3) You may:

(i) Ask for our approval to perform, or to directly pay a contractor to perform, all or part of any document, study, or other activity according to standards we specify, thereby reducing our costs for processing your application or request; or

(ii) Ask to pay us to perform, or contract for, all or part of any document, study, or other activity.

(4) We will then give you the final estimate of the processing fee amount with payment terms and instructions after considering your comments and any BSEE-approved work you will do.

(i) If we encounter higher or lower processing costs than anticipated, we will re-estimate our reasonable processing costs following the procedures in paragraphs (b)(1) through (4) of this section, but we will not stop ongoing processing unless you do not pay in accordance with paragraph (b)(5) of this section.

(ii) Once processing is complete, we will refund to you the amount of money that we did not spend on processing costs.

(5)(i) Consistent with the payment and billing terms provided in the final estimate, we will periodically estimate what our reasonable processing costs will be for a specific period and will bill you for that period. Payment is due to us 30 days after you receive

your bill. We will stop processing your document if you do not pay the bill by the date payment is due.

(ii) If a periodic payment turns out to be more or less than our reasonable processing costs for the period, we will adjust the next billing accordingly or make a refund. Do not deduct any amount from a payment without our prior written approval.

(6) You must pay the entire fee before we will issue the final document or take final action on your application or request.

(7) You may appeal our estimated processing costs in accordance with the regulations in 43 CFR part 4. We will not process the document further until the appeal is resolved, unless you pay the fee under protest while the appeal is pending. If the appeal results in a decision changing the proposed fee, we will adjust the fee in accordance with paragraph (b)(5)(ii) of this section. If we adjust the fee downward, we will not pay interest.

§ 285.112 Definitions.

Terms used in this part have the meanings as defined in this section:

Affected State means with respect to any activities proposed, conducted, or approved under this part, any coastal State—

(1) That is, or is proposed to be, the site of gathering, transmitting, or distributing energy or is otherwise receiving, processing, refining, or transshipping products, or services derived from activities approved under this part;

(2) That is used, or is scheduled to be used, as a support base for activities approved under this part; or

(3) In which there is a reasonable probability of significant effect on land or water uses from activities approved under this part.

Alternate Use refers to the energy- or marine-related use of an existing OCS facility for activities not otherwise authorized by this title or other applicable law.

Alternate Use RUE means a right-of-use and easement issued for activities authorized under subpart J of this part or part 586.

Archaeological resource means any material remains of human life or activities that are at least 50 years of age and that are of archaeological interest (*i.e.*, which are 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 measurement, controlled collection, analysis, interpretation, and explanation).

BOEM means the Bureau of Ocean Energy Management of the Department of the Interior.

BSEE means the Bureau of Safety and Environmental Enforcement of the Department of the Interior.

Certified Verification Agent (CVA) means an individual or organization, experienced in the design, fabrication, and installation of offshore marine facilities or structures, who will conduct specified third-party reviews, inspections, and verifications in accordance with this part.

Commercial activities mean, for renewable energy leases and grants, all activities associated with the generation, storage, or transmission of electricity or other energy product from a renewable energy project on the OCS, and for which such electricity or other energy product is intended for distribution, sale, or other commercial use, except for electricity or other energy product distributed or sold pursuant to technology-testing activities on a limited lease. This term also includes activities associated with all stages of development, including initial site characterization and assessment, facility construction, and project decommissioning.

Commercial lease means a lease issued under part 585 of this title that specifies the terms and conditions under which a person can conduct commercial activities.

Commercial operations mean the generation of electricity or other energy product for commercial use, sale, or distribution on a commercial lease.

Decommissioning means removing BOEM and BSEE approved facilities and returning the site of the lease or grant to a condition that meets the requirements under subpart I of this part and part 585 of this title.

Director means the Director of the Bureau of Safety and Environmental Enforcement (BSEE), of the U.S. Department of the Interior, or an official authorized to act on the Director's behalf.

Facility means an installation that is permanently or temporarily attached to the seabed of the OCS. Facilities include any structures; devices; appurtenances; gathering, transmission, and distribution cables; pipelines; and permanently moored vessels. Any group of OCS installations interconnected with walkways, or any group of installations that includes a central or primary installation with one or more satellite or secondary installations, is a single facility. BOEM and BSEE may decide that the complexity of the installations justifies their classification as separate facilities.

Grant means a right-of-way, right-of-use and easement, or alternate use right-of-use and easement issued under the provisions of part 585 or part 586 of this title.

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

Lease means an agreement authorizing the use of a designated portion of the OCS for activities allowed under this part or part 585 of this title. The term also means the area covered by that agreement, when the context requires.

Lessee means the holder of a lease, a BOEM-approved assignee, and, when describing the conduct required of parties engaged in activities on the lease, it also refers to the operator and all persons authorized by the holder of the lease or operator to conduct activities on the lease.

Limited lease means a lease issued under part 585 of this title that specifies the terms and conditions under which a person may conduct activities on the OCS that support the production of energy, but do not result in the production of electricity or other energy product for sale, distribution, or other commercial use exceeding a limit specified in the lease.

Natural resources include, without limiting the generality thereof, renewable energy, oil, gas, and all other minerals (as defined in section 2(q) of the OCS Lands Act), and marine animal and marine plant life.

Operator means the individual, corporation, or association having control or management of activities on the lease or grant issued under part 585 or part 586 of this title. The operator may be a lessee, grant holder, or a contractor designated by the lessee or holder of a grant issued under part 585 or part 586 of this title.

Outer Continental Shelf (OCS) means 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), whose subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

Person means, in addition to a natural person, an association (including partnerships and joint ventures); a Federal agency; a State; a political subdivision of a State; a Native American Tribal government; or a private, public, or municipal corporation.

Project, for the purposes of defining the source of revenues to be shared, means a lease ROW, RUE, or Alternate Use RUE on which the activities authorized under this part or part 585 or part 586 of this title are conducted on the OCS. The term “project” may be used elsewhere in this rule to refer to these same authorized activities, the facilities used to conduct these activities, or to the geographic area of the project, *i.e.*, the project area.

Project easement means an easement to which, upon approval of your Construction and Operations Plan (COP) or General Activities Plan (GAP), you are entitled as part of the lease for the purpose of installing, gathering, transmission, and distribution cables, pipelines, and appurtenances on the OCS as necessary for the full enjoyment of the lease.

Renewable Energy means energy resources other than oil and gas and minerals as defined in 30 CFR part 580. Such resources include, but are not limited to, wind, solar, and ocean waves, tides, and current.

Revenues mean bonuses, rents, operating fees, and similar payments made in connection with a project or project area. It does not include administrative fees such as those assessed for cost recovery, civil penalties, and forfeiture of financial assurance.

Right-of-use and easement (RUE) grant means an easement issued by BOEM under part 585 or part 586 of this title that authorizes use of a designated portion of the OCS to support activities on a lease or other use authorization for renewable energy activities. The term also means the area covered by the authorization.

Right-of-way (ROW) grant means an authorization issued by BOEM under part 585 of this title to use a portion of the OCS for the construction and use of a cable or pipeline for the purpose of gathering, transmitting, distributing, or otherwise transporting electricity or other energy product generated or produced from renewable energy, but does not constitute a project easement under part 585 of this title. The term also means the area covered by the authorization.

Secretary means the Secretary of the Interior or an official authorized to act on the Secretary's behalf.

Significant archaeological resource means an archaeological resource that meets the criteria of significance for eligibility for listing in the National Register of Historic Places, as defined in 36 CFR 60.4 or its successor.

Site assessment activities mean those initial activities conducted to characterize a site on the OCS, such as resource assessment surveys (*e.g.*, meteorological and oceanographic) or technology testing, involving the installation of bottom-founded facilities.

You and *your* means an applicant, lessee, the operator, or designated operator, ROW grant holder, RUE grant holder, or Alternate Use RUE grant holder under part 585 or part 586 of this title, or the designated agent of any of these, or the possessive of each, depending on the context. The terms *you* and *your* also include contractors and subcontractors of the entities specified in the preceding sentence.

We, *us*, and *our* refer to the Bureau of Safety and Environmental Enforcement of the Department of the Interior, or its possessive, depending on the context.

§ 285.113 How will data and information obtained by BSEE under this part be disclosed to the public?

(a) BSEE will make data and information available in accordance with the requirements and subject to the limitations of the Freedom of Information Act (FOIA) (5 U.S.C. 552) and the regulations contained in 43 CFR part 2 (Records and Testimony).

(b) BSEE will not release such data and information that we have determined is exempt from disclosure under exemption 4 of FOIA. We will review such data and information and objections of the submitter by the following schedule to determine whether release at that time will result in substantial competitive harm or disclosure of trade secrets.

If you have a . . .	Then BSEE will review data and information for possible release:
(1) Commercial lease	At the earlier of:
	(i) 3 years after the initiation of commercial generation; or

	(ii) 3 years after the lease terminates.
(2) Limited lease	At 3 years after the lease terminates.
(3) ROW or RUE grant	At the earliest of:
	(i) 10 years after the approval of the grant;
	(ii) Grant termination; or
	(iii) 3 years after the completion of construction activities.

(c) After considering any objections from the submitter, if we determine that release of such data and information will result in:

(1) No substantial competitive harm or disclosure of trade secrets, then the data and information will be released.

(2) Substantial competitive harm or disclosure of trade secrets, then the data and information will not be released at that time but will be subject to further review every 3 years thereafter.

§ 285.114 Paperwork Reduction Act statements—information collection.

(a) The Office of Management and Budget (OMB) has approved the information collection requirements in 30 CFR part 285 under 44 U.S.C. 3501, *et seq.*, and assigned OMB Control Number xxxx-xxxx (expiration MONTH xx, xxxx). The table in paragraph (e) of this section lists the subparts in the rule requiring the information and its title, summarizes the reasons for collecting the information, and summarizes how BSEE uses the information.

(b) Respondents are primarily renewable energy applicants, lessees, ROW grant holders, RUE grant holders, Alternate Use RUE grant holders, and operators. The requirement to respond to the information collection in this part is mandated under subsection 8(p) of the OCS Lands Act. Some responses are also required to obtain or retain a benefit, or may be voluntary.

(c) The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) requires us to inform the public that an agency 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.

(d) Comments regarding any aspect of the collections of information under this part, including suggestions for reducing the burden, should be sent to the Information Collection Clearance Officer, Bureau of Safety and Environmental Enforcement, 45600 Woodland Road, Sterling, VA 20166.

(e) BSEE is collecting this information for the reasons given in the following table:

30 CFR 285 subpart and title	Reasons for collecting information and how used
(1) Subpart A—General Provisions	To inform BSEE of actions taken to comply with general operational requirements on the OCS. To ensure that operations on the OCS meet statutory and regulatory requirements, are safe and protect the environment, and result in diligent development on OCS leases.
(2) Subpart D—Lease and Grant Administration	To ensure compliance with regulations pertaining to a lease or grant, and suspension of leases and grants.

(3) Subpart F—Information Requirements	To enable BSEE to comply with Federal laws to ensure the safety of the environment on the OCS.
(4) Subpart G—Facility Design, Fabrication, and Installation	To enable BSEE to review the final design, fabrication, and installation of facilities on a lease or grant to ensure that these facilities are designed, fabricated, and installed according to appropriate standards in compliance with BSEE provisions, and where applicable, the approved plan.
(5) Subpart H—Environmental and Safety Management, Inspections, and Facility Assessments for Activities Conducted Under SAPs, COPs, and GAPs	To ensure that lease and grant operations are conducted in a manner that is safe and protects the environment. To ensure compliance with other Federal laws, these regulations, the lease or grant, and approved plans.
(6) Subpart I—Decommissioning	To determine that decommissioning activities comply with regulatory requirements and approvals. To ensure that site clearance and platform or pipeline removal are properly performed to protect marine life and the environment and do not conflict with other users of the OCS.
(7) Subpart J—Rights of Use and Easement for Energy- and Marine- Related Activities Using Existing OCS Facilities	To enable BSEE to review information regarding the design, installation, and operation of RUEs on the OCS, to ensure that RUE operations are safe and protect the human, marine, and coastal environment. To ensure compliance with other Federal laws, these regulations, the RUE grant, and where applicable, the approved plan.

§ 285.115 Documents incorporated by reference.

Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved incorporation by reference (IBR) material is available for inspection at BSEE and at the National Archives and Records Administration (NARA). Contact BSEE at: BSEE, 45600

Woodland Road, Sterling, Virginia 20166, phone: 703-787-1665. For information on the availability of this material at NARA, email fr.inspection@nara.gov or go to

www.archives.gov/federal-register/cfr/ibr-locations.html. The material is available from:

the American Petroleum Institute (API), 200 Massachusetts Avenue NW, Suite 1100, Washington, DC 20001-5571; phone (202) 682-8000; website: www.api.org or <https://publications.api.org>.

(a) API RP 2A-WSD, Recommended Practice for Planning, Designing and Constructing Fixed Offshore Platforms—Working Stress Design; Twenty-first Edition, December 2000; Errata and Supplement 1, December 2002; Errata and Supplement 2, September 2005; Errata and Supplement 3, October 2007. IBR approved for § 285.825(a), (b).

(b) [Reserved]

§ 285.116 Requests for information on the state of the offshore renewable energy industry.

(a) The Director may, from time to time, and at the Director's discretion, solicit information from industry and other relevant stakeholders (including State and local agencies), as necessary, to evaluate the state of the offshore renewable energy industry, including the identification of potential challenges or obstacles to its continued development. Such requests for information may relate to the identification of environmental, technical, regulatory, or economic matters that promote or detract from continued development of renewable energy technologies on the OCS. From the information received, the Director may evaluate potential refinements to the OCS

alternative energy program that promote development of the industry in a safe and environmentally responsible manner.

(b) BSEE will publish such requests for information by the Director in the *Federal Register*.

§ 285.117 [Reserved]

§ 285.118 What are my appeal rights?

(a) Any party adversely affected by a BSEE official's final decision or order issued under the regulations of this part may appeal that decision or order to the Interior Board of Land Appeals. The appeal must conform with the procedures found in part 290 of this title and 43 CFR part 4, subpart E.

(b) A decision will remain in full force and effect during the period in which an appeal may be filed and during an appeal, unless a stay is granted pursuant to 43 CFR part 4.

Subpart B [Reserved]

Subpart C [Reserved]

Subpart D—Lease and Grant Administration

NONCOMPLIANCE AND CESSATION ORDERS

§ 285.400 What happens if I fail to comply with this part?

(a) BSEE may take appropriate corrective action under this part if you fail to comply with applicable provisions of Federal law, the regulations in this part, other applicable regulations, any order of the Director, the provisions of a lease or grant issued under part 585 or part 586 of this title, or the requirements of an approved plan or other approval under this part or part 585 or part 586 of this title.

(b) BSEE may issue to you a notice of noncompliance if we determine that there has been a violation of the regulations in this part, any order of the Director, or any provision of your lease, grant or other approval issued under this part or part 585 or part 586 of this title. When issuing a notice of noncompliance, BSEE will serve you at your last known address.

(c) A notice of noncompliance will tell you how you failed to comply with this part, any order of either Director, and/or the provisions of your lease, grant or other approval, and will specify what you must do to correct the noncompliance and the time limits within which you must act.

(d) Failure of a lessee, operator, or grant holder under this part to take the actions specified in a notice of noncompliance within the time limit specified provides the basis for BSEE to issue a cessation order as provided in § 285.401, and/or a cancellation of the lease or grant as provided in § 285.437.

(e) If BSEE determines that any incident of noncompliance poses an imminent threat of serious or irreparable damage to natural resources; life (including human and wildlife); property; the marine, coastal, or human environment; or sites, structures, or objects of

historical or archaeological significance, BSEE may include with its notice of noncompliance an order directing you to take immediate remedial action to alleviate threats and to abate the violation and, when appropriate, a cessation order.

(f) BSEE may assess civil penalties, as authorized by section 24 of the OCS Lands Act, if you fail to comply with any provision of this part, or any term of a lease, grant, or order issued under the authority of this part or part 585 or part 586, after notice of such failure and expiration of any reasonable period allowed for corrective action. Civil penalties will be determined and assessed in accordance with the procedures set forth in part 550, subpart N of this title.

(g) You may be subject to criminal penalties as authorized by section 24 of the OCS Lands Act.

§ 285.401 When may BSEE issue a cessation order?

(a) BSEE may issue a cessation order during the term of your lease or grant when you fail to comply with an applicable law; regulation; order; or provision of a lease, grant, plan, or BSEE or BOEM approval. Except as provided in § 285.400(e), BSEE will allow you a period of time to correct any noncompliance before issuing an order to cease activities.

(b) A cessation order will set forth what measures you are required to take, including reports you are required to prepare and submit to BSEE, to receive approval to resume activities on your lease or grant.

§ 285.402 What is the effect of a cessation order?

(a) Upon receiving a cessation order, you must cease all activities on your lease or grant, as specified in the order. BSEE may authorize certain activities during the period of the cessation order.

(b) A cessation order will last for the period specified in the order or as otherwise specified by BSEE. If BSEE determines that the circumstances giving rise to the cessation order cannot be resolved within a reasonable time period, the Secretary may initiate cancellation of your lease or grant, as provided in § 285.437.

(c) A cessation order does not extend the term of your lease or grant for the period you are prohibited from conducting activities.

(d) You must continue to make all required payments on your lease or grant during the period a cessation order is in effect.

§§ 285.403-285.405 [Reserved]

RESPONSIBILITY FOR FULFILLING OBLIGATIONS

§ 285.406 Who is responsible for fulfilling lease and grant obligations?

(a) When you are not the sole lessee or grantee, you and your co-lessee(s) or co-grantee(s) are jointly and severally responsible for fulfilling your obligations under the lease or grant and the provisions of this part or part 585 or part 586 of this title, unless otherwise provided in these regulations.

(b) If your designated operator fails to fulfill any of your obligations under the lease or grant and this part or part 585 or part 586 of this title, BSEE may require you or any or all of your co-lessees or co-grantees to fulfill those obligations or other operational obligations under the OCS Lands Act, the lease, grant, or the regulations.

(c) Whenever the regulations in this part or part 585 or part 586 of this title require the lessee or grantee to conduct an activity in a prescribed manner, the lessee or grantee and operator (if one has been designated) are jointly and severally responsible for complying with the regulations.

§§ 285.407-285.414 [Reserved]

LEASE OR GRANT SUSPENSION

§ 285.415 What is a lease or grant suspension?

(a) A suspension is an interruption of the term of your lease or grant that may occur as ordered by BSEE, as provided in § 285.417; or as approved or ordered by BOEM, as provided in §§ 585.416 and 585.417 of this title.

(b) A suspension extends the term of your lease or grant for the length of time the suspension is in effect.

(c) Activities may not be conducted on your lease or grant during the period of a suspension except as expressly authorized under the terms of the suspension.

§ 285.416 [Reserved]

§ 285.417 When may BSEE order a suspension?

(a) BSEE may order a suspension under the following circumstances:

(1) When necessary to comply with judicial decrees prohibiting some or all activities under your lease; or

(2) When continued activities pose an imminent threat of serious or irreparable harm or damage to natural resources; life (including human and wildlife); property; the marine, coastal, or human environment; or sites, structures, or objects of historical or archaeological significance.

(b) If BSEE orders a suspension under paragraph (a)(2) of this section, and if you wish to resume activities, we may require you to conduct a site-specific study that evaluates the cause of the harm, the potential damage, and the available mitigation measures. Other requirements and actions may occur:

(1) You may be required to pay for the study;

(2) You must furnish one paper copy and one electronic copy of the study and results to us;

(3) We will make the results available to other interested parties and to the public; and

(4) We will use the results of the study and any other information that become available:

- (i) To decide if the suspension order can be lifted; and
- (ii) To determine any actions that you must take to mitigate or avoid any damage to natural resources; life (including human and wildlife); property; the marine, coastal, or human environment; or sites, structures, or objects of historical or archaeological significance.

§ 285.418 How will BSEE issue a suspension?

- (a) BSEE will issue a suspension order orally or in writing.
- (b) BSEE will send you a written suspension order as soon as practicable after issuing an oral suspension order.
- (c) The written order will explain the reasons for its issuance and describe the effect of the suspension order on your lease or grant and any associated activities. BSEE may authorize certain activities during the period of the suspension, as set forth in the suspension order.

§ 285.419 What are my immediate responsibilities if I receive a suspension order?

You must comply with the terms of a suspension order upon receipt and take any action prescribed within the time set forth therein.

§ 285.420 What effect does a suspension order have on my payments?

If BSEE orders a suspension, as provided in § 285.417, your payments, as appropriate for the term that is suspended, will be waived during the suspension period.

§ 285.421 How long will a suspension be in effect?

A suspension will be in effect for the period specified by BSEE. If BSEE determines that the circumstances giving rise to a suspension ordered under § 285.417 cannot be resolved within 5 years, the Secretary may initiate cancellation of the lease or grant, as provided in § 285.437.

§§ 285.422-285.432 [Reserved]

LEASE OR GRANT TERMINATION

§ 285.433 What must I do after my lease or grant terminates?

(a) After your lease or grant terminates, you must:

(1) Make all payments due; and

(2) Perform any other outstanding obligations under the lease or grant within 6 months.

(b) Within 2 years following termination of a lease or grant, you must remove or dispose of all facilities, installations, and other devices permanently or temporarily attached to the seabed on the OCS in accordance with your Plan approved by BOEM

under subpart F of part 585, and your application approved by BSEE under subpart I of this part.

(c) If you fail to comply with your approved decommissioning plan or application:

(1) BOEM may call for the forfeiture of your financial assurance; and

(2) You remain liable for removal or disposal costs and responsible for accidents or damages that might result from such failure.

§§ 285.434-285.436 [Reserved]

LEASE OR GRANT CANCELLATION

§ 285.437 When can my lease or grant be canceled?

(a) The Secretary will cancel any lease or grant issued under part 585 or part 586 of this title upon proof that it was obtained by fraud or misrepresentation, and after notice and opportunity to be heard has been afforded to the lessee or grant holder.

(b) The Secretary may cancel any lease or grant issued under part 585 or part 586 of this title when:

(1) The Secretary determines after notice and opportunity for a hearing that, with respect to the lease or grant that would be canceled, the lessee or grantee has failed to comply with any applicable provision of the OCS Lands Act or these regulations; any order of the Director; or any term, condition or stipulation contained in the lease or grant,

and that the failure to comply continued 30 days (or other period BSEE specifies) after you receive notice from BSEE. The Secretary will mail a notice by registered or certified letter to the lessee or grantee at its record post office address;

(2) Required by national security or defense; or

(3) The Secretary determines after notice and opportunity for a hearing that continued activity under the lease or grant:

(i) Would cause serious harm or damage to natural resources; life (including human and wildlife); property; the marine, coastal, or human environment; or sites, structures, or objects of historical or archaeological significance;

(ii) That the threat of harm or damage would not disappear or decrease to an acceptable extent within a reasonable period of time; and

(iii) The advantages of cancellation outweigh the advantages of continuing the lease or grant in force.

Subpart E [Reserved]

Subpart F—Information Requirements

§§ 285.600-285.601 [Reserved]

§ 285.602 What records must I maintain?

Until BOEM releases your financial assurance under § 585.534 of this title, you must maintain and provide to BSEE, upon request, all data and information related to compliance with required terms and conditions of your SAP, COP, or GAP.

§§ 285.603-285.613 [Reserved]

ACTIVITIES UNDER AN APPROVED SAP

§ 285.614 When may I begin conducting activities under my approved SAP?

(a) You may begin conducting the activities approved in your SAP following BOEM approval of your SAP.

(b) If you are installing a facility or a combination of facilities deemed by BOEM to be complex or significant, as provided in § 585.613(a)(1) of this title, you must comply with the requirements of subpart G of this part and submit your safety management system required by § 285.810 before construction may begin.

§ 285.615 What other reports or notices must I submit to BSEE under my approved SAP?

(a) You must notify BSEE in writing within 30 days of completing installation activities approved in your SAP.

(b) You must submit a certification of compliance annually (or other frequency as determined by BOEM) with those terms and conditions of your SAP that BOEM

identifies under § 585.613(e)(1) of this title. Together with your certification, you must submit:

(1) Summary reports that show compliance with the terms and conditions which require certification; and

(2) A statement identifying and describing any mitigation measures and monitoring methods and their effectiveness. If you identified measures that were not effective, you must include your recommendations for new mitigation measures or monitoring methods.

§§ 285.616-285.620 [Reserved]

CONSTRUCTION AND OPERATIONS PLAN FOR COMMERCIAL LEASES

§§ 285.621-285.630 [Reserved]

ACTIVITIES UNDER AN APPROVED COP

§ 285.631 When must I initiate activities under an approved COP?

After your COP is approved, you must commence construction by the date given in the construction schedule required by § 585.626(b)(21) of this title, and included as a part of your approved COP, unless BOEM approves a deviation from your schedule.

§ 285.632 What documents must I submit before I may construct and install facilities under my approved COP?

(a) You must submit to BSEE the documents listed in the following table:

Document:	Requirements are found in:
(1) Facility Design Report	§ 285.701
(2) Fabrication and Installation Report	§ 285.702

(b) You must submit your safety management system, as required by § 285.810.

(c) These activities must fall within the scope of your approved COP. If they do not fall within the scope of your approved COP, you will be required to submit a revision to your COP, under § 585.634 of this title, for BOEM approval before commencing the activity.

§ 285.633 How do I comply with my COP?

(a) You must submit a certification of compliance annually (or other frequency as determined by BOEM) with certain terms and conditions of your COP that BOEM identifies. Together with your certification, you must submit:

(1) Summary reports that show compliance with the terms and conditions which require certification; and

(2) A statement identifying and describing any mitigation measures and monitoring methods, and their effectiveness. If you identified measures that were not effective, then you must make recommendations for new mitigation measures or monitoring methods.

(b) As provided at § 285.105(i), BSEE may require you to submit any supporting data and information.

§§ 285.634 – 285.635 [Reserved]

§ 285.636 What notices must I provide BSEE following approval of my COP?

You must notify BSEE in writing of the following events, within the time periods provided:

(a) No later than 30 days after commencing activities associated with the placement of facilities on the lease area under a Fabrication and Installation Report.

(b) No later than 30 days after completion of construction and installation activities under a Fabrication and Installation Report.

(c) At least 7 days before commencing commercial operations.

§ 285.637 When may I commence commercial operations on my commercial lease?

If you are conducting activities on your lease that:

(a) Do not require a FERC license (*e.g.*, wind), then you may commence commercial operations 30 days after the CVA or project engineer has submitted to BSEE the final Fabrication and Installation Report for the fabrication and installation review, as provided in § 285.708.

(b) Require a FERC license or exemption, then you may commence commercial operations when permitted by the terms of your license or exemption.

§ 285.638 What must I do upon completion of my commercial operations as approved in my COP or FERC license?

(a) Upon completion of your approved activities under your COP, you must initiate the decommissioning process as set forth in subpart I of this part. You must submit your decommissioning application as provided in §§ 285.905 and 285.906.

(b) Upon completion of your approved activities under your FERC license, the terms of your FERC license will govern your decommissioning activities.

§§ 285.639-285.640 [Reserved]

**GENERAL ACTIVITIES PLAN REQUIREMENTS FOR LIMITED LEASES,
ROW GRANTS, AND RUE GRANTS**

§§ 285.641-285.649 [Reserved]

ACTIVITIES UNDER AN APPROVED GAP

§ 285.650 When may I begin conducting activities under my GAP?

After BOEM approves your GAP, you may begin conducting the approved activities that do not involve a project easement or the construction of facilities on the OCS that BOEM has deemed to be complex or significant.

§ 285.651 When may I construct complex or significant OCS facilities on my limited lease or any facilities on my project easement proposed under my GAP?

If you are applying for a project easement, or installing a facility or a combination of facilities on your limited lease deemed by BOEM to be complex or significant, as provided in § 585.648(a)(1) of this title, you also must comply with the requirements of subpart G of this part and submit your safety management system description required by § 285.810 before construction may begin.

§ 285.652 [Reserved]

§ 285.653 What other reports or notices must I submit to BSEE under my approved GAP?

(a) You must notify BSEE in writing within 30 days after completing installation activities approved in your GAP

(b) You must annually (or other frequency as determined by BOEM) submit a certification of compliance with those terms and conditions of your GAP that BOEM identifies under § 585.648(e)(1) of this title. Together with your certification, you must submit:

(1) Summary reports that show compliance with the terms and conditions which require certification; and

(2) A statement identifying and describing any mitigation measures and monitoring methods and their effectiveness. If you identified measures that were not effective, you must include your recommendations for new mitigation measures or monitoring methods.

§§ 285.654-285.659 [Reserved]

Subpart G—Facility Design, Fabrication, and Installation

REPORTS

§ 285.700 What reports must I submit to BSEE before installing facilities described in my approved SAP, COP, or GAP?

(a) You must submit the following reports to BSEE before installing facilities described in your approved COP (§ 285.632(a)) and, when required by part 585 of this title, your SAP (§ 285.614(b)) or GAP (§ 285.651):

(1) A Facility Design Report; and

(2) A Fabrication and Installation Report.

(b) You may begin to fabricate and install the approved facilities after BSEE notifies you that it has received your reports and has no objections. If BSEE receives the reports, but does not respond with objections within 60 days of receipt, or 60 days after BOEM approves your SAP, COP, or GAP if you submitted your report with the plan, BSEE is deemed not to have objections to the reports, and you may commence fabrication and installation of your facility or facilities.

(c) If BSEE has any objections, we will notify you verbally or in writing within 60 days of receipt of the report. Following initial notification of objections, BSEE may follow-up with written correspondence outlining its specific objections to the report and

request that certain actions be undertaken. You cannot commence activities addressed in such report until you resolve all objections to BSEE's satisfaction.

§ 285.701 What must I include in my Facility Design Report?

(a) Your Facility Design Report provides specific details of the design of any facilities, including cables and pipelines that are outlined in your BOEM-approved SAP, COP, or GAP. Your Facility Design Report must demonstrate that your design conforms to your responsibilities listed in § 285.105(a). You must include the following items in your Facility Design Report:

Required documents	Required contents	Other requirements
(1) Cover letter	(i) Proposed facility designations; (ii) Lease, ROW grant or RUE grant number; (iii) Area; name and block numbers; and (iv) The type of facility.	You must submit 1 paper copy and 1 electronic copy.
(2) Location plat	(i) Latitude and longitude coordinates, Universal Mercator grid-system coordinates, State plane coordinates in the Lambert or Transverse Mercator Projection System; (ii) Distances in feet from the nearest block lines. These coordinates must be based on the NAD (North American Datum) 83 datum plane coordinate system; and (iii) The location of any proposed project easement.	Your plat must be drawn to a scale of 1 inch equals 100 feet and include the coordinates of the lease, ROW grant, or RUE grant block boundary lines. You must submit 1 paper copy and 1 electronic copy.
(3) Front, Side, and Plan View drawings	(i) Facility dimensions and orientation; (ii) Elevations relative to Mean	Your drawing sizes must not exceed 11" × 17". You

	Lower Low Water; and (iii) Pile sizes and penetration.	must submit 1 paper copy and 1 electronic copy.
(4) Complete set of structural drawings	The approved for construction fabrication drawings should be submitted including, <i>e.g.</i> , (i) <i>Cathodic protection systems;</i> (ii) <i>Jacket design;</i> (iii) <i>Pile foundations;</i> (iv) <i>Mooring and tethering systems;</i> (v) <i>Foundations and anchoring systems; and</i> (vi) <i>Associated cable and pipeline designs.</i>	Your drawing sizes must not exceed 11" × 17". You must submit 1 paper copy and 1 electronic copy.
(5) Summary of environmental data used for design	A summary of the environmental data used in the design or analysis of the facility. Examples of relevant data include information on: (i) Extreme weather; (ii) Seafloor conditions; and (iii) Waves, wind, current, tides, temperature, snow and ice effects, marine growth, and water depth.	You must submit 1 paper copy and 1 electronic copy. If you submitted these data as part of your SAP, COP, or GAP, you may reference the plan.
(6) Summary of the engineering design data	(i) Loading information (<i>e.g.</i> , live, dead, environmental); (ii) Structural information (<i>e.g.</i> , design-life; material types; cathodic protection systems; design criteria; fatigue life; jacket design; deck design; production component design; foundation pilings and templates, and mooring or tethering systems; fabrication and installation guidelines); and (iii) Location of foundation boreholes and foundation piles; and (iv) Foundation information (<i>e.g.</i> , soil stability, design criteria).	You must submit 1 paper copy and 1 electronic copy.
(7) A complete set of design calculations	Self-explanatory	You must submit 1 paper copy and 1 electronic copy.

(8) Project-specific studies used in the facility design or installation	All studies pertinent to facility design or installation, <i>e.g.</i> , oceanographic and soil reports including the results of the surveys required in §§ 585.610(b), 585.627(a), or 585.645(a) of this title.	You must submit 1 paper copy and 1 electronic copy.
(9) Description of the loads imposed on the facility	(i) Loads imposed by jacket; (ii) Decks; (iii) Production components; (iv) Foundations, foundation pilings and templates, and anchoring systems; and (v) Mooring or tethering systems.	You must submit 1 paper copy and 1 electronic copy.
(10) Geotechnical Report	A list of all data from borings and recommended design parameters	You must submit 1 paper copy and 1 electronic copy.

(b) For any floating facility, your design must meet the requirements of the U.S. Coast Guard for structural integrity and stability (*e.g.*, verification of center of gravity). The design must also consider:

- (1) Foundations, foundation pilings and templates, and anchoring systems; and
- (2) Mooring or tethering systems.

(c) You must provide the location of records, as required in § 285.714(c).

(d) If you are required to use a CVA, the Facility Design Report must include one paper copy of the following certification statement: “The design of this structure has been certified by a CVA to be in accordance with accepted engineering practices and the approved SAP, GAP, or COP as appropriate. The certified design and as-built plans and specifications will be on file at (given location).”

(e) BSEE will withhold trade secrets and commercial or financial information that is privileged or confidential from public disclosure under exemption 4 of the FOIA and in accordance with the terms of § 285.113.

§ 285.702 What must I include in my Fabrication and Installation Report?

(a) Your Fabrication and Installation Report must describe how your facilities will be fabricated and installed in accordance with the design criteria identified in the Facility Design Report; your BOEM-approved SAP, COP, or GAP; and generally accepted industry standards and practices. Your Fabrication and Installation Report must demonstrate how your facilities will be fabricated and installed in a manner that conforms to your responsibilities listed in § 285.105(a). You must include the following items in your Fabrication and Installation Report:

Required documents	Required contents	Other requirements
(1) Cover letter	(i) Proposed facility designation, lease, ROW grant, or RUE grant number; (ii) Area, name, and block number; and (iii) The type of facility.	You must submit 1 paper copy and 1 electronic copy.
(2) Schedule	Fabrication and installation	You must submit 1 paper copy and 1 electronic copy.
(3) Fabrication information	The industry standards you will use to ensure the facilities are fabricated to the design criteria identified in your Facility Design Report	You must submit 1 paper copy and 1 electronic copy.
(4) Installation process information	Details associated with the deployment activities, equipment, and materials,	You must submit 1 paper copy and 1 electronic copy.

	including onshore and offshore equipment and support, and anchoring and mooring patterns	
(5) Federal, State, and local permits (e.g., EPA, Army Corps of Engineers)	Either 1 copy of the permit or information on the status of the application	You must submit 1 paper copy and 1 electronic copy.
(6) Environmental information	(i) Water discharge; (ii) Waste disposal; (iii) Vessel information; and (iv) Onshore waste receiving treatment or disposal facilities.	You must submit 1 paper copy and 1 electronic copy. If you submitted these data as part of your SAP, COP, or GAP, you may reference the plan.
(7) Project easement	Design of any cables, pipelines, or facilities. Information on burial methods and vessels	You must submit 1 paper copy and 1 electronic copy.

(b) You must provide the location of records, as required in § 285.714(c).

(c) If you are required to use a CVA, the Fabrication and Installation Report must include one paper copy of the following certification statement: “The fabrication and installation of this structure has been certified by an approved CVA to be in accordance with accepted engineering practices and the approved SAP, GAP, or COP as appropriate. The certified design and as-built plans and specifications will be on file at (given location).”

(d) BSEE will withhold trade secrets and commercial or financial information that is privileged or confidential from public disclosure under exemption 4 of the FOIA and in accordance with the terms of § 285.113.

§ 285.703 What reports must I submit for project modifications and repairs?

(a) You must verify and, in a report to us, certify that major repairs and major modifications to the project conform to accepted engineering practices.

(1) A major repair is a corrective action involving structural members affecting the structural integrity of a portion of or all the facility.

(2) A major modification is an alteration involving structural members affecting the structural integrity of a portion of or all the facility.

(b) The report must also identify the location of all records pertaining to the major repairs or major modifications, as required in § 285.714(c).

(c) BSEE may require you to use a CVA for project modifications and repairs.

§ 285.704 [Reserved]

CERTIFIED VERIFICATION AGENT

§ 285.705 When must I use a Certified Verification Agent (CVA)?

You must use a CVA to review and certify the Facility Design Report, the Fabrication and Installation Report, and the Project Modifications and Repairs Report.

(a) You must use a CVA to:

(1) Ensure that your facilities are designed, fabricated, and installed in conformance with accepted engineering practices and the Facility Design Report and Fabrication and Installation Report;

(2) Ensure that repairs and major modifications are completed in conformance with accepted engineering practices; and

(3) Provide BSEE immediate reports of all incidents that affect the design, fabrication, and installation of the project and its components.

(b) BSEE may waive the requirement that you use a CVA if you can demonstrate the following:

If you demonstrate that . . .	Then BSEE may waive the requirement for a CVA for the following:
(1) The facility design conforms to a standard design that has been used successfully in a similar environment, and the installation design conforms to accepted engineering practices.	The design of your structure(s).
(2) The manufacturer has successfully manufactured similar facilities, and the facility will be fabricated in conformance with accepted engineering practices.	The fabrication of your structure(s).
(3) The installation company has successfully installed similar facilities in a similar offshore environment, and your structure(s) will be installed in conformance with accepted engineering practices.	The installation of your structure(s).
(4) Repairs and major modifications will be completed in conformance with accepted engineering practices.	The repair or major modification of your structure(s).

(c) You must submit a request to waive the requirement to use a CVA to BSEE in writing with your SAP under § 585.610(a)(9), COP under § 585.626(b)(20), or GAP under § 585.645(c)(5).

(1) BSEE will review your request to waive the use of the CVA and will notify you of its decision along with BOEM's decision on your SAP, COP, or GAP.

(2) If BSEE does not waive the requirement for a CVA, you may file an appeal per § 285.118.

(3) If BSEE waives the requirement that you use a CVA, your project engineer must perform the same duties and responsibilities as the CVA, except as otherwise provided.

§ 285.706 How do I nominate a CVA for BSEE approval?

(a) You must nominate a CVA for BSEE approval as part of your COP per § 585.626(b)(20), and when required, as part of your SAP per § 585.610(a)(9) or GAP per § 585.645(c)(5). You must use a CVA to review and certify the Facility Design Report, the Fabrication and Installation Report, and the Project Modifications and Repairs Report per this subpart. You must specify whether the CVA nomination is for the Facility Design Report, Fabrication and Installation Report, Project Modifications and Repairs Report, or for any combination of these.

(b) For each CVA that you nominate, you must submit to BSEE a list of documents used in your design that you will forward to the CVA and a qualification statement that includes the following:

(1) Previous experience in third-party verification or experience in the design, fabrication, installation, or major modification of offshore energy facilities;

(2) Technical capabilities of the individual or the primary staff for the specific project;

(3) Size and type of organization or corporation;

(4) In-house availability of, or access to, appropriate technology (including computer programs, hardware, and testing materials and equipment);

(5) Ability to perform the CVA functions for the specific project considering current commitments;

(6) Previous experience with BOEM and BSEE requirements and procedures, if any;
and

(7) The level of work to be performed by the CVA.

(c) Individuals or organizations acting as CVAs must not function in any capacity that will create a conflict of interest, or the appearance of a conflict of interest.

(d) The verification must be conducted by or under the direct supervision of registered professional engineers.

(e) BSEE will approve or disapprove your CVA as part of BOEM's review of your COP or, when required, of your SAP or GAP.

(f) You must nominate a new CVA for BSEE approval if the previously approved CVA:

- (1) Is no longer able to serve in a CVA capacity for the project; or
- (2) No longer meets the requirements for a CVA set forth in this subpart.

§ 285.707 What are the CVA's primary duties for facility design review?

If you are required to use a CVA:

(a) The CVA must use good engineering judgment and practices in conducting an independent assessment of the design of the facility. The CVA must certify in the Facility Design Report to BSEE that the facility is designed to withstand the environmental and functional load conditions appropriate for the intended service life at the proposed location.

(b) The CVA must conduct an independent assessment of all proposed:

- (1) Planning criteria;
- (2) Operational requirements;
- (3) Environmental loading data;
- (4) Load determinations;
- (5) Stress analyses;

(6) Material designations;

(7) Soil and foundation conditions;

(8) Safety factors; and

(9) Other pertinent parameters of the proposed design.

(c) For any floating facility, the CVA must ensure that any requirements of the U.S. Coast Guard for structural integrity and stability (*e.g.*, verification of center of gravity), have been met. The CVA must also consider:

(1) Foundations, foundation pilings and templates, and anchoring systems; and

(2) Mooring or tethering systems.

§ 285.708 What are the CVA's or project engineer's primary duties for fabrication and installation review?

(a) The CVA or project engineer must do all of the following:

(1) Use good engineering judgment and practice in conducting an independent assessment of the fabrication and installation activities;

(2) Monitor the fabrication and installation of the facility as required by paragraph (b) of this section;

(3) Make periodic onsite inspections while fabrication is in progress and verify the items required by § 285.709;

(4) Make periodic onsite inspections while installation is in progress and satisfy the requirements of § 285.710; and

(5) Certify in a report that project components are fabricated and installed in accordance with accepted engineering practices; your BOEM-approved COP, SAP, or GAP (as applicable); and the Fabrication and Installation Report.

(i) The report must also identify the location of all records pertaining to fabrication and installation, as required in § 285.714(c); and

(ii) You may commence commercial operations or other approved activities 30 days after BSEE receives that certification report, unless BSEE notifies you within that time period of its objections to the certification report.

(b) To comply with paragraph (a)(5) of this section, the CVA or project engineer must monitor the fabrication and installation of the facility to ensure that it has been built and installed according to the Facility Design Report and Fabrication and Installation Report.

(1) If the CVA or project engineer finds that fabrication and installation procedures have been changed or design specifications have been modified, the CVA or project engineer must inform you; and

(2) If you accept the modifications, then you must also inform BSEE.

§ 285.709 When conducting onsite fabrication inspections, what must the CVA or project engineer verify?

(a) To comply with § 285.708(a)(3), the CVA or project engineer must make periodic onsite inspections while fabrication is in progress and must verify the following fabrication items, as appropriate:

- (1) Quality control by lessee (or grant holder) and builder;
- (2) Fabrication site facilities;
- (3) Material quality and identification methods;
- (4) Fabrication procedures specified in the Fabrication and Installation Report, and adherence to such procedures;
- (5) Welder and welding procedure qualification and identification;
- (6) Structural tolerances specified, and adherence to those tolerances;
- (7) Nondestructive examination requirements and evaluation results of the specified examinations;
- (8) Destructive testing requirements and results;
- (9) Repair procedures;

- (10) Installation of corrosion-protection systems and splash-zone protection;
 - (11) Erection procedures to ensure that overstressing of structural members does not occur;
 - (12) Alignment procedures;
 - (13) Dimensional check of the overall structure, including any turrets, turret-and-hull interfaces, any mooring line and chain and riser tensioning line segments; and
 - (14) Status of quality-control records at various stages of fabrication.
- (b) For any floating facilities, the CVA or project engineer must ensure that any requirements of the U.S. Coast Guard for structural integrity and stability (*e.g.*, verification of center of gravity) have been met. The CVA or project engineer must also consider:
- (1) Foundations, foundation pilings and templates, and anchoring systems; and
 - (2) Mooring or tethering systems.

§ 285.710 When conducting onsite installation inspections, what must the CVA or project engineer do?

To comply with § 285.708(a)(4), the CVA or project engineer must make periodic onsite inspections while installation is in progress and must, as appropriate, verify, witness, survey, or check, the installation items required by this section.

- (a) The CVA or project engineer must verify, as appropriate, all of the following:
- (1) Loadout and initial flotation procedures;
 - (2) Towing operation procedures to the specified location, and review the towing records;
 - (3) Launching and uprighting activities;
 - (4) Submergence activities;
 - (5) Pile or anchor installations;
 - (6) Installation of mooring and tethering systems;
 - (7) Final deck and component installations; and
 - (8) Installation at the approved location according to the Facility Design Report and the Fabrication and Installation Report.
- (b) For a fixed or floating facility, the CVA or project engineer must verify that proper procedures were used during the following:
- (1) The loadout of the jacket, decks, piles, or structures from each fabrication site; and
 - (2) The actual installation of the facility or major modification and the related installation activities.

(c) For a floating facility, the CVA or project engineer must verify that proper procedures were used during the following:

(1) The loadout of the facility;

(2) The installation of foundation pilings and templates, and anchoring systems; and

(3) The installation of the mooring and tethering systems.

(d) The CVA or project engineer must conduct an onsite survey of the facility after transportation to the approved location.

(e) The CVA or project engineer must spot-check the equipment, procedures, and recordkeeping as necessary to determine compliance with the applicable documents incorporated by reference and the regulations under this part.

§ 285.711 [Reserved]

§ 285.712 What are the CVA's or project engineer's reporting requirements?

(a) The CVA or project engineer must prepare and submit to you and BSEE all reports required by this subpart. The CVA or project engineer must also submit interim reports to you and BSEE, as requested by BSEE.

(b) For each report required by this subpart, the CVA or project engineer must submit one electronic copy and one paper copy of each final report to BSEE. In each report, the CVA or project engineer must:

(1) Give details of how, by whom, and when the CVA or project engineer activities were conducted;

(2) Describe the CVA's or project engineer's activities during the verification process;

(3) Summarize the CVA's or project engineer's findings; and

(4) Provide any additional comments that the CVA or project engineer deems necessary.

§ 285.713 What must I do after the CVA or project engineer confirms conformance with the Fabrication and Installation Report on my commercial lease?

After the CVA or project engineer files the certification report, you must notify BSEE within 10 business days after commencing commercial operations.

§ 285.714 What records relating to SAPs, COPs, and GAPs must I keep?

(a) Until BOEM releases your financial assurance under § 585.534 of this title, you must compile, retain, and make available to BSEE, within the time specified by BSEE, all of the following:

(1) The as-built drawings;

(2) The design assumptions and analyses;

(3) A summary of the fabrication and installation examination records;

(4) The inspection results from the inspections and assessments required by §§ 285.820-.825; and

(5) Records of repairs not covered in the inspection report submitted under § 285.824(b)(3).

(b) You must record and retain the original material test results of all primary structural materials during all stages of construction until BOEM releases your financial assurance under § 585.534 of this title. Primary material is material that, should it fail, would lead to a significant reduction in facility safety, structural reliability, or operating capabilities. Items such as steel brackets, deck stiffeners and secondary braces or beams would not generally be considered primary structural members (or materials).

(c) You must provide BSEE with the location of these records in the certification statement, as required in §§ 285.701(c), 285.703(b), and 285.708(a)(5)(i).

Subpart H—Environmental and Safety Management, Inspections, and Facility Assessments for Activities Conducted Under SAPs, COPs and GAPs

§ 285.800 How must I conduct my activities to comply with safety and environmental requirements?

(a) You must conduct all activities on your lease or grant under this part in a manner that conforms with your responsibilities in § 285.105(a), and using:

(1) Trained personnel; and

(2) Technologies, precautions, and techniques that will not cause undue harm or damage to natural resources, including their physical, atmospheric, and biological components.

(b) You must certify compliance with those terms and conditions identified in your approved SAP, COP, or GAP, as required under § 285.615(b), § 285.633(a), or § 285.653(b).

§ 285.801 How must I conduct my approved activities to protect marine mammals, threatened and endangered species, and designated critical habitat?

You must comply with all measures required under § 585.701 of this title.

§ 285.802 What must I do if I discover a potential archaeological resource while conducting my approved activities?

You must comply with all measures required under § 585.702 of this title.

§ 285.803 How must I conduct my approved activities to protect essential fish habitats identified and described under the Magnuson-Stevens Fishery Conservation and Management Act?

You must comply with all measures required under § 585.703 of this title.

§§ 285.804-285.809 [Reserved]

SAFETY MANAGEMENT SYSTEMS

§ 285.810 What must I include in my Safety Management System?

You must submit a description of the safety management system you will use with your COP (provided under § 585.627(d) of this title) and, when required by this part, your SAP (as provided in § 285.614(b)) or GAP (as provided in § 285.651). You must describe:

- (a) How you will ensure the safety of personnel or anyone on or near your facilities;
- (b) Remote monitoring, control, and shut down capabilities;
- (c) Emergency response procedures;
- (d) Fire suppression equipment, if needed;
- (e) How and when you will test your safety management system; and
- (f) How you will ensure personnel who operate your facilities are properly trained.

§ 285.811 When must I follow my Safety Management System?

Your safety management system must be fully functional when you begin activities described in your approved COP, SAP, or GAP. You must conduct all activities described in your approved COP, SAP, or GAP in accordance with the safety management system you described, as required by § 285.810.

§ 285.812 [Reserved]

MAINTENANCE AND SHUTDOWNS

§ 285.813 When do I have to report removing equipment from service?

(a) The removal of any equipment from service may result in BSEE applying remedies, as provided in this part, when such equipment is necessary for implementing your approved plan. Such remedies may include an order from BSEE requiring you to replace or remove such equipment or facilities.

(b)(1) You must report within 24 hours when equipment necessary for implementing your approved plan is removed from service for more than 12 hours. If you provide an oral notification, you must submit a written confirmation of this notice within 3-business days, as required by § 285.105(c);

(2) You do not have to report removing equipment necessary for implementing your plan if the removal is part of planned maintenance or repair activities; and

(3) You must notify BSEE when you return the equipment to service.

§ 285.814 [Reserved]

EQUIPMENT FAILURE AND ADVERSE ENVIRONMENTAL EFFECTS

§ 285.815 What must I do if I have facility damage or an equipment failure?

(a) If you have facility damage or the failure of a pipeline, cable, or other equipment necessary for you to implement your approved plan, you must make repairs as soon as

practicable. If you have a major repair, you must submit a report of the repairs to BSEE, as required in § 285.703.

(b) If you are required to report any facility damage or failure under § 285.831, BOEM may require you to revise your SAP, COP, or GAP to describe how you will address the facility damage or failure as required by §§ 585.634 (COP), 585.617 (SAP), or 585.655 (GAP) of this title. You must submit a report of the repairs to BSEE, as required in § 285.703.

(c) BSEE may require that you analyze cable, pipeline, or facility damage or failure to determine the cause. If requested by BSEE, you must submit a comprehensive written report of the failure or damage to BSEE as soon as available.

§ 285.816 What must I do if environmental or other conditions adversely affect a cable, pipeline, or facility?

If environmental or other conditions adversely affect a cable, pipeline, or facility so as to endanger the safety or the environment, you must:

(a) Submit a plan of corrective action to BSEE within 30 days of the discovery of the adverse effect.

(b) Take remedial action as described in your corrective action plan.

(c) Submit to the BSEE a report of the remedial action taken within 30 days after completion.

§§ 285.817-285.819 [Reserved]

INSPECTIONS AND ASSESSMENTS

§ 285.820 Will BSEE conduct inspections?

BSEE will inspect OCS facilities and any vessels engaged in activities authorized under this part. We conduct these inspections:

(a) To verify that you are conducting activities in compliance with subsection 8(p) of the OCS Lands Act; the regulations in this part; the terms, conditions, and stipulations of your lease or grant; approved plans; and other applicable laws and regulations.

(b) To determine whether proper safety equipment has been installed and is operating properly according to your safety management system, as required in § 285.810.

§ 285.821 Will BSEE conduct scheduled and unscheduled inspections?

BSEE will conduct both scheduled and unscheduled inspections.

§ 285.822 What must I do when BSEE conducts an inspection?

(a) When BSEE conducts an inspection, you must:

(1) Provide access to all facilities on your lease (including your project easement) or grant; and

(2) Make the following available for BSEE to inspect:

- (i) The area covered under a lease, ROW grant, or RUE grant;
 - (ii) All improvements, structures, and fixtures on these areas; and
 - (iii) All records of design, construction, operation, maintenance, repairs, or investigations on or related to the area.
- (b) You must retain these records in paragraph (a)(2)(iii) of this section until BOEM releases your financial assurance under § 585.534 of this title and provide them to BSEE upon request, within the time period specified by BSEE.
- (c) You must demonstrate to the inspector how you are in compliance with your safety management system.

§ 285.823 Will BSEE reimburse me for my expenses related to inspections?

Upon request, BSEE will reimburse you for food, quarters, and transportation that you provide for our representatives while they inspect your lease or grant facilities and associated activities. You must send us your reimbursement request within 90 days of the inspection.

§ 285.824 How must I conduct self-inspections?

- (a) You must develop a comprehensive annual self-inspection plan covering all of your facilities. You must keep this plan wherever you keep your records and make it available to BSEE inspectors upon request. Your plan must specify:

(1) The type, extent, and frequency of in-place inspections that you will conduct for both the above-water and the below-water structures of all facilities and pertinent components of the mooring systems for any floating facilities; and

(2) How you are monitoring the corrosion protection for both the above-water and below-water structures.

(b) You must submit a report annually to us no later than November 1 that must include:

(1) A list of facilities inspected in the preceding 12 months;

(2) The type of inspection employed, (*i.e.*, visual, magnetic particle, ultrasonic testing); and

(3) A summary of the inspection indicating what repairs, if any, were needed and the overall structural condition of the facility.

§ 285.825 When must I assess my facilities?

(a) You must perform an assessment of the structure, when needed, based on the platform assessment initiators listed in sections 17.2.1-17.2.5 of API RP 2A-WSD (incorporated by reference, see § 285.115).

(b) You must initiate mitigation actions for structures that do not pass the assessment process of API RP 2A-WSD.

(c) You may comply with a later edition of API RP 2A-WSD only if:

(1) You show that complying with the later edition provides a degree of protection, safety, or performance equal to or better than what would be achieved by compliance with the listed edition; and

(2) You obtain the prior written approval for alternative compliance from the authorized BSEE official.

(d) You must perform other assessments as required by BSEE.

§§ 285.826-285.829 [Reserved]

INCIDENT REPORTING AND INVESTIGATION

§ 285.830 What are my incident reporting requirements?

(a) You must report all incidents listed in § 285.831 to BSEE, according to the reporting requirements for these incidents in §§ 285.832-.833.

(b) These reporting requirements apply to incidents that occur on the area covered by your lease or grant and that are related to activities resulting from the exercise of your rights under your lease or grant.

(c) Nothing in this subpart relieves you from providing notices and reports of incidents that may be required by other regulatory agencies.

(d) You must report all spills of oil or other liquid pollutants in accordance with § 254.46 of this chapter.

§ 285.831 What incidents must I report, and when must I report them?

(a) You must report the following incidents to us immediately via oral communication, and provide a written follow-up report (paper copy or electronically transmitted) within 15-business days after the incident:

(1) Fatalities;

(2) Incidents that require the evacuation of person(s) from the facility to shore or to another offshore facility;

(3) Fires and explosions;

(4) Collisions that result in property or equipment damage greater than \$25,000. (Collision means the act of a moving vessel (including an aircraft) striking another vessel, or striking a stationary vessel or object. Property or equipment damage means the cost of labor and material to restore all affected items to their condition before the damage, including, but not limited to, the OCS facility, a vessel, a helicopter, or the equipment. It does not include the cost of salvage, cleaning, dry docking, or demurrage);

(5) Incidents involving structural damage to an OCS facility that is severe enough so that activities on the facility cannot continue until repairs are made;

(6) Incidents involving crane or personnel/material handling activities, if they result in a fatality, injury, structural damage, or significant environmental damage;

(7) Incidents that damage or disable safety systems or equipment (including firefighting systems);

(8) Other incidents resulting in property or equipment damage greater than \$25,000; and

(9) Any other incidents involving significant environmental damage, or harm.

(b) You must provide a written report of the following incidents to us within 15 days after the incident:

(1) Any injuries that result in the injured person not being able to return to work or to all of their normal duties the day after the injury occurred; and

(2) All incidents that require personnel on the facility to muster for evacuation for reasons not related to weather or drills.

§ 285.832 How do I report incidents requiring immediate notification?

For an incident requiring immediate notification under § 285.831(a), you must notify BSEE verbally after aiding the injured and stabilizing the situation. Your verbal communication must provide the following information:

(a) Date and time of occurrence;

- (b) Identification and contact information for the lessee, grant holder, or operator;
- (c) Contractor, and contractor representative's name and telephone number (if a contractor is involved in the incident or injury/fatality);
- (d) Lease number, OCS area, and block;
- (e) Platform/facility name and number, or cable or pipeline segment number;
- (f) Type of incident or injury/fatality;
- (g) Activity at time of incident; and
- (h) Description of the incident, damage, or injury/fatality.

§ 285.833 What are the reporting requirements for incidents requiring written notification?

- (a) For any incident covered under § 285.831, you must submit a written report within 15 days after the incident to BSEE. The report must contain the following information:
- (1) Date and time of occurrence;
 - (2) Identification and contact information for each lessee, grant holder, or operator;
 - (3) Name and telephone number of the contractor and the contractor's representative, if a contractor is involved in the incident or injury;
 - (4) Lease number, OCS area, and block;

- (5) Platform/facility name and number, or cable or pipeline segment number;
 - (6) Type of incident or injury;
 - (7) Activity at time of incident;
 - (8) Description of incident, damage, or injury (including days away from work, restricted work, or job transfer), and any corrective action taken; and
 - (9) Property or equipment damage estimate (in U.S. dollars).
- (b) You may submit a report or form prepared for another agency in lieu of the written report required by paragraph (a) of this section if the report or form contains all required information.
- (c) BSEE may require you to submit additional information about an incident on a case-by-case basis.

Subpart I—Decommissioning

DECOMMISSIONING OBLIGATIONS AND REQUIREMENTS

§ 285.900 Who must meet the decommissioning obligations in this subpart?

- (a) Lessees are jointly and severally responsible for meeting decommissioning obligations for facilities on their leases, including all obstructions, as the obligations accrue and until each obligation is met.

(b) Grant holders are jointly and severally liable for meeting decommissioning obligations for facilities on their grant, including all obstructions, as the obligations accrue and until each obligation is met.

§ 285.901 When do I accrue decommissioning obligations?

You accrue decommissioning obligations when you are or become a lessee or grant holder, and you either install, construct, or acquire by a BOEM-approved assignment a facility, cable, or pipeline, or you create an obstruction to other uses of the OCS.

§ 285.902 What are the general requirements for decommissioning for facilities authorized under my SAP, COP, or GAP?

(a) Except as otherwise authorized under § 285.909, within 2 years following termination of a lease or grant, you must:

(1) Remove or decommission all facilities, projects, cables, pipelines, and obstructions;

(2) Clear the seafloor of all obstructions created by activities on your lease, including your project easement, or grant.

(b) Before decommissioning the facilities under your SAP, COP, or GAP, you must submit a decommissioning application to, and receive approval from, BSEE.

(c) The approval of the decommissioning concept in the SAP, COP, or GAP is not an approval of a decommissioning application. However, you may submit your complete

decommissioning application to BSEE simultaneously with the SAP, COP, or GAP, so that it may undergo appropriate technical and regulatory reviews at that time.

(d) Following approval of your decommissioning application, you must submit a decommissioning notice under § 285.908 to BSEE at least 60 days before commencing decommissioning activities.

(e) If you, your subcontractors, or any agent acting on your behalf discovers any archaeological resource while conducting decommissioning activities, you must immediately halt bottom-disturbing activities within 1,000 feet of the discovery and report the discovery to us within 72 hours. BOEM will inform you how to conduct investigations to determine if the resource is significant and how to protect it in accordance with § 585.702. You, your subcontractors, or any agent acting on your behalf must keep the location of the discovery confidential and must not take any action that may adversely affect the archaeological resource until we have made an evaluation and told you how to proceed.

(f) Provide BOEM with documentation of any coordination efforts you have made with the affected States, local, and Tribal governments.

§ 285.903 What are the requirements for decommissioning FERC-licensed hydrokinetic facilities?

You must comply with the decommissioning requirements in your BOEM-issued lease. If you fail to comply with the decommissioning requirements of your lease then:

- (a) BOEM may call for the forfeiture of your bond or other financial assurance;
- (b) You remain liable for removal or disposal costs and responsible for accidents or damages that might result from such failure; and
- (c) BSEE may take enforcement action under § 285.400.

§ 285.904 Can I request a departure from the decommissioning requirements?

You may request a departure from the decommissioning requirements under § 285.103.

DECOMMISSIONING APPLICATIONS

§ 285.905 When must I submit my decommissioning application?

You must submit your decommissioning application upon the earliest of the following dates:

- (a) 2 years before the expiration of your lease.
- (b) 90 days after completion of your commercial activities on a commercial lease.
- (c) 90 days after completion of your approved activities under a limited lease on a ROW grant or RUE grant.
- (d) 90 days after cancellation, relinquishment, or other termination of your lease or grant.

§ 285.906 What must my decommissioning application include?

You must provide one paper copy and one electronic copy of the application. Include the following information in the application, as applicable.

(a) Identification of the applicant including:

(1) Lease operator, ROW grant holder, or RUE grant holder;

(2) Address;

(3) Contact person and telephone number; and

(4) Shore base.

(b) Identification and description of the facilities, cables, or pipelines you plan to remove or propose to leave in place, as provided in § 285.909.

(c) A proposed decommissioning schedule for your lease, ROW grant, or RUE grant, including the expiration or relinquishment date and proposed month and year of removal.

(d) A description of the removal methods and procedures, including the types of equipment, vessels, and moorings (*i.e.*, anchors, chains, lines, *etc.*) you will use.

(e) A description of your site clearance activities.

(f) Your plans for transportation and disposal (including as an artificial reef) or salvage of the removed facilities, cables, or pipelines and any required approvals.

(g) A description of those resources, conditions, and activities that could be affected by or could affect your proposed decommissioning activities. The description must be as detailed as necessary to assist BSEE in complying with the NEPA and other relevant Federal laws.

(h) The results of any recent biological surveys conducted in the vicinity of the structure and recent observations of turtles or marine mammals at the structure site.

(i) Mitigation measures you will use to protect archaeological and sensitive biological features during removal activities.

(j) A description of measures you will take to prevent unauthorized discharge of pollutants, including marine trash and debris, into the offshore waters.

(k) A statement of whether or not you will use divers to survey the area after removal to determine any effects on marine life.

§ 285.907 How will BSEE process my decommissioning application?

(a) Based upon your inclusion of all the information required by § 285.906, BSEE will compare your decommissioning application with the decommissioning general concept in your approved SAP, COP, or GAP to determine what technical and environmental reviews are needed.

(b) You will likely have to revise your SAP, COP, or GAP, and BOEM will begin the appropriate NEPA analysis and other regulatory reviews as required, if BSEE determines that your decommissioning application would:

(1) Result in a significant change in the impacts previously identified and evaluated in your SAP, COP, or GAP;

(2) Require any additional Federal permits; or

(3) Propose activities not previously identified and evaluated in your SAP, COP, or GAP.

(c) During the review process, we may request additional information if we determine that the information provided is not sufficient to complete the review and approval process.

(d) Upon completion of the technical and environmental reviews, we may approve, approve with conditions, or disapprove your decommissioning application.

(e) If BSEE disapproves your decommissioning application, you must resubmit your application to address the concerns identified by BSEE.

§ 285.908 What must I include in my decommissioning notice?

(a) The decommissioning notice is distinct from your decommissioning application and may only be submitted following approval of your decommissioning application, as

described in §§ 285.905-.907. You must submit a decommissioning notice at least 60 days before you plan to begin decommissioning activities.

(b) Your decommissioning notice must include:

(1) A description of any changes to the approved removal methods and procedures in your approved decommissioning application, including changes to the types of vessels and equipment you will use; and

(2) An updated decommissioning schedule.

(c) BSEE will review your decommissioning notice and may require you to resubmit a decommissioning application if BSEE determines that your decommissioning activities would:

(1) Result in a significant change in the impacts previously identified and evaluated;

(2) Require any additional Federal permits; or

(3) Propose activities not previously identified and evaluated.

FACILITY REMOVAL

§ 285.909 When may facilities remain in place following termination of a lease or grant?

(a) In your decommissioning application, you may request that certain facilities authorized in your lease or grant remain in place for other activities authorized in this part, elsewhere in this subchapter, or by other applicable Federal law.

(b) Except as provided in paragraph (c) of this section, if BOEM authorizes facilities to remain in place, the former lessee or grantee under this part remains jointly and severally liable for decommissioning the facility unless satisfactory evidence is provided to BOEM showing that another party has assumed that responsibility and has secured adequate financial assurances.

(c) In your decommissioning application, identify facilities authorized by BOEM to be converted to an artificial reef or otherwise toppled in place.

§ 285.910 What must I do when I remove my facility?

(a) You must remove all facilities to a depth of 15 feet below the mudline, unless otherwise authorized by BSEE.

(b) Within 60 days after you remove a facility, you must verify to BSEE that you have cleared the site.

§ 285.911 [Reserved]

DECOMMISSIONING REPORT

§ 285.912 After I remove a facility, cable, or pipeline, what information must I submit?

Within 60 days after you remove a facility, cable, or pipeline, you must submit a written report to BSEE that includes the following:

- (a) A summary of the removal activities, including the date they were completed;
- (b) A description of any mitigation measures you took; and
- (c) If you used explosives, a statement signed by your authorized representative that certifies that the types and amount of explosives you used in removing the facility were consistent with those in the approved decommissioning application.

COMPLIANCE WITH AN APPROVED DECOMMISSIONING APPLICATION

§ 285.913 What happens if I fail to comply with my approved decommissioning application?

If you fail to comply with your approved decommissioning plan or application:

- (a) BOEM may call for the forfeiture of your bond or other financial assurance;
- (b) You remain liable for removal or disposal costs and responsible for accidents or damages that might result from such failure; and
- (c) BSEE may take enforcement action under § 285.400.

Subpart J—Rights of Use and Easement for Energy- and Marine-Related Activities Using Existing OCS Facilities

REGULATED ACTIVITIES

§ 285.1000 What activities does this subpart regulate?

This subpart provides the general provisions for regulating activities that use (or propose to use) an existing OCS facility for energy- or marine-related purposes, that are not otherwise authorized under any other part of this subchapter or any other applicable Federal statute. Activities authorized under any other part of this subchapter or under any other Federal law that use (or propose to use) an existing OCS facility are not subject to this subpart.

§§ 285.1001-285.1013 [Reserved]

ALTERNATE USE RUE ADMINISTRATION

§ 285.1014 When will BSEE suspend an Alternate Use RUE?

(a) BSEE may suspend an Alternate Use RUE if:

(1) Necessary to comply with judicial decrees;

(2) Continued activities pursuant to the Alternate Use RUE pose an imminent threat of serious or irreparable harm or damage to natural resources; life (including human and wildlife); property; the marine, coastal, or human environment; or sites, structures, or objects of historical or archaeological significance; or

(3) Operation of the existing OCS facility that is subject to the Alternate Use RUE has been suspended or temporarily prohibited and we have determined that continued

activities under the Alternate Use RUE are unsafe or cause undue interference with the operation of the original OCS Lands Act approved activity.

(b) A suspension will extend the term of your Alternate Use RUE grant for the period of the suspension.

§ 285.1015 [Reserved]

§ 285.1016 When will an Alternate Use RUE be cancelled?

The Secretary may cancel an Alternate Use RUE if it is determined, after notice and opportunity to be heard:

- (a) You no longer qualify to hold an Alternate Use RUE;
- (b) You failed to provide any additional financial assurance required by BOEM, replace or provide additional coverage for a de-valued bond, or replace a lapsed or forfeited bond within the prescribed time period;
- (c) Continued activity under the Alternate Use RUE is likely to cause serious harm or damage to natural resources; life (including human and wildlife); property; the marine, coastal, or human environment; or sites, structures, or objects of historical or archaeological significance;
- (d) Continued activity under the Alternate Use RUE is determined to be adversely impacting the original OCS Lands Act approved activities on the existing OCS facility;

(e) You failed to comply with any of the terms and conditions of your approved Alternate Use RUE or your approved plan; or

(f) You otherwise failed to comply with applicable laws or regulations.

§ 285.1017 [Reserved]

DECOMMISSIONING AN ALTERNATE USE RUE

§ 285.1018 Who is responsible for decommissioning an OCS facility subject to an Alternate Use RUE?

(a) The holder of an Alternate Use RUE is responsible for all decommissioning obligations that accrue following the issuance of the Alternate Use RUE and which pertain to the Alternate Use RUE.

(b) The lessee under the lease originally issued under Chapter V of this title will remain responsible for decommissioning obligations that accrued before issuance of the Alternate Use RUE, as well as for decommissioning obligations that accrue following issuance of the Alternate Use RUE to the extent associated with continued activities authorized under other parts of this title.

§ 285.1019 What are the decommissioning requirements for an Alternate Use RUE?

(a) Decommissioning requirements will be determined by BOEM and BSEE on a case-by-case basis, and will be included in the terms of the Alternate Use RUE.

(b) Decommissioning activities must be completed within 1 year of termination of the Alternate Use RUE.

(c) If you fail to satisfy all decommissioning requirements within the prescribed time period, BOEM will call for the forfeiture of your bond or other financial guarantee, and you will remain liable for all accidents or damages that might result from such failure.

2. Amend the table of contents for Subchapter B of Chapter V, Title 30, by revising the heading of part 585 and by adding a heading for a new part 586, to read as follows:

* * * * *

585 Renewable Energy on the Outer Continental Shelf

586 Alternate Uses of Existing Facilities on the Outer Continental Shelf

* * * * *

3. Revise part 585 to read as follows:

PART 585—RENEWABLE ENERGY ON THE OUTER CONTINENTAL SHELF

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- 585.113 Definitions.
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- 585.115 Paperwork Reduction Act statements—information collection.
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Subpart A—General Provisions

§585.100 Authority.

The authority for this part derives from section 8 of the Outer Continental Shelf Lands Act (OCS Lands Act) (43 U.S.C. 1337). The Secretary of the Interior delegated to the Bureau of Ocean Energy Management (BOEM) the authority to manage the development of energy on the Outer Continental Shelf (OCS) from sources other than oil and gas, including renewable energy, through the issuance of leases, easements, and rights-of-way for activities that produce or support the production, transportation, or transmission of energy.

§ 585.101 What is the purpose of this part?

The purpose of this part is to:

(a) Establish procedures for issuance and administration of leases, right-of-way (ROW) grants, and right-of-use and easement (RUE) grants for renewable energy production on the OCS; and

(b) Inform you and third parties of your obligations when you undertake activities authorized in this part.

(c) Ensure that renewable energy activities on the OCS are conducted in a safe and environmentally sound manner, in conformance with the requirements of subsection 8(p)

of the OCS Lands Act, other applicable laws and regulations, and the terms of your lease, ROW grant, or RUE grant.

(d) This part will not convey access rights for oil, gas, or other minerals.

§ 585.102 What are BOEM's responsibilities under this part?

(a) BOEM will ensure that any activities authorized in this part are carried out in a manner that provides for:

(1) Safety;

(2) Protection of the environment;

(3) Prevention of waste;

(4) Conservation of the natural resources of the OCS;

(5) Coordination with relevant Federal agencies (including, in particular, those agencies involved in planning activities that are undertaken to avoid conflicts among users and to maximize the economic and ecological benefits of the OCS, including multifaceted spatial planning efforts);

(6) Protection of National security interests of the United States;

(7) Protection of the rights of other authorized users of the OCS;

(8) A fair return to the United States;

(9) Prevention of interference with reasonable uses (as determined by the Secretary or Director) of the exclusive economic zone, the high seas, and the territorial seas;

(10) Consideration of the location of and any schedule relating to a lease or grant under this part for an area of the OCS, and any other use of the sea or seabed;

(11) Public notice and comment on any proposal submitted for a lease or grant under this part; and

(12) Oversight, research, monitoring, and enforcement of activities authorized by a lease or grant under this part.

(b) BOEM will require compliance with all applicable laws, regulations, other requirements, and the terms of your lease or grant and approved plans under this part. BOEM will approve, disapprove, or approve with conditions any plans, applications, or other documents submitted to BOEM for approval under the provisions of this part.

(c) Unless otherwise provided in this part, BOEM may give oral directives or decisions whenever prior BOEM approval is required under this part. BOEM will document in writing any such oral directives within 10 business days.

(d) BOEM will establish practices and procedures to govern the collection of all payments due to the Federal Government required under the regulations of this part, including any cost recovery fees, rents, operating fees, and other fees or payments. BOEM will do this in accordance with the terms of this part, the leasing notice, the lease

or grant under this part, and applicable Office of Natural Resources Revenue (ONRR) regulations or guidance.

(e) BOEM will provide for coordination and consultation with the Governor of any State, the executive of any local government, and the executive of any Indian Tribe that may be affected by a lease, easement, or ROW under this subsection. BOEM may invite any affected State Governor, representative of an affected Indian Tribe, and affected local government executive to join in establishing a task force or other joint planning or coordination agreement in carrying out our responsibilities under this part.

§ 585.103 When may BOEM prescribe or approve departures from these regulations?

(a) BOEM may prescribe or approve departures from these regulations when departures are necessary to:

- (1) Facilitate the appropriate activities on a lease or grant under this part;
- (2) Conserve natural resources;
- (3) Protect life (including human and wildlife), property, or the marine, coastal, or human environment; or
- (4) Protect sites, structures, or objects of historical or archaeological significance.

(b) Any departure approved under this section and its rationale must:

- (1) Be consistent with subsection 8(p) of the OCS Lands Act;
- (2) Protect the environment and the public health and safety to the same degree as if there was no approved departure from the regulations;
- (3) Not impair the rights of third parties; and
- (4) Be documented in writing.

§ 585.104 Do I need a BOEM lease or other authorization to produce or support the production of electricity or other energy product from a renewable energy resource on the OCS?

Except as otherwise authorized by law, it will be unlawful for any person to construct, operate, or maintain any facility to produce, transport, or support generation of electricity or other energy product derived from a renewable energy resource on any part of the OCS, except under and in accordance with the terms of a lease, easement, or ROW issued pursuant to the OCS Lands Act.

§ 585.105 What are my responsibilities under this part?

As a lessee, applicant, operator, or holder of a ROW or RUE grant, you must:

- (a) Design your projects and conduct all activities in a manner that ensures safety and will not cause undue harm or damage to natural resources, including their physical, atmospheric, and biological components to the extent practicable; and take measures to

prevent unauthorized discharge of pollutants including marine trash and debris into the offshore environment.

(b) Submit requests, applications, plans, notices, modifications, and supplemental information to BOEM as required by this part;

(c) Follow up, in writing, any oral request or notification you made, within 3 business days;

(d) Comply with the terms, conditions, and provisions of all reports and notices submitted to BOEM, and of all plans, revisions, and other BOEM approvals, as provided in this part;

(e) Make all applicable payments on time;

(f) Comply with the DOI's nonprocurement debarment regulations at 2 CFR part 1400;

(g) Include the requirement to comply with 2 CFR part 1400 in all contracts and transactions related to a lease or grant under this part;

(h) Conduct all activities authorized by the lease or grant in a manner consistent with the provisions of subsection 8(p) of the OCS Lands Act;

(i) Compile, retain, and make available to BOEM representatives, within the time specified by BOEM, any data and information related to the site assessment, design, and operations of your project; and

(j) Respond to requests from the Director in a timely manner.

§ 585.106 What happens if I fail to comply with this part?

(a) BOEM may take appropriate corrective action under this part if you fail to comply with applicable provisions of Federal law, the regulations in this part, other applicable regulations, any order of the Director, the provisions of a lease or grant issued under this part, or the requirements of an approved plan or other approval under this part.

(b) BOEM may issue to you a notice of noncompliance if we determine that there has been a violation of the regulations in this part, any order of the Director, or any provision of your lease, grant, or other approval issued under this part. When issuing a notice of noncompliance, BOEM will serve you at your last known address.

(c) A notice of noncompliance will tell you how you failed to comply with this part, any order of the Director and/or the provisions of your lease, grant or other approval, and will specify what you must do to correct the noncompliance and the time limits within which you must act.

(d) Failure of a lessee, operator, or grant holder to take the actions specified in a notice of noncompliance issued under this part within the time limit specified provides the basis for issuance of a cessation order by BSEE, as provided in § 285.401 and/or cancellation of the lease or grant by the Secretary as provided in § 585.422.

(e) BOEM may assess civil penalties, as authorized by section 24 of the OCS Lands Act, if you fail to comply with any provision of this part or any term of a lease, grant, or

order issued under the authority of this part, after notice of such failure and expiration of any reasonable period allowed for corrective action. Civil penalties will be determined and assessed in accordance with the procedures set forth in part 550, subpart N, of this chapter.

(f) You may be subject to criminal penalties as authorized by section 24 of the OCS Lands Act.

§ 585.107 Who can hold a lease or grant under this part?

(a) You may hold a lease or grant under this part if you can demonstrate that you have the technical and financial capabilities to conduct the activities authorized by the lease or grant and you are a(n):

(1) Citizen or national of the United States;

(2) Alien lawfully admitted for permanent residence in the United States as defined in 8 U.S.C. 1101(a)(20);

(3) Private, public, or municipal corporations organized under the laws of any State of the United States, the District of Columbia, or any territory or insular possession subject to U.S. jurisdiction;

(4) Association of such citizens, nationals, resident aliens, or corporations;

(5) Executive agency of the United States as defined in section 105 of Title 5 of the U.S. Code;

(6) State of the United States; or

(7) Political subdivision of a State of the United States.

(b) You may not hold a lease or grant under this part or acquire an interest in a lease or grant under this part if:

(1) You or your principals are excluded or disqualified from participating in transactions covered by the Federal nonprocurement debarment and suspension system (2 CFR part 1400), unless BOEM explicitly has approved an exception for this transaction;

(2) BOEM determines or has previously determined after notice and opportunity for a hearing that you or your principals have failed to meet or exercise due diligence under any OCS lease or grant; or

(3) BOEM determines or has previously determined after notice and opportunity for a hearing that you:

(i) Remained in violation of the terms and conditions of any lease or grant issued under the OCS Lands Act for a period extending longer than 30 days (or such other period allowed for compliance) after BOEM or BSEE directed you to comply; and

(ii) You took no action to correct the noncompliance within that time period.

§ 585.108 How do I show that I am qualified to be a lessee or grant holder?

(a) You must demonstrate your technical and financial capability to construct, operate, maintain, and terminate/decommission projects for which you are requesting authorization. Documentation can include:

(1) Descriptions of international or domestic experience with renewable energy projects or other types of electric-energy-related projects; and

(2) Information establishing access to sufficient capital to carry out development.

(b) An individual must submit a written statement of citizenship status attesting to U.S. citizenship. It does not need to be notarized nor give the age of individual. A resident alien may submit a photocopy of the U.S. Citizenship and Immigration Services form evidencing legal status of the resident alien.

(c) A corporation or association must submit evidence, as specified in the table in paragraph (d) of this section, acceptable to BOEM that:

(1) It is qualified to hold leases or grants under this part;

(2) It is authorized to conduct business under the laws of its State;

(3) It is authorized to hold leases or grants on the OCS under the operating rules of its business; and

(4) The persons holding the titles listed are authorized to bind the corporation or association when conducting business with BOEM.

(d) Acceptable evidence under paragraph (c) of this section includes, but is not limited to the following:

Requirements to qualify to hold leases or grants on the OCS:	Corp.	Ltd. Prtnsp.	Gen. Prtnsp.	LLC	Trust
(1) Original certificate or certified copy from the State of incorporation stating the name of the corporation exactly as it must appear on all legal documents.	XX				
(2) Certified statement by Secretary/Assistant Secretary over corporate seal, certifying that the corporation is authorized to hold OCS leases.	XX				
(3) Evidence of authority of titled positions to bind corporation, certified by Secretary/Assistant Secretary over corporate seal, including the following:	XX				
(i) Certified copy of resolution of the board of directors with titles of officers authorized to bind corporation.					
(ii) Certified copy of resolutions granting corporate officer authority to issue a power of attorney.					
(iii) Certified copy of power of attorney or certified copy of resolution granting power of attorney.					
(4) Original certificate or certified copy of partnership or organization paperwork registering with the appropriate State official.		XX	XX	XX	
(5) Copy of articles of partnership or organization evidencing filing with appropriate Secretary of State, certified by Secretary/Assistant Secretary of partnership or member or manager of LLC.		XX	XX	XX	
(6) Original certificate or certified copy evidencing State where partnership or LLC is registered. Statement of authority to hold OCS leases, certified by Secretary/Assistant Secretary, <i>OR</i> original paperwork registering with the appropriate State official.		XX	XX	XX	
(7) Statements from each partner or LLC member indicating the following:		XX	XX	XX	

(i) If a corporation or partnership, statement of State of organization and authorization to hold OCS leases, certified by Secretary/Assistant Secretary over corporate seal, if a corporation.					
(ii) If an individual, a statement of citizenship.					
(8) Statement from general partner, certified by Secretary/Assistant Secretary that:		XX			
(i) Each individual limited partner is a U.S. citizen and;					
(ii) Each corporate limited partner or other entity is incorporated or formed and organized under the laws of a U.S. State or territory.					
(9) Evidence of authority to bind partnership or LLC, if not specified in partnership agreement, articles of organization, or LLC regulations, <i>i.e.</i> , certificates of authority from Secretary/Assistant Secretary reflecting authority of officers.		XX	XX	XX	
(10) Listing of members of LLC certified by Secretary/Assistant Secretary or any member or manager of LLC.				XX	
(11) Copy of trust agreement or document establishing the trust and all amendments, properly certified by the trustee with reference to where the original documents are filed.					XX
(12) Statement indicating the law under which the trust is established and that the trust is authorized to hold OCS leases or grants.					XX

(e) A local, State, or Federal executive entity must submit a written statement that:

(1) It is qualified to hold leases or grants under this part; and

(2) The person(s) acting on behalf of the entity is authorized to bind the entity when conducting business with us.

(f) BOEM may require you to submit additional information at any time considering your bid or request for a noncompetitive lease.

§ 585.109 When must I notify BOEM if an action has been filed alleging that I am insolvent or bankrupt?

You must notify BOEM within 3 business days after you learn of any action filed alleging that you are insolvent or bankrupt.

§ 585.110 When must I notify BOEM of mergers, name changes, or changes of business form?

You must notify BOEM in writing of any merger, name change, or change of business form. You must notify BOEM as soon as practicable following the merger, name change, or change in business form, but no later than 120 days after the earliest of either the effective date, or the date of filing the change or action with the Secretary of the State or other authorized official in the State of original registry.

§ 585.111 How do I submit plans, applications, reports, or notices required by this part?

(a) You must submit all plans, applications, reports, or notices required by this part to BOEM at the following address: Office of Renewable Energy Programs, 45600 Woodland Road, Sterling, VA 20166.

(b) Unless otherwise stated, you must submit one paper copy and one electronic copy of all plans, applications, reports, or notices required by this part.

§ 585.112 When and how does BOEM charge me processing fees on a case-by-case basis?

(a) BOEM will charge a processing fee on a case-by-case basis under the procedures in this section with regard to any application or request under this part if we decide at any time that the preparation of a particular document or study is necessary for the application or request and it will have a unique processing cost, such as the preparation of an environmental assessment (EA) or environmental impact statement (EIS).

(1) Processing costs will include contract oversight and efforts to review and approve documents prepared by contractors, whether the contractor is paid directly by the applicant or through BOEM.

(2) We may apply a standard overhead rate to direct processing costs.

(b) We will assess the ongoing processing fee for each individual application or request according to the following procedures:

(1) Before we process your application or request, we will give you a written estimate of the proposed fee based on reasonable processing costs.

(2) You may comment on the proposed fee.

(3) You may:

(i) Ask for our approval to perform, or to directly pay a contractor to perform, all or part of any document, study, or other activity according to standards we specify, thereby reducing our costs for processing your application or request; or

(ii) Ask to pay us to perform, or contract for, all or part of any document, study, or other activity.

(4) We will then give you the final estimate of the processing fee amount with payment terms and instructions after considering your comments and any BOEM-approved work you will do.

(i) If we encounter higher or lower processing costs than anticipated, we will re-estimate our reasonable processing costs following the procedures in paragraphs (b)(1) through (4) of this section, but we will not stop ongoing processing unless you do not pay in accordance with paragraph (b)(5) of this section.

(ii) Once processing is complete, we will refund to you the amount of money that we did not spend on processing costs.

(5)(i) Consistent with the payment and billing terms provided in the final estimate, we will periodically estimate what our reasonable processing costs will be for a specific period and will bill you for that period. Payment is due to us 30 days after you receive your bill. We will stop processing your document if you do not pay the bill by the date payment is due.

(ii) If a periodic payment turns out to be more or less than our reasonable processing costs for the period, we will adjust the next billing accordingly or make a refund. Do not deduct any amount from a payment without our prior written approval.

(6) You must pay the entire fee before we will issue the final document or take final action on your application or request.

(7) You may appeal our estimated processing costs in accordance with the regulations in 43 CFR part 4. We will not process the document further until the appeal is resolved, unless you pay the fee under protest while the appeal is pending. If the appeal results in a decision changing the proposed fee, we will adjust the fee in accordance with paragraph (b)(5)(ii) of this section. If we adjust the fee downward, we will not pay interest.

§ 585.113 Definitions.

Terms used in this part have the meanings as defined in this section:

Affected local government means with respect to any activities proposed, conducted, or approved under this part, or part 285 of this title, any locality—

(1) That is, or is proposed to be, the site of gathering, transmitting, or distributing electricity or other energy product, or is otherwise receiving, processing, refining, or transshipping product, or services derived from activities approved under this part, or part 285 of this title;

(2) That is used, or is proposed to be used, as a support base for activities approved under this part, or part 285 of this title; or

(3) In which there is a reasonable probability of significant effect on land or water uses from activities approved under this part, or part 285 of this title.

Affected State means with respect to any activities proposed, conducted, or approved under this part, or part 285 of this title, any coastal State—

(1) That is, or is proposed to be, the site of gathering, transmitting, or distributing energy or is otherwise receiving, processing, refining, or transshipping products, or services derived from activities approved under this part, or part 285 of this title;

(2) That is used, or is scheduled to be used, as a support base for activities approved under this part, or part 285 of this title; or

(3) In which there is a reasonable probability of significant effect on land or water uses from activities approved under this part, or part 285 of this title.

Archaeological resource means any material remains of human life or activities that are at least 50 years of age and that are of archaeological interest (*i.e.*, which are 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 measurement, controlled collection, analysis, interpretation, and explanation).

Best available and safest technology means the best available and safest technologies that BOEM determines to be economically feasible wherever failure of equipment would have a significant effect on safety, health, or the environment.

Best management practices mean practices recognized within their respective industry, or by Government, as one of the best for achieving the desired output while reducing undesirable outcomes.

BOEM means Bureau of Ocean Energy Management of the Department of the Interior.

BSEE means Bureau of Safety and Environmental Enforcement of the Department of the Interior.

Certified Verification Agent (CVA) means an individual or organization, experienced in the design, fabrication, and installation of offshore marine facilities or structures, who will conduct specified third-party reviews, inspections, and verifications in accordance with part 285 of this title.

Coastline means the same as the term “coast line” in section 2 of the Submerged Lands Act (43 U.S.C. 1301(c)).

Commercial activities mean, for renewable energy leases and grants, all activities associated with the generation, storage, or transmission of electricity or other energy product from a renewable energy project on the OCS, and for which such electricity or other energy product is intended for distribution, sale, or other commercial use, except for

electricity or other energy product distributed or sold pursuant to technology-testing activities on a limited lease. This term also includes activities associated with all stages of development, including initial site characterization and assessment, facility construction, and project decommissioning.

Commercial lease means a lease issued under this part that specifies the terms and conditions under which a person can conduct commercial activities.

Commercial operations mean the generation of electricity or other energy product for commercial use, sale, or distribution on a commercial lease.

Decommissioning means removing BOEM and BSEE approved facilities and returning the site of the lease or grant to a condition that meets the requirements under subpart I of part 285 of this title.

Director means the Director of the Bureau of Ocean Energy Management (BOEM), of the Department of the Interior, or an official authorized to act on the Director's behalf.

Distance means the minimum great circle distance.

Eligible State means a coastal State having a coastline (measured from the nearest point) no more than 15 miles from the geographic center of a qualified project area.

Facility means an installation that is permanently or temporarily attached to the seabed of the OCS. Facilities include any structures; devices; appurtenances; gathering, transmission, and distribution cables; pipelines; and permanently moored vessels. Any

group of OCS installations interconnected with walkways, or any group of installations that includes a central or primary installation with one or more satellite or secondary installations, is a single facility. BOEM and BSEE may decide that the complexity of the installations justifies their classification as separate facilities.

Geographic center of the project means the centroid (geometric center point) of a qualified project area. The centroid represents the point that is the weighted average of coordinates of the same dimension within the mapping system, with the weights determined by the density function of the system. For example, in the case of a project area shaped as a rectangle or other parallelogram, the geographic center would be that point where lines between opposing corners intersect. The geographic center of a project could be outside the project area itself if that area is irregularly shaped.

Governor means the Governor of a State or the person or entity lawfully designated by or under State law to exercise the powers granted to a Governor.

Grant means a right-of-way or a right-of-use and easement issued under the provisions of this part.

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

Lease means an agreement authorizing the use of a designated portion of the OCS for activities allowed under this part. The term also means the area covered by that agreement, when the context requires.

Lessee means the holder of a lease, a BOEM-approved assignee, and, when describing the conduct required of parties engaged in activities on the lease, it also refers to the operator and all persons authorized by the holder of the lease or operator to conduct activities on the lease.

Limited lease means a lease issued under this part that specifies the terms and conditions under which a person may conduct activities on the OCS that support the production of energy, but do not result in the production of electricity or other energy product for sale, distribution, or other commercial use exceeding a limit specified in the lease.

Marine environment means the physical, atmospheric, and biological components, conditions, and factors that interactively determine the productivity, state, condition, and quality of the marine ecosystem. These include the waters of the high seas, the contiguous zone, transitional and intertidal areas, salt marshes, and wetlands within the coastal zone and on the OCS.

Miles mean nautical miles, as opposed to statute miles.

Natural resources include, without limiting the generality thereof, renewable energy, oil, gas, and all other minerals (as defined in section 2(q) of the OCS Lands Act), and marine animal and marine plant life.

Operator means the individual, corporation, or association having control or management of activities on a lease or grant issued under this part. The operator may be a lessee, grant holder, or a contractor designated by the lessee or holder of a grant issued under this part.

Outer Continental Shelf (OCS) means 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), whose subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

Person means, in addition to a natural person, an association (including partnerships and joint ventures); a Federal agency; a State; a political subdivision of a State; a Native American Tribal government; or a private, public, or municipal corporation.

Project, for the purposes of defining the source of revenues to be shared, means a lease ROW, RUE, or Alternate Use RUE on which the activities authorized under this part and/or part 285 or part 586 of this title are conducted on the OCS. The term “project” may be used elsewhere in this rule to refer to these same authorized activities, the facilities used to conduct these activities, or to the geographic area of the project, *i.e.*, the project area.

Project area means the geographic surface leased, or granted, for the purpose of a specific project. If OCS acreage is granted for a project under some form of agreement other than a lease (*i.e.*, a ROW or RUE, the Federal acreage granted would be considered the project area. To avoid distortions in the calculation of the geometric center of the project area, project easements issued under this part are not considered part of the qualified project's area.

Project easement means an easement to which, upon approval of your Construction and Operations Plan (COP) or General Activities Plan (GAP), you are entitled as part of the lease for the purpose of installing, gathering, transmission, and distribution cables, pipelines, and appurtenances on the OCS as necessary for the full enjoyment of the lease.

Renewable Energy means energy resources other than oil and gas and minerals as defined in 30 CFR part 580. Such resources include, but are not limited to, wind, solar, and ocean waves, tides, and current.

Revenues mean bonuses, rents, operating fees, and similar payments made in connection with a project or project area. It does not include administrative fees such as those assessed for cost recovery, civil penalties, and forfeiture of financial assurance.

Right-of-use and easement (RUE) grant means an easement issued by BOEM under this part that authorizes use of a designated portion of the OCS to support activities on a lease or other use authorization for renewable energy activities. The term also means the area covered by the authorization.

Right-of-way (ROW) grant means an authorization issued by BOEM under this part to use a portion of the OCS for the construction and use of a cable or pipeline for the purpose of gathering, transmitting, distributing, or otherwise transporting electricity or other energy product generated or produced from renewable energy, but does not constitute a project easement under this part. The term also means the area covered by the authorization.

Secretary means the Secretary of the Interior or an official authorized to act on the Secretary's behalf.

Significant archaeological resource means an archaeological resource that meets the criteria of significance for eligibility for listing in the National Register of Historic Places, as defined in 36 CFR 60.4 or its successor.

Site assessment activities mean those initial activities conducted to characterize a site on the OCS, such as resource assessment surveys (*e.g.*, meteorological and oceanographic) or technology testing, involving the installation of bottom-founded facilities.

You and your means an applicant, lessee, the operator, or designated operator, ROW grant holder, or RUE grant holder under this part, or the designated agent of any of these, or the possessive of each, depending on the context. The terms *you* and *your* also include contractors and subcontractors of the entities specified in the preceding sentence.

We, us, and our refer to the Bureau of Ocean Energy Management of the Department of the Interior, or its possessive, depending on the context.

§ 585.114 How will data and information obtained by BOEM under this part be disclosed to the public?

(a) BOEM will make data and information available in accordance with the requirements and subject to the limitations of the Freedom of Information Act (FOIA) (5 U.S.C. 552) and the regulations contained in 43 CFR part 2 (Records and Testimony).

(b) BOEM will not release such data and information that we have determined is exempt from disclosure under exemption 4 of FOIA. We will review such data and information and objections of the submitter by the following schedule to determine whether release at that time will result in substantial competitive harm or disclosure of trade secrets.

If you have a . . .	Then BOEM will review data and information for possible release:
(1) Commercial lease	At the earlier of:
	(i) 3 years after the initiation of commercial generation or
	(ii) 3 years after the lease terminates.
(2) Limited lease	At 3 years after the lease terminates.
(3) ROW or RUE grant	At the earliest of:
	(i) 10 years after the approval of the grant;
	(ii) Grant termination; or
	(iii) 3 years after the completion of construction activities.

(c) After considering any objections from the submitter, if we determine that release of such data and information will result in:

(1) No substantial competitive harm or disclosure of trade secrets, then the data and information will be released.

(2) Substantial competitive harm or disclosure of trade secrets, then the data and information will not be released at that time but will be subject to further review every 3 years thereafter.

§ 585.115 Paperwork Reduction Act statements—information collection.

(a) The Office of Management and Budget (OMB) has approved the information collection requirements in 30 CFR part 585 under 44 U.S.C. 3501, *et seq.*, and assigned OMB Control Number 1010-0176. The table in paragraph (e) of this section lists the subparts in the rule requiring the information and its title, summarizes the reasons for collecting the information, and summarizes how BOEM uses the information.

(b) Respondents are primarily renewable energy applicants, lessees, ROW grant holders, RUE grant holders, Alternate Use RUE grant holders, and operators. The requirement to respond to the information collection in this part is mandated under subsection 8(p) of the OCS Lands Act. Some responses are also required to obtain or retain a benefit, or may be voluntary.

(c) The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) requires us to inform the public that an agency 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.

(d) Comments regarding any aspect of the collections of information under this part, including suggestions for reducing the burden, should be sent to the Information Collection Clearance Officer, Bureau of Ocean Energy Management, 45600 Woodland Road, Sterling, VA 20166.

(e) BOEM is collecting this information for the reasons given in the following table:

30 CFR 585 subpart and title	Reasons for collecting information and how used
(1) Subpart A—General Provisions	To inform BOEM of actions taken to comply with general operational requirements on the OCS. To ensure that operations on the OCS meet statutory and regulatory requirements, are safe and protect the environment, and result in diligent development on OCS leases.
(2) Subpart B—Issuance of OCS Renewable Energy Leases	To provide BOEM with information needed to determine when to use a competitive process for issuing a renewable energy lease, to identify auction formats and bidding systems and variables that we may use when that determination is affirmative, and to determine the terms under which we will issue renewable energy leases.
(3) Subpart C—ROW Grants and RUE Grants for Renewable Energy Activities	To issue ROW grants and RUE grants for OCS renewable energy activities that are not associated with a BOEM-issued renewable energy lease.
(4) Subpart D—Lease and Grant Administration	To ensure compliance with regulations pertaining to a lease or grant; assignment and designation of operator; and suspension, renewal, termination, relinquishment, and cancellation of leases and grants.
(5) Subpart E—Payments and Financial Assurance Requirements	To ensure that payments and financial assurance payments for renewable energy leases comply with subpart E.

(6) Subpart F—Plan Requirements	To enable BOEM to comply with the National Environmental Policy Act (NEPA), the Coastal Zone Management Act (CZMA), and other Federal laws and to ensure the safety of the environment on the OCS.
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§ 585.116 Requests for information on the state of the offshore renewable energy industry.

(a) The Director may, from time to time, and at the Director’s discretion, solicit information from industry and other relevant stakeholders (including State and local agencies), as necessary, to evaluate the state of the offshore renewable energy industry, including the identification of potential challenges or obstacles to its continued development. Such requests for information may relate to the identification of environmental, technical, regulatory, or economic matters that promote or detract from continued development of renewable energy technologies on the OCS. From the information received, the Director may evaluate potential refinements to the OCS Alternative Energy Program that promote development of the industry in a safe and environmentally responsible manner, and that ensure fair value for use of the nation’s OCS.

(b) BOEM may make such requests for information on a regional basis and may tailor the requests to specific types of renewable energy technologies.

(c) BOEM will publish such requests for information by the Director in the *Federal Register*.

§ 585.117 [Reserved]

§ 585.118 What are my appeal rights?

(a) Any party adversely affected by a BOEM official's final decision or order issued under the regulations of this part may appeal that decision or order to the Interior Board of Land Appeals. The appeal must conform with the procedures found in part 590 of this chapter and in 43 CFR part 4, subpart E. Appeal of a final decision for bid acceptance is covered under paragraph (c) of this section.

(b) A decision will remain in full force and effect during the period in which an appeal may be filed and during an appeal, unless a stay is granted pursuant to 43 CFR part 4.

(c) Our decision on a bid is the final action of the Department, except that an unsuccessful bidder may apply for reconsideration by the Director.

(1) A bidder whose bid we reject may file a written request for reconsideration with the Director within 15 days of the date of the receipt of the notice of rejection, accompanied by a statement of reasons, with one copy to us. The Director will respond in writing either affirming or reversing the decision.

(2) The delegation of review authority given to the Office of Hearings and Appeals does not apply to decisions on high bids for leases or grants under this part.

Subpart B—Issuance of OCS Renewable Energy Leases

GENERAL LEASE INFORMATION

§ 585.200 What rights are granted with a lease issued under this part?

(a) A lease issued under this part grants the lessee the right, subject to obtaining the necessary approvals, including but not limited to those required under the FERC hydrokinetic licensing process, and complying with all provisions of this part, to occupy, and install and operate facilities on, a designated portion of the OCS for the purpose of conducting:

(1) Commercial activities; or

(2) Other limited activities that support, result from, or relate to the production of energy from a renewable energy source.

(b) A lease issued under this part confers on the lessee the right to one or more project easements without further competition for the purpose of installing gathering, transmission, and distribution cables; pipelines; and appurtenances on the OCS as necessary for the full enjoyment of the lease.

(1) You must apply for the project easement as part of your COP or GAP, as provided under subpart F of this part; and

(2) BOEM will incorporate your approved project easement in your lease as an addendum.

(c) A commercial lease issued under this part may be developed in phases, with BOEM approval as provided in § 585.238.

§ 585.201 How will BOEM issue leases?

BOEM will issue leases on a competitive basis, as provided under §§ 585.210-.225. However, if we determine after public notice of a proposed lease that there is no competitive interest, we will issue leases noncompetitively, as provided under §§ 585.230 and 585.232. We will issue leases on forms approved by BOEM and will include terms, conditions, and stipulations identified and developed through the process set forth in §§ 585.211 and 585.231.

§ 585.202 What types of leases will BOEM issue?

BOEM may issue leases on the OCS for the assessment and production of renewable energy and may authorize a combination of specific activities. We may issue commercial leases or limited leases.

§ 585.203 With whom will BOEM consult before issuance of a lease?

For leases issued under this part, through either the competitive or noncompetitive process, BOEM, prior to issuing the lease, will coordinate and consult with relevant Federal agencies (including, in particular, those agencies involved in planning activities that are undertaken to avoid or minimize conflicts among users and to maximize the economic and ecological benefits of the OCS, including multifaceted spatial planning efforts), the Governor of any affected State, the executive of any affected local

government, and any affected Indian Tribe, as directed by subsections 8(p)(4) and (7) of the OCS Lands Act or other relevant Federal laws. Federal statutes that require BOEM to consult with interested parties or Federal agencies or to respond to findings of those agencies include the Endangered Species Act (ESA) and the Magnuson-Stevens Fishery Conservation and Management Act (MSA). BOEM also engages in consultation with State and Tribal historic preservation officers pursuant to the National Historic Preservation Act (NHPA).

§ 585.204 What areas are available for leasing consideration?

BOEM may offer any appropriately platted area of the OCS, as provided in § 585.205, for a renewable energy lease, except any area within the exterior boundaries of any unit of the National Park System, National Wildlife Refuge System, National Marine Sanctuary System, or any National Monument.

§ 585.205 How will leases be mapped?

BOEM will prepare leasing maps and official protraction diagrams of areas of the OCS. The areas included in each lease will be in accordance with the appropriate leasing map or official protraction diagram.

§ 585.206 What is the lease size?

(a) BOEM will determine the size for each lease based on the area required to accommodate the anticipated activities. The processes leading to both competitive and noncompetitive issuance of leases will provide public notice of the lease size adopted.

We will delineate leases by using mapped OCS blocks or portions, or aggregations of blocks.

(b) The lease size includes the minimum area that will allow the lessee sufficient space to develop the project and manage activities in a manner that is consistent with the provisions of this part and part 285 of this title. The lease may include whole lease blocks or portions of a lease block.

§§ 585.207-585.209 [Reserved]

COMPETITIVE LEASE PROCESS

§ 585.210 How does BOEM initiate the competitive leasing process?

BOEM may publish in the *Federal Register* a public notice of Request for Interest to assess interest in leasing all or part of the OCS for activities authorized in this part.

BOEM will consider information received in response to a Request for Interest to determine whether there is competitive interest for scheduling sales and issuing leases.

We may prepare and issue a national, regional, or more specific schedule of lease sales pertaining to one or more types of renewable energy.

§ 585.211 What is the process for competitive issuance of leases?

BOEM will use auctions to award leases on a competitive basis. We will publish details of the process to be employed for each lease sale auction in the *Federal Register*. For each lease sale, we will publish a Proposed Sale Notice and a Final Sale Notice. Individual lease sales will include steps such as:

(a) *Call for Information and Nominations (Call)*. BOEM will publish in the *Federal Register* Calls for Information and Nominations for leasing in specified areas. The comment period following issuance of a Call will be 45 days. In this document, we may:

(1) Request comments on areas which should receive special consideration and analysis;

(2) Request comments concerning geological conditions (including bottom hazards); archaeological sites on the seabed or nearshore; multiple uses of the proposed leasing area (including navigation, recreation, and fisheries); and other socioeconomic, biological, and environmental information; and

(3) Suggest areas to be considered by the respondents for leasing.

(b) *Area Identification*. BOEM will identify areas for environmental analysis and consideration for leasing. We will do this in consultation with appropriate Federal agencies, States, local governments, affected Indian Tribes, and other interested parties.

(1) We may consider for lease those areas nominated in response to the Call for Information and Nominations, together with other areas that BOEM determines are appropriate for leasing.

(2) We will evaluate the potential effect of leasing on the human, marine, and coastal environments, and develop measures to mitigate adverse impacts, including lease stipulations.

(3) We will consult to develop measures, including lease stipulations and conditions, to mitigate adverse impacts on the environment; and

(4) We may hold public hearings on the environmental analysis after appropriate notice.

(c) *Proposed Sale Notice.* BOEM will publish the Proposed Sale Notice in the *Federal Register* and send it to the Governor of any affected State, any Indian Tribe that might be affected, and the executive of any local government that might be affected. The comment period following issuance of a Proposed Sale Notice will be 60 days.

(d) *Final Sale Notice.* BOEM will publish the Final Sale Notice in the *Federal Register* at least 30 days before the date of the sale.

§ 585.212 What is the process BOEM will follow if there is reason to believe that competitors have withdrawn before the Final Sale Notice is issued?

BOEM may decide to end the competitive process before the Final Sale Notice if we have reason to believe that competitors have withdrawn and competition no longer exists. We will issue a second public notice of Request for Interest and consider comments received to confirm that there is no competitive interest.

(a) If, after reviewing comments in response to the notice of Request for Interest, BOEM determines that there is no competitive interest in the lease area, and one party wishes to acquire a lease, we will discontinue the competitive process and will proceed

with the noncompetitive process set forth in § 585.231(d) through (i) following receipt of the acquisition fee specified in § 585.502(a).

(b) If, after reviewing comments in response to the notice of Request for Interest, BOEM determines that competitive interest in the lease area continues to exist, we will continue with the competitive process set forth in §§ 585.211-.225.

§ 585.213 What must I submit in response to a Request for Interest or a Call for Information and Nominations?

If you are a potential lessee, when you respond to a Request for Interest or a Call, your response must include the following items:

- (a) The area of interest for a possible lease.
- (b) A general description of your objectives and the facilities that you would use to achieve those objectives.
- (c) A general schedule of proposed activities, including those leading to commercial operations.
- (d) Available and pertinent data and information concerning renewable energy and environmental conditions in the area of interest, including energy and resource data and information used to evaluate the area of interest. BOEM will withhold trade secrets and commercial or financial information that is privileged or confidential from public disclosure under exemption 4 of the FOIA and as provided in § 585.114.

(e) Documentation showing that you are qualified to hold a lease, as specified in § 585.107.

(f) Any other information requested by BOEM in the *Federal Register* notice.

§ 585.214 What will BOEM do with information from the Requests for Information or Calls for Information and Nominations?

BOEM will use the information received in response to the Requests or Calls to:

- (a) Identify the lease area;
- (b) Develop options for the environmental analysis and leasing provisions (stipulations, payments, terms, and conditions); and
- (c) Prepare appropriate documentation to satisfy applicable Federal requirements, such as NEPA, CZMA, the ESA, and the MMPA.

§ 585.215 What areas will BOEM offer in a lease sale?

BOEM will offer the areas for leasing determined through the process set forth in § 585.211. We will not accept nominations after the Call for Information and Nominations closes.

§ 585.216 What information will BOEM publish in the Proposed Sale Notice and Final Sale Notice?

For each competitive lease sale, BOEM will publish a Proposed Sale Notice and a Final Sale Notice in the *Federal Register*. In the Proposed Sale Notice, we will request public comment on the items listed in this section. We will consider all public comments received in developing the final lease sale terms and conditions. We will publish the final terms and conditions in the Final Sale Notice. The Proposed Sale Notice and Final Sale Notice will include, or describe the availability of, information pertaining to:

- (a) The area available for leasing.

- (b) Proposed and final lease provisions and conditions, including, but not limited to:

- (1) Lease size;

- (2) Lease term;

- (3) Payment requirements;

- (4) Performance requirements; and

- (5) Site-specific lease stipulations.

- (c) Auction details, including:

- (1) Bidding procedures and systems;

- (2) Minimum bid;

- (3) Deposit amount;

- (4) The place and time for filing bids and the place, date, and hour for opening bids;
- (5) Lease award method; and
- (6) Bidding or application instructions.
- (d) The official BOEM lease form to be used or a reference to that form.
- (e) Criteria BOEM will use to evaluate competing bids or applications and how the criteria will be used in decision-making for awarding a lease.
- (f) Award procedures, including how and when BOEM will award leases and how BOEM will handle unsuccessful bids or applications.
- (g) Procedures for appealing the lease issuance decision.
- (h) Execution of the lease instrument.

§§ 585.217-585.219 [Reserved]

COMPETITIVE LEASE AWARD PROCESS

§ 585.220 What auction format may BOEM use in a lease sale?

(a) Except as provided in § 585.231, we will hold competitive auctions to award renewable energy leases and will use one of the following auction formats, as determined through the lease sale process and specified in the Proposed Sale Notice and in the Final Sale Notice:

Type of auction	Bid variable	Bidding process
(1) Sealed bidding	A cash bonus or an operating fee rate	One sealed bid per company per lease or packaged bidding unit.
(2) Ascending bidding	A cash bonus or an operating fee rate	Continuous bidding per lease.
(3) Two-stage bidding (combination of ascending and sealed bidding)	An operating fee rate in one, both, or neither stage and a cash bonus in one, both, or neither stage	Ascending or sealed bidding until: (i) Only two bidders remain, or (ii) More than one bidder offers to pay the maximum bid amount.
		Stage-two sealed or ascending bidding commences at some predetermined time after the end of stage-one bidding.
(4) Multiple-factor bidding	Factors may include, but are not limited to: technical merit, timeliness, financing and economics, environmental considerations, public benefits, compatibility with State and local needs, cash bonus, rental rate, and an operating fee rate	One proposal per company per lease or packaged bidding unit.

(b) You must submit your bid and a deposit as specified in §§ 585.500-.501 to cover the bid for each lease area, according to the terms specified in the Final Sale Notice.

§ 585.221 What bidding systems may BOEM use for commercial leases and limited leases?

(a) For commercial leases, we will specify minimum bids in the Final Sale Notice and use one of the following bidding systems, as specified in the Proposed Sale Notice and in the Final Sale Notice:

Bid system	Bid variable
(1) Cash bonus with a constant fee rate (decimal)	Cash bonus.
(2) Constant operating fee rate with fixed cash bonus	A fee rate used in the formula found in § 585.506 to set the operating fee per year during the operations term of your lease.
(3) Sliding operating fee rate with a fixed cash bonus	A fee rate used in the formula in § 585.506 to set the operating fee for the first year of the operations term of your lease. The fee rate for subsequent years changes by a mathematical function we specify in the Final Sale Notice.
(4) Cash bonus <i>and</i> constant operating fee rate	Cash bonus and operating fee rate as stated in paragraph (a)(2) of this section (two-stage auction format only).
(5) Cash bonus <i>and</i> sliding operating fee rate	Cash bonus and operating fee rate as stated in paragraph (a)(3) of this section (two-stage auction format only).
(6) Multiple-factor combination of nonmonetary and monetary factors	BOEM will identify bidding variables in the Final Sale Notice. Variables may include: (i) Nonmonetary (<i>e.g.</i> , technical merit) factors and (ii) Monetary (<i>e.g.</i> , cash bonus, rental rate, fee rate) factors.

(b) For limited leases, the bid variable will be a cash bonus, with a minimum bid as we specify in the Final Sale Notice.

§ 585.222 What does BOEM do with my bid?

(a) If sealed bidding is used:

(1) We open the sealed bids at the place, date, and hour specified in the Final Sale Notice for the sole purpose of publicly announcing and recording the bids. We do not accept or reject any bids at that time.

(2) We reserve the right to reject any and all high bids, including a bid for any proposal submitted under the multiple-factor bidding format, regardless of the amount

offered or bidding system used. The reasons for the rejection of a winning bid may include, but are not necessarily limited to, insufficiency, illegality, anti-competitive behavior, administrative error, and the presence of unusual bidding patterns. We intend to accept or reject all high bids within 90 days, but we may extend that time if necessary.

(b) If we use ascending bidding, we may, in the Final Sale Notice, reserve the right to accept the winning bid solely based on its being the highest bid submitted by a qualified bidder (qualified to be an OCS lessee under § 585.107).

(c) If we use two-stage bidding and the auction concludes with:

(1) An ascending bidding stage, the winning bid will be determined as stated in paragraph (b) of this section; or

(2) A sealed bidding stage, the winning bid will be determined as stated in paragraph (a) of this section.

(d) If we use multiple-factor bidding, determination of the winning bid for any proposal submitted will be made by a panel composed of members selected by BOEM. The details of the process will be described in the Final Sale Notice.

(e) We will send a written notice of our decision to accept or reject bids to all bidders whose deposits we hold.

§ 585.223 What does BOEM do if there is a tie for the highest bid?

(a) Unless otherwise specified in the Final Sale Notice, except in the first stage of a two-stage bidding auction, if more than one bidder on a lease submits the same high bid amount, the winning bidder will be determined by a further round or stage of bidding as described in the Final Sale Notice.

(b) The winning bidder will be subject to final confirmation following determination of bid adequacy.

§ 585.224 What happens if BOEM accepts my bid?

If we accept your bid, we will send you a notice with three copies of the lease form.

(a) Within 10 business days after you receive the lease copies, you must:

(1) Execute the lease;

(2) File financial assurance as required under §§ 585.515-.537 as applicable; and

(3) Pay the balance of the bonus bid as specified in the lease sale notice.

(b) Within 45 days after you receive the lease copies, you must pay the first 12 months' rent as required in § 585.503.

(c) When you execute three copies of the lease and return the copies to us, we will execute the lease on behalf of the United States and send you one fully executed copy.

(d) You will forfeit your deposit if you do not execute and return the lease within 10-business days of receipt, or otherwise fail to comply with applicable regulations or terms of the Final Sale Notice.

(e) We may extend the 10 business day time period for executing and returning the lease if we determine the delay to be caused by events beyond your control.

(f) We reserve the right to withdraw an OCS area in which we have held a lease sale before you and BOEM execute the lease in that area. If we exercise this right, we will refund your bid deposit, without interest.

(g) If the awarded lease is executed by an agent acting on behalf of the bidder, the bidder must submit, along with the executed lease, written evidence that the agent is authorized to act on behalf of the bidder.

(h) BOEM will consider the highest submitted qualified bid to be the winning bid when bidding occurs under the systems described in § 585.221(a)(1) through (5). We will determine the winning bid for proposals submitted under the multiple-factor bidding format on the basis of selection by the panel as specified in § 585.222(d) when the bidding system under § 585.221(a)(6) is used. We will refund the deposit on all other bids.

§ 585.225 What happens if my bid is rejected, and what are my appeal rights?

(a) If we reject your bid, we will provide a written statement of the reasons and refund any money deposited with your bid, without interest.

(b) You may ask the BOEM Director for reconsideration, in writing, within 15 business days of bid rejection, under § 585.118(c)(1). We will send you a written response either affirming or reversing the rejection.

§§ 585.226-585.229 [Reserved]

NONCOMPETITIVE LEASE AWARD PROCESS

§ 585.230 May I request a lease if there is no Call?

You may submit an unsolicited request for a commercial lease or a limited lease under this part. Your unsolicited request must contain the following information:

- (a) The area you are requesting for lease.
- (b) A general description of your objectives and the facilities that you would use to achieve those objectives.
- (c) A general schedule of proposed activities including those leading to commercial operations.
- (d) Available and pertinent data and information concerning renewable energy and environmental conditions in the area of interest, including energy and resource data and information used to evaluate the area of interest. BOEM will withhold trade secrets and commercial or financial information that is privileged or confidential from public disclosure under exemption 4 of the FOIA and as provided in § 585.114.

(e) If available from the appropriate State or local government authority, a statement that the proposed activity conforms with State and local energy planning requirements, initiatives, or guidance.

(f) Documentation showing that you meet the qualifications to become a lessee, as specified in § 585.107.

(g) An acquisition fee, as specified in § 585.502(a).

§ 585.231 How will BOEM process my unsolicited request for a noncompetitive lease?

(a) BOEM will consider unsolicited requests for a lease on a case-by-case basis and may issue a lease noncompetitively in accordance with this part. We will not consider an unsolicited request for a lease under this part that is proposed in an area of the OCS that is scheduled for a lease sale under this part.

(b) BOEM will issue a public notice of a request for interest relating to your proposal and consider comments received to determine if competitive interest exists.

(c) If BOEM determines that competitive interest exists in the lease area:

(1) BOEM will proceed with the competitive process set forth in §§ 585.210 through 585.225;

(2) If you submit a bid for the lease area in a competitive lease sale, your acquisition fee will be applied to the deposit for your bonus bid; and

(3) If you do not submit a bid for the lease area in a competitive lease sale, BOEM will not refund your acquisition fee.

(d) If BOEM determines that there is no competitive interest in a lease, we will publish in the *Federal Register* a notice of Determination of No Competitive Interest. After BOEM publishes this notice, you will be responsible for submitting any required consistency certification and necessary data and information pursuant to 15 CFR part 930, subpart D, to the applicable State CZMA agency or agencies and BOEM.

(e) BOEM will coordinate and consult with affected Federal agencies, State, and local governments, and affected Indian Tribes in the review of noncompetitive lease requests.

(f) After completing the review of your lease request, BOEM may offer you a noncompetitive lease.

(g) If you accept the terms and conditions of the lease, then we will issue the lease, and you must comply with all terms and conditions of your lease and all applicable provisions of this part and part 285 of this title. If we issue you a lease, we will send you a notice with 3 copies of the lease form.

(1) Within 10 business days after you receive the lease copies you must:

(i) Execute the lease;

(ii) File financial assurance as required under §§ 585.515 through 585.537; and

(2) Within 45 days after you receive the lease copies, you must pay the first 12 months' rent, as required in § 585.503.

(h) BOEM will publish in the *Federal Register* a notice announcing the issuance of your lease.

(i) If you do not accept the terms and conditions, BOEM will not issue a lease and will not refund your acquisition fee.

§ 585.232 May I acquire a lease noncompetitively after responding to a Request for Interest or Call for Information and Nominations?

(a) If you submit an area of interest for a possible lease and BOEM receives no competing submissions in response to the RFI or Call, we may inform you that there does not appear to be competitive interest, and ask if you wish to proceed with acquiring a lease.

(b) If you wish to proceed with acquiring a lease, you must submit your acquisition fee as specified in § 585.502(a).

(c) After receiving the acquisition fee, BOEM will follow the process outlined in § 585.231(d) through (i).

§§ 585.233-585.234 [Reserved]

COMMERCIAL AND LIMITED LEASE TERMS

§ 585.235 If I have a commercial lease, how long will my lease remain in effect?

(a) For commercial leases, the lease terms and applicable automatic extensions are as shown in the following table:

Lease term	Automatic extensions	Requirements
(1) Each commercial lease will have a preliminary term of 12 months, within which the lessee must submit: (i) a SAP; or (ii) a combined SAP and Construction and Operations Plan (COP). The preliminary term begins on the effective date of the lease	If BOEM receives a SAP that satisfies the requirements of §§ 585.605-.613 or a SAP/COP that satisfies the requirements of §§ 585.605-.613 and §§ 585.620-.628, the preliminary term will be extended for the time necessary for us to conduct technical and environmental reviews of the SAP or SAP/COP	The SAP must meet the requirements of §§ 585.605-.613. The SAP/COP must meet the requirements of §§ 585.605-.613 and §§ 585.620-.628.
(2) A commercial lease will have a site assessment term of five years to conduct site assessment activities and to submit a COP, if a SAP/COP has not been submitted. Your site assessment term begins when BOEM approves your SAP or SAP/COP	If we receive a COP that satisfies the requirements of §§ 585.620-.628, the site assessment term will be automatically extended for the period of time necessary for us to conduct technical and environmental reviews of the COP	The COP must meet the requirements of §§ 585.620-.628.
(3) A commercial lease will have an operations term of 25 years, unless a longer term is negotiated by the parties. A request for lease renewal must be submitted two years before the end of the operations term. If you submit a COP, your operations term begins on the date that BOEM approves the COP. If you submit a SAP/COP, your operations term begins on the earliest of the following dates: five years after		The lease renewal request must meet the requirements in §§ 585.425-.429.

BOEM approves the SAP/COP; when fabrication begins; or, when installation commences		
(4) A commercial lease may have additional time added to the operations term through a lease renewal. The term of the lease renewal will not exceed the original term of the lease, unless a longer term is negotiated by the parties. The lease renewal term begins upon expiration of the original operations term		NOTE: BOEM may also order or grant a suspension of the operations term, as provided in §§ 585.415-.421 thereby effectively extending the term of the lease.

(b) If you do not timely submit a SAP, COP, or SAP/COP, as appropriate, you may request additional time to extend the preliminary or site assessment term of your commercial lease that includes a revised schedule for submission of the plan, as appropriate.

§ 585.236 If I have a limited lease, how long will my lease remain in effect?

(a) For limited leases, the lease terms are as shown in the following table:

Lease term	Extension or suspension	Requirements
(1) Each limited lease has a preliminary term of 12 months to submit a GAP. The preliminary term begins on the effective date of the lease	If we receive a GAP that satisfies the requirements of §§ 585.640-.648 of this part, the preliminary term will be automatically extended for the period of time necessary for us to conduct a technical and environmental review of the plans	The GAP must meet the requirements of §§ 585.640-.648.
(2) Each limited lease has an operations term of five years for conducting site assessment, technology testing, or other activities. The operations term	We may order or grant a suspension of the operations term as provided in §§ 585.415-.421.	

begins on the date that we approve your GAP		
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(b) If you do not timely submit a GAP, you may request additional time to extend the preliminary term of your limited lease that includes a revised schedule for submission of a GAP.

§ 585.237 What is the effective date of a lease?

(a) A lease issued under this part must be dated and becomes effective as of the first day of the month following the date a lease is signed by the lessor.

(b) If the lessee submits a written request and BOEM approves, a lease may be dated and become effective the first day of the month in which it is signed by the lessor.

§ 585.238 May I develop my commercial lease in phases?

In your COP, you may request development of your commercial lease in phases. In support of your request, you must provide details as to what portions of the lease will be initially developed for commercial operations and what portions of the lease will be reserved for subsequent phased development.

§ 585.239 Are there any other renewable energy research activities that will be allowed on the OCS?

(a) The Director may issue OCS leases, ROW grants, and RUE grants to a Federal agency or a State for renewable energy research activities that support the future production, transportation, or transmission of renewable energy.

(b) In issuing leases, ROW grants, and RUE grants to a Federal agency or a State on the OCS for renewable energy research activities under this provision, BOEM will coordinate and consult with other relevant Federal agencies, any other affected State(s), affected local government executives, and affected Indian Tribes.

(c) BOEM may issue leases, RUEs, and ROWs for research activities managed by a Federal agency or a State only in areas for which the Director has determined, after public notice and opportunity to comment, that no competitive interest exists.

(d) The Director and the head of the Federal agency or the Governor of a requesting State, or their authorized representatives, will negotiate the terms and conditions of such renewable energy leases, RUEs, or ROWs under this provision on a case-by-case basis. The framework for such negotiations, and standard terms and conditions of such leases, RUEs, or ROWs may be set forth in a memorandum of agreement (MOA) or other agreement between BOEM and a Federal agency or a State. The MOA must include the agreement of the head of the Federal agency or the Governor to assure that all subcontractors comply with these regulations and part 285 of this title, other applicable laws, and terms and conditions of such leases or grants.

(e) Any lease, RUE, or ROW that BOEM issues to a Federal agency or to a State that authorizes access to an area of the OCS for research activities managed by a Federal agency or a State must include:

(1) Requirements to comply with all applicable Federal laws; and

(2) Requirements to comply with these regulations and part 285 of this title, except as otherwise provided in the lease or grant.

(f) BOEM will issue a public notice of any lease, RUE, ROW issued to a Federal agency or to a State, or an approved MOA for such research activities.

(g) BOEM will not charge any fees for the purpose of ensuring a fair return for the use of such research areas on the OCS.

Subpart C—Right-of-Way (ROW) and Right-of-Use and Easement (RUE) Grants for Renewable Energy Activities

ROW GRANTS AND RUE GRANTS

§ 585.300 What types of activities are authorized by ROW grants and RUE grants issued under this part?

(a) An ROW grant authorizes the holder to install on the OCS cables, pipelines, and associated facilities that involve the transportation or transmission of electricity or other energy product from renewable energy projects.

(b) An RUE grant authorizes the holder to construct and maintain facilities or other installations on the OCS that support the production, transportation, or transmission of electricity or other energy product from any renewable energy resource.

(c) You do not need an ROW grant or RUE grant for a project easement authorized under § 585.200(b) to serve your lease.

§ 585.301 What do ROW grants and RUE grants include?

(a) An ROW grant:

(1) Includes the full length of the corridor on which a cable, pipeline, or associated facility is located;

(2) Is 200 feet (61 meters) in width, centered on the cable or pipeline, unless safety and environmental factors during construction and maintenance of the associated cable or pipeline require a greater width; and

(3) For the associated facility, is limited to the area reasonably necessary for a power or pumping station or other accessory facility.

(b) An RUE grant includes the site on which a facility or other structure is located and the areal extent of anchors, chains, and other equipment associated with a facility or other structure. The specific boundaries of an RUE will be determined by BOEM on a case-by-case basis and set forth in each RUE grant.

§ 585.302 What are the general requirements for ROW grant and RUE grant holders?

(a) To acquire an ROW grant or RUE grant you must provide evidence that you meet the qualifications as required in § 585.107.

(b) An ROW grant or RUE grant is subject to the following conditions:

(1) The rights granted will not prevent the granting of other rights by the United States, either before or after the granting of the ROW or RUE, provided that any subsequent authorization issued by BOEM in the area of a previously issued ROW grant or RUE grant may not unreasonably interfere with activities approved or impede existing operations under such a grant; and

(2) The holder agrees that the United States, its lessees, or other ROW grant or RUE grant holders may use or occupy any part of the ROW grant or RUE grant not actually occupied or necessarily incident to its use for any necessary activities.

§ 585.303 How long will my ROW grant or RUE grant remain in effect?

(a) Each ROW or RUE grant will have a preliminary term of 12 months from the date of issuance of the ROW or RUE grant within which to submit a GAP. The preliminary term begins on the effective date of the grant. You must submit a GAP no later than the end of the preliminary term for your grant to remain in effect. However, you may submit a GAP prior to the issuance of your ROW or RUE grant.

(b) Except as described in paragraph (a) of this section, your ROW grant or RUE grant will remain in effect for as long as the associated activities are properly maintained and used for the purpose for which the grant was made, unless otherwise expressly stated in the grant.

§ 585.304 [Reserved]

OBTAINING ROW GRANTS AND RUE GRANTS

§ 585.305 How do I request an ROW grant or RUE grant?

You must submit to BOEM one paper copy and one electronic copy of a request for a new or modified ROW grant or RUE grant. You must submit a separate request for each ROW grant or RUE grant you are requesting. The request must contain the following information:

- (a) The area you are requesting for a ROW grant or RUE grant.
- (b) A general description of your objectives and the facilities that you would use to achieve those objectives.
- (c) A general schedule of proposed activities.
- (d) Pertinent information concerning environmental conditions in the area of interest.

§ 585.306 What action will BOEM take on my request?

BOEM will consider requests for ROW grants and RUE grants on a case-by-case basis and may issue a grant competitively, as provided in § 585.308, or noncompetitively if we determine after public notice that there is no competitive interest. BOEM will coordinate and consult with relevant Federal agencies, with the Governor of any affected State, and the executive of any affected local government.

- (a) In response to an unsolicited request for a ROW grant or RUE grant, BOEM will first determine if there is competitive interest, as provided in § 585.307.

(b) If BOEM determines that there is no competitive interest in a ROW grant or RUE grant, we will publish a notice in the Federal Register of such determination. After BOEM publishes this notice, you will be responsible for submitting any required consistency certification and necessary data and information pursuant to 15 CFR part 930, subpart D to the applicable State CZMA agency or agencies and BOEM. We will establish terms and conditions for the grant in consultation with you.

§ 585.307 How will BOEM determine whether competitive interest exists for ROW grants and RUE grants?

To determine whether or not there is competitive interest:

(a) We will publish a public notice, describing the parameters of the project, to give affected and interested parties an opportunity to comment on the proposed ROW grant or RUE grant area.

(b) We will evaluate any comments received on the notice and make a determination of the level of competitive interest.

§ 585.308 How will BOEM conduct an auction for ROW grants and RUE grants?

(a) If BOEM determines that there is competitive interest, we will:

(1) Publish a notice of each grant auction in the Federal Register describing auction procedures, allowing interested persons 30 days to comment; and

(2) Conduct a competitive auction for issuing the ROW grant or RUE grant. The auction process for ROW grants and RUE grants will be conducted following the same process for leases set forth in §§ 585.211-.225.

(b) If you are the successful bidder in an auction, you must pay the first year's rent, as provided in § 585.316.

§ 585.309 When will BOEM issue a noncompetitive ROW grant or RUE grant?

After completing the review of your grant request, BOEM may offer you a noncompetitive grant.

(a) If you accept the terms and conditions of the grant, then we will issue the grant, and you must comply with all terms and conditions of your grant and all applicable provisions of this part and part 285 of this title.

(b) If you do not accept the terms and conditions, BOEM will not issue a grant.

§ 585.310 What is the effective date of an ROW grant or RUE grant?

Your ROW grant or RUE grant becomes effective on the date established by BOEM on the ROW grant or RUE grant instrument.

§§ 585.311-585.314 [Reserved]

FINANCIAL REQUIREMENTS FOR ROW GRANTS AND RUE GRANTS

§ 585.315 What deposits are required for a competitive ROW grant or RUE grant?

(a) You must make a deposit, as required in § 585.501(a), regardless of whether the auction is a sealed-bid, oral, electronic, or other auction format. BOEM will specify in the sale notice the official to whom you must submit the payment, the time by which the official must receive the payment, and the forms of acceptable payment.

(b) If your high bid is rejected, we will provide a written statement of reasons.

(c) For all rejected bids, we will refund, without interest, any money deposited with your bid.

§ 585.316 What payments are required for ROW grants or RUE grants?

Before we issue the ROW grant or RUE grant, you must pay:

(a) Any balance on accepted high bids to ONRR, as provided in the sale notice.

(b) An annual rent for the first year of the grant, as specified in § 585.508.

Subpart D—Lease and Grant Administration

§§ 585.400-585.404 [Reserved]

DESIGNATION OF OPERATOR

§ 585.405 How do I designate an operator?

(a) If you intend to designate an operator who is not the lessee or grant holder, you must identify the proposed operator in your SAP (under § 585.610(a)(3)), COP (under § 585.626(b)(2)), or GAP (under § 585.645(b)(3)), as applicable. If no operator is

designated in a SAP, COP, or GAP, BOEM will deem the lessee or grant holder to be the operator.

(b) An operator must be designated in any SAP, COP, or GAP if there is more than one lessee or grant holder for any individual lease or grant.

(c) Once approved in your plan, the designated operator is authorized to act on your behalf and required to perform activities necessary to comply with the OCS Lands Act, the lease or grant, and the regulations in this part.

(d) You, or your designated operator, must immediately provide BOEM with a written notification of change of address of the lessee or operator.

(e) If there is a change in the designated operator, you must provide written notice to BOEM and identify the new designated operator within 72 hours on a form approved by BOEM. The lessee(s) or grantee(s) is the operator and responsible for compliance until BOEM approves designation of the new operator.

(f) Designation of an operator under any lease or grant issued under this part does not relieve the lessee or grant holder of its obligations under this part or its lease or grant.

(g) A designated operator performing activities on the lease must comply with all regulations governing those activities and may be held liable or penalized for any noncompliance during the time it was the operator, notwithstanding its subsequent resignation.

§ 585.406 Who is responsible for fulfilling lease and grant obligations?

(a) When you are not the sole lessee or grantee, you and your co-lessee(s) or co-grantee(s) are jointly and severally responsible for fulfilling your obligations under the lease or grant and the provisions of this part and part 285 of this title, unless otherwise provided in these regulations.

(b) If your designated operator fails to fulfill any of your obligations under the lease or grant and this part, BOEM may require you or any or all of your co-lessees or co-grantees to fulfill those obligations or other operational obligations under the OCS Lands Act, the lease, grant, or the regulations.

(c) Whenever the regulations in this part require the lessee or grantee to conduct an activity in a prescribed manner, the lessee or grantee and operator (if one has been designated) are jointly and severally responsible for complying with the regulations.

§ 585.407 [Reserved]

LEASE OR GRANT ASSIGNMENT

§ 585.408 May I assign my lease or grant interest?

(a) You may assign all or part of your lease or grant interest, including record title, subject to BOEM approval under this subpart. Each instrument that creates or transfers an interest must describe the entire tract or describe by officially designated subdivisions the interest you propose to create or transfer.

(b) You may assign a lease or grant interest by submitting one paper copy and one electronic copy of an assignment application to BOEM. The assignment application must include:

- (1) BOEM-assigned lease or grant number;
- (2) A description of the geographic area or undivided interest you are assigning;
- (3) The names of both the assignor and the assignee, if applicable;
- (4) The names and telephone numbers of the contacts for both the assignor and the assignee;
- (5) The names, titles, and signatures of the authorizing officials for both the assignor and the assignee;
- (6) A statement that the assignee agrees to comply with and to be bound by the terms and conditions of the lease or grant;
- (7) The qualifications of the assignee to hold a lease or grant under § 585.107; and
- (8) A statement on how the assignee will comply with the financial assurance requirements of §§ 585.515 through 585.537. No assignment will be approved until the assignee provides the required financial assurance.

(c) If you submit an application to assign a lease or grant, you will continue to be responsible for payments that are or become due on the lease or grant until the date BOEM approves the assignment.

(d) The assignment takes effect on the date BOEM approves your application.

(e) You do not need to request an assignment for mergers, name changes, or changes of business form. You must notify BOEM of these events under § 585.109.

§ 585.409 How do I request approval of a lease or grant assignment?

(a) You must request approval of each assignment on a form approved by BOEM, and submit originals of each instrument that creates or transfers ownership of record title or certified copies thereof within 90 days after the last party executes the transfer agreement.

(b) Any assignee will be subject to all the terms and conditions of your original lease or grant, including the requirement to furnish financial assurance in the amount required in §§ 585.515 through 585.537.

(c) The assignee must submit proof of eligibility and other qualifications specified in § 585.107.

(d) Persons executing on behalf of the assignor and assignee must furnish evidence of authority to execute the assignment.

§ 585.410 How does an assignment affect the assignor's liability?

As assignor, you are liable for all obligations, monetary and nonmonetary, that accrued under your lease or grant before BOEM approves your assignment. Our approval of the assignment does not relieve you of these accrued obligations. BOEM may require you to bring the lease or grant into compliance to the extent the obligation accrued before the effective date of your assignment if your assignee or subsequent assignees fail to perform any obligation under the lease or grant.

§ 585.411 How does an assignment affect the assignee's liability?

(a) As assignee, you are liable for all lease or grant obligations that accrue after BOEM approves the assignment. As assignee, you must comply with all the terms and conditions of the lease or grant and all applicable regulations, remedy all existing environmental and operational problems on the lease or grant, and comply with all decommissioning requirements under part 285, subpart I of this title.

(b) Assignees are bound to comply with each term or condition of the lease or grant and the regulations in this part and part 285 of this title. You are jointly and severally liable for the performance of all obligations under the lease or grant and under the regulations in this part and part 285 of this title with each prior and subsequent lessee who held an interest from the time the obligation accrued until it is satisfied, unless this part provides otherwise.

§§ 585.412-585.414 [Reserved]

LEASE OR GRANT SUSPENSION

§ 585.415 What is a lease or grant suspension?

(a) A suspension is an interruption of the term of your lease or grant that may occur:

(1) As approved by BOEM at your request, as provided in § 585.416; or

(2) As ordered by BOEM, as provided in § 585.417 or by BSEE as provided in § 285.417 of this title.

(b) A lease or grant suspension extends the term of your lease or grant for the length of time the suspension is in effect.

(c) Activities may not be conducted on your lease or grant during the period of a suspension except as expressly authorized under the terms of the lease or grant suspension.

§ 585.416 How do I request a lease or grant suspension?

You must submit a written request to BOEM that includes the following information no later than 90 days prior to the expiration of your appropriate lease or grant term:

(a) The reasons you are requesting suspension of your lease or grant term, and the length of additional time requested.

(b) An explanation of why the suspension is necessary in order to ensure full enjoyment of your lease or grant and why it is in the lessor's or grantor's interest to approve the suspension.

(c) If you do not timely submit a SAP, COP, or GAP, as required, you may request a suspension to extend the preliminary or site assessment term of your lease or grant that includes a revised schedule for submission of a SAP, COP, or GAP, as appropriate.

(d) Any other information BOEM may require.

§ 585.417 When may BOEM order a suspension?

BOEM may order a suspension under the following circumstances:

- (a) When necessary to comply with judicial decrees prohibiting some or all activities under your lease; or
- (b) When the suspension is necessary for reasons of national security or defense.

§ 585.418 How will BOEM issue a suspension?

- (a) BOEM will issue a suspension order orally or in writing.
- (b) BOEM will send you a written suspension order as soon as practicable after issuing an oral suspension order.
- (c) The written order will explain the reasons for its issuance and describe the effect of the suspension order on your lease or grant and any associated activities. BOEM may

authorize certain activities during the period of the suspension, as set forth in the suspension order.

§ 585.419 What are my immediate responsibilities if I receive a suspension order?

You must comply with the terms of a suspension order upon receipt and take any action prescribed within the time set forth therein.

§ 585.420 What effect does a suspension order have on my payments?

(a) While BOEM evaluates your request for a suspension under § 585.416, you must continue to fulfill your payment obligation until the end of the original term of your lease or grant. If our evaluation goes beyond the end of the original term of your lease or grant, the term of your lease or grant will be extended for the period of time necessary for BOEM to complete its evaluation of your request, but you will not be required to make payments during the time of the extension.

(b) If BOEM approves your request for a suspension, as provided in § 585.416, we may suspend your payment obligation, as appropriate for the term that is suspended, depending on the reasons for the requested suspension.

(c) If BOEM orders a suspension, as provided in § 585.417, your payments, as appropriate for the term that is suspended, will be waived during the suspension period.

§ 585.421 How long will a lease or grant suspension be in effect?

A lease or grant suspension will be in effect for the period specified by BOEM.

(a) BOEM will not approve a lease or grant suspension request pursuant to § 585.416 for a period longer than 2 years.

(b) If BOEM determines that the circumstances giving rise to a suspension ordered under § 585.417 cannot be resolved within 5 years, the Secretary may initiate cancellation of the lease or grant.

LEASE OR GRANT CANCELLATION

§ 585.422 When can my lease or grant be canceled?

(a) The Secretary will cancel any lease or grant issued under this part upon proof that it was obtained by fraud or misrepresentation, and after notice and opportunity to be heard has been afforded to the lessee or grant holder.

(b) The Secretary may cancel any lease or grant issued under this part when:

(1) The Secretary determines after notice and opportunity for a hearing that, with respect to the lease or grant that would be canceled, the lessee or grantee has failed to comply with any applicable provision of the OCS Lands Act or these regulations; any order of the Director; or any term, condition or stipulation contained in the lease or grant, and that the failure to comply continued 30 days (or other period BOEM specifies) after you receive notice from BOEM. The Secretary will mail a notice by registered or certified letter to the lessee or grantee at its record post office address;

(2) The Secretary determines after notice and opportunity for a hearing that you have terminated commercial operations under your COP, as provided in § 585.635, or other approved activities under your GAP, as provided in § 585.656;

(3) Required by national security or defense; or

(4) The Secretary determines after notice and opportunity for a hearing that continued activity under the lease or grant:

(i) Would cause serious harm or damage to natural resources; life (including human and wildlife); property; the marine, coastal, or human environment; or sites, structures, or objects of historical or archaeological significance; and

(ii) That the threat of harm or damage would not disappear or decrease to an acceptable extent within a reasonable period of time; and

(iii) The advantages of cancellation outweigh the advantages of continuing the lease or grant in force.

§§ 585.423-585.424 [Reserved]

LEASE OR GRANT RENEWAL

§ 585.425 May I obtain a renewal of my lease or grant before it terminates?

You may request renewal of the operations term of your lease or the original authorized term of your grant. BOEM, at its discretion, may approve a renewal request to

conduct substantially similar activities as were originally authorized under the lease or grant. BOEM will not approve a renewal request that involves development of a type of renewable energy not originally authorized in the lease or grant. BOEM may revise or adjust payment terms of the original lease, as a condition of lease renewal.

§ 585.426 When must I submit my request for renewal?

(a) You must request a renewal from BOEM:

(1) No later than 180 days before the termination date of your limited lease or grant.

(2) No later than 2 years before the termination date of the operations term of your commercial lease.

(b) You must submit to BOEM all information we request pertaining to your lease or grant and your renewal request.

§ 585.427 How long is a renewal?

BOEM will set the term of a renewal at the time of renewal on a case-by-case basis.

(a) For commercial leases, a renewal term will not exceed the original operations term unless a longer term is negotiated by the applicable parties.

(b) For limited leases, a renewal term will not exceed the original operations term.

(c) For RUE and ROW grants, a renewal will continue for as long as the associated activities are conducted and facilities properly maintained and used for the purpose for which the grant was made, unless otherwise expressly stated.

§ 585.428 What effect does applying for a renewal have on my activities and payments?

If you timely request a renewal:

(a) You may continue to conduct activities approved under your lease or grant under the original terms and conditions for as long as your request is pending decision by BOEM.

(b) You may request a suspension of your lease or grant, as provided in § 585.416, while we consider your request.

(c) For the period BOEM considers your request for renewal, you must continue to make all payments in accordance with the original terms and conditions of your lease or grant.

§ 585.429 What criteria will BOEM consider in deciding whether to renew a lease or grant?

BOEM will consider the following criteria in deciding whether to renew a lease or grant:

(a) Design life of existing technology.

- (b) Availability and feasibility of new technology.
- (c) Environmental and safety record of the lessee or grantee.
- (d) Operational and financial compliance record of the lessee or grantee.
- (e) Competitive interest and fair return considerations.
- (f) Effects of the lease or grant on generation capacity and reliability within the regional electrical distribution and transmission system.

§§ 585.430-585.431 [Reserved]

LEASE OR GRANT TERMINATION

§ 585.432 When does my lease or grant terminate?

Your lease or grant terminates on whichever of the following dates occurs first:

- (a) The expiration of the applicable term of your lease or grant, unless your term is automatically extended under §§ 585.235 or 585.236, a request for renewal of your lease or grant is pending a decision by BOEM, or your lease or grant is suspended or renewed as provided in this subpart;
- (b) A cancellation, as set forth in § 585.422; or
- (c) Relinquishment, as set forth in § 585.435.

§585.433 What must I do after my lease or grant terminates?

(a) After your lease or grant terminates, you must:

(1) Make all payments due, including any accrued rentals and deferred bonuses; and

(2) Perform any other outstanding obligations under the lease or grant within 6 months.

(b) Within 2 years following termination of a lease or grant, you must remove or dispose of all facilities, installations, and other devices permanently or temporarily attached to the seabed on the OCS in accordance with a plan approved by BOEM under subpart F of this part or an application approved by BSEE under part 285, subpart I of this title.

(c) If you fail to comply with your approved decommissioning plan or application:

(1) BOEM may call for the forfeiture of your financial assurance; and

(2) You remain liable for removal or disposal costs and responsible for accidents or damages that might result from such failure.

§ 585.434 When may BOEM authorize facilities to remain in place following termination of a lease or grant?

(a) In your decommissioning application that you submit to BSEE in accordance with § 285.902 of this title, you may request that certain facilities authorized in your lease or grant remain in place for activities authorized in this part, elsewhere in this subchapter, or by other applicable Federal laws.

(b) BOEM may approve such requests on a case-by-case basis considering the following:

- (1) Potential impacts to the marine environment;
- (2) Competing uses of the OCS;
- (3) Impacts on marine safety and National defense;
- (4) Maintenance of adequate financial assurance; and
- (5) Other factors determined by the Director.

(c) Except as provided in paragraph (d) of this section, if BOEM authorizes facilities to remain in place, the former lessee or grantee under this part remains jointly and severally liable for decommissioning the facility unless satisfactory evidence is provided to BOEM showing that another party has assumed that responsibility and has secured adequate financial assurances.

(d) In your decommissioning application, you may request that certain facilities authorized in your lease or grant be converted to an artificial reef or otherwise toppled in place. BOEM will evaluate all such requests.

LEASE OR GRANT RELINQUISHMENT

§ 585.435 How can I relinquish a lease or a grant or parts of a lease or grant?

(a) You may surrender the lease or grant, or an officially designated subdivision thereof, by filing one paper copy and one electronic copy of a relinquishment application with BOEM. A relinquishment takes effect on the date we approve your application, subject to the continued obligation of the lessee and the surety to:

(1) Make all payments due on the lease or grant, including any accrued rent and deferred bonuses;

(2) Decommission all facilities on the lease or grant to be relinquished to the satisfaction of BSEE; and

(3) Perform any other outstanding obligations under the lease or grant.

(b) Your relinquishment application must include:

(1) Name;

(2) Contact name;

(3) Telephone number;

(4) Fax number;

(5) E-mail address;

(6) BOEM-assigned lease or grant number, and, if applicable, the name of any facility;

- (7) A description of the geographic area you are relinquishing;
- (8) The name, title, and signature of your authorizing official (the name, title, and signature must match exactly the name, title, and signature in BOEM qualification records); and
- (9) A statement that you will adhere to the requirements of part 285, subpart I of this title.
- (c) If you have submitted an application to relinquish a lease or grant, you will be billed for any outstanding payments that are due before the relinquishment takes effect, as provided in paragraph (a) of this section.

LEASE OR GRANT CONTRACTION

§ 585.436 Can BOEM require lease or grant contraction?

At an interval no more frequent than every 5 years, BOEM may review your lease or grant area to determine whether the lease or grant area is larger than needed to develop the project and manage activities in a manner that is consistent with the provisions of this part. BOEM will notify you of our proposal to contract the lease or grant area.

- (a) BOEM will give you the opportunity to present orally or in writing information demonstrating that you need the area in question to manage lease or grant activities consistent with these regulations.

(b) Prior to taking action to contract the lease or grant area, BOEM will issue a decision addressing your contentions that the area is needed.

(c) You may appeal this decision under § 585.118.

Subpart E—Payments and Financial Assurance Requirements

PAYMENTS

§ 585.500 How do I make payments under this part?

(a) For acquisition fees or the initial 12 months' rent paid for the preliminary term of your lease, you must make your electronic payments through the *Fees for Services* page on the BOEM Web site at <http://www.boem.gov>, and you must include one copy of the *Pay.gov* confirmation receipt page with your unsolicited request.

(b) For all other required rent payments and for operating fee payments, you must make your payments as required in 30 CFR 1218.51.

(c) This table summarizes payments you must make for leases and grants, unless otherwise specified in the Final Sale Notice:

	Payment	Amount	Due date	Payment mechanism	Section reference
Initial payments for leases					
(1) If your lease is issued competitively,	Bid Deposit	As set in Final Sale Notice/depends on bid	With bid	Pay.Gov	§ 585.501.

	Bonus Balance		Lease issuance	30 CFR 1218.51	
(2) If your lease is issued non-competitively	Acquisition Fee	\$0.25 per acre, unless otherwise set by the Director	With application	Pay.gov	§ 585.502.
(3) All leases	Initial Rent	\$3 per acre per year	45 days after lease issuance	Pay.gov	§ 585.503.
Subsequent payments for leases and project easements					
(4) All leases	Subsequent Rent	\$3 per acre per year	Annually	30 CFR 1218.51	§§ 585.503 and 585.504.
(5) If you have a project easement	Rent	Greater of \$5 per acre per year or \$450 per year	When operations term for associated lease starts, then annually	30 CFR 1218.51	§ 585.507.
(6) If your commercial lease is producing,	Operating Fee	Determined by the formula in §585.506	Annually	30 CFR 1218.51	§ 585.506.
Payments for ROW grants and RUE grants*					
(7) All ROW grants and RUE grants	Initial Rent	\$70 per statute mile, and the greater of \$5 per acre per year or \$450 per year	Grant Issuance	Pay.gov	§ 585.508.
	Subsequent Rent		Annually or in 5-year batches	30 CFR 1218.51	

*There is no acquisition fee for ROW grants or RUE grants.

§ 585.501 What deposits must I submit for a competitively issued lease, ROW grant, or RUE grant?

(a) For a competitive lease or grant that we offer through sealed bidding, you must submit a deposit of 20 percent of the total bid amount, unless some other amount is specified in the Final Sale Notice.

(b) For a competitive lease that we offer through ascending bidding, you must submit a deposit as established in the Final Sale Notice.

(c) You must pay any balances on accepted high bids in accordance with the Final Sale Notice, this part, and your lease or grant instrument.

(d) The deposit will be forfeited for any successful bidder who fails to execute the lease within the prescribed time, or otherwise does not comply with the regulations concerning acquisition of a lease or grant or stipulations in the Final Sale Notice.

§ 585.502 What initial payment requirements must I meet to obtain a noncompetitive lease, ROW grant, or RUE grant?

When requesting a noncompetitive lease, you must meet the initial payment (acquisition fee) requirements of this section, unless specified otherwise in your lease instrument. No initial payment is required when requesting noncompetitive ROW grants and RUE grants.

(a) If you request a noncompetitive lease, you must submit an acquisition fee of \$0.25 per acre, unless otherwise set by the Director, as provided in § 585.500.

(b) If BOEM determines there is no competitive interest, we will then:

- (1) Retain your acquisition fee if we issue you a lease; or
 - (2) Refund your acquisition fee, without interest, if we do not issue your requested lease.
- (c) If we determine that there is a competitive interest in an area you requested, then we will proceed with a competitive lease sale process provided for in subpart B of this part, and we will:
- (1) Apply your acquisition fee to the required deposit for your bid amount if you submit a bid;
 - (2) Apply your acquisition fee to your bonus bid if you acquire the lease; or
 - (3) Retain your acquisition fee if you do not bid for or acquire the lease.

§ 585.503 What are the rent and operating fee requirements for a commercial lease?

- (a) The rent for a commercial lease is \$3 per acre per year, unless otherwise established in the Final Sale Notice or lease.
- (1) You must pay ONRR the initial 12 months' rent 45 days after you receive the lease copies from BOEM in accordance with the requirements provided in § 585.500(a).
 - (2) You must pay ONRR, under the regulations at 30 CFR part 1218 of this title, rent at the beginning of each subsequent 1-year period in accordance with the regulations at

30 CFR 1218.51 for the entire lease area until the facility begins to generate commercially, as specified in § 585.506 or as otherwise specified in the Final Sale Notice or lease instrument:

(i) For leases issued competitively, BOEM will specify in the Final Sale Notice and lease any adjustment to the rent fee to take effect during the operations term and prior to the commercial generation.

(ii) For leases issued noncompetitively, BOEM will specify in the lease any adjustment to the rent fee to take effect during the operations term and prior to the commercial generation.

(3) You must pay ONRR, under the regulations at 30 CFR part 1218, the rent for a project easement in addition to the lease rent, as provided in § 585.507. You must commence rent payments for your project easement upon our approval of your COP or GAP.

(b) After your lease begins commercial generation of electricity or on the date specified by BOEM, you must pay operating fees in the amount specified in § 585.506:

(1) For leases issued competitively, BOEM will specify in the Final Sale Notice and lease the date when operating fees commence; and

(2) For leases issued noncompetitively, BOEM will specify in the lease the date when operating fee commences.

§ 585.504 How are my payments affected if I develop my lease in phases?

If you develop your commercial lease in phases, as approved by us in your COP under § 585.238, you must pay ONRR, under the regulations at 30 CFR part 1218:

(a) Rent on the portion of the lease that is not authorized for commercial operations.

(b) Operating fees on the portion of the lease that is authorized for commercial operations, in the amount specified in § 585.506 and as described in § 585.503(b).

(c) Rent for a project easement in addition to lease rent, as provided in § 585.507.

You must commence rent payments for your project easement upon our approval of your COP.

§ 585.505 What are the rent and operating fee requirements for a limited lease?

(a) The rent for a limited lease is \$3 per acre per year, unless otherwise established in the Final Sale Notice and your lease instrument.

(b) You must pay ONRR the initial 12 months' rent 45 days after you receive the lease copies from BOEM in accordance with the requirements provided in § 585.500(a).

(c) You must pay ONRR, under the regulations at 30 CFR part 1218, rent at the beginning of each subsequent 1-year period on the entire lease area for the duration of your operations term in accordance with the regulations at 30 CFR 1218.51.

(d) BOEM will not charge an operating fee for the authorized sale of power from a limited lease.

§ 585.506 What operating fees must I pay on a commercial lease?

If you are generating electricity, you must pay ONRR, under the regulations at 30 CFR part 1218, operating fees on your commercial lease when you begin commercial generation, as described in § 585.503.

(a) BOEM will determine the annual operating fee for activities relating to the generation of electricity on your lease based on the following formula,

$$F = M * H * c * P * r,$$

Where:

- (1) F is the dollar amount of the annual operating fee;
- (2) M is the nameplate capacity expressed in megawatts;
- (3) H is the number of hours in a year, equal to 8,760, used to calculate an annual payment;
- (4) c is the “capacity factor” representing the anticipated efficiency of the facility's operation expressed as a decimal between zero and one;
- (5) P is a measure of the annual average wholesale electric power price expressed in dollars per megawatt hour, as provided in paragraph (c)(2) of this section; and

(6) r is the operating fee rate expressed as a decimal between zero and one.

(b) The annual operating fee formula relating to the value of annual electricity generation is restated as:

F (annual operating fee)	=	M (nameplate capacity)	*	H (hours per year)	*	c (capacity factor)	*	P (power price)	*	r (operating fee rate)

(c) BOEM will specify operating fee parameters in the Final Sale Notice for commercial leases issued competitively and in the lease for those issued noncompetitively.

(1) Unless BOEM specifies otherwise, in the operating fee rate, “r” is 0.02 for each year the operating fee applies when you begin commercial generation of electricity. We may apply a different fee rate for new projects (*i.e.*, a new generation based on new technology) after considering factors such as program objectives, state of the industry, project type, and project potential. Also, we may agree to reduce or waive the fee rate under § 585.510.

(2) The power price “P,” for each year when the operating fee applies, will be determined annually. The process by which the power price will be determined will be specified in the Final Sale Notice and/or in the lease. BOEM:

(i) Will use the most recent annual average wholesale power price in the State in which a project's transmission cables make landfall, as published by the DOE, Energy

Information Administration (EIA), or other publicly available wholesale power price indices; and

(ii) May adjust the published average wholesale power price to reflect documented variations by State or within a region and recent market conditions.

(3) BOEM will select the capacity factor “c” based upon applicable analogs drawn from present and future domestic and foreign projects that operate in comparable conditions and on comparable scales.

(i) Upon the completion of the first year of commercial operations on the lease, BOEM may adjust the capacity factor as necessary (to accurately represent a comparison of actual production over a given period of time with the amount of power a facility would have produced if it had run at full capacity) in a subsequent year.

(ii) After the first adjustment, BOEM may adjust the capacity factor (to accurately represent a comparison of actual generation over a given period of time with the amount of power a facility would have generated if it had run at full capacity) no earlier than in 5-year intervals from the most recent year that BOEM adjusts the capacity factor.

(iii) The process by which BOEM will adjust the capacity factor, including any calculations (incorporating an average capacity factor reflecting actual operating experience), will be specified in the lease. The operator or lessee may request review and adjustment of the capacity factor under § 585.510.

(4) Ten days after the anniversary date of when you began to commercially generate electricity, you must submit to BOEM documentation of the gross annual generation of electricity produced by the generating facility on the lease. You must use the same information collection form as authorized by the EIA for this information.

(5) For the nameplate capacity “M,” BOEM will use the total installed capacity of the equipment you install, as specified in your approved COP.

(d) You must submit all operating fee payments to ONRR in accordance with the provisions under 30 CFR 1218.51.

(e) BOEM will establish the operating fee in the Final Sale Notice or in the lease on a case-by-case basis for:

(1) Activities that do not relate to the generation of electricity (*e.g.*, hydrogen production), and

(2) Leases issued for hydrokinetic activities requiring a FERC license.

§ 585.507 What rent payments must I pay on a project easement?

(a) You must pay ONRR, under the regulations at 30 CFR part 1218, a rent fee for your project easement of \$5 per acre, subject to a minimum of \$450 per year, unless specified otherwise in the Final Sale Notice or lease:

(1) The size of the project easement area for a cable or a pipeline is the full length of the corridor and a width of 200 feet (61 meters), centered on the cable or pipeline; and

(2) The size of a project easement area for an accessory platform is limited to the aerial extent of anchor chains and other facilities and devices associated with the accessory.

(b) You must commence rent payments for your project easement upon our approval of your COP or GAP:

(1) You must make the first rent payment when the operations term begins, as provided in § 585.500;

(2) You must submit all subsequent rent payments in accordance with the regulations at 30 CFR 1218.51; and

(3) You must continue to pay annual rent for your project easement until your lease is terminated.

§ 585.508 What rent payments must I pay on ROW grants or RUE grants associated with renewable energy projects?

(a) For each ROW grant BOEM approves under subpart C of this part, you must pay ONRR, under the regulations at 30 CFR part 1218, an annual rent as follows, unless specified otherwise in the Final Sale Notice:

(1) A fee of \$70 for each nautical mile or part of a nautical mile of the OCS that your ROW crosses; and

(2) An additional \$5 per acre, subject to a minimum of \$450 for use of the entire affected area, if you hold a ROW grant that includes a site outside the corridor of a 200-foot width (61 meters), centered on the cable or pipeline. The affected area includes the areal extent of anchor chains, risers, and other devices associated with a site outside the corridor.

(b) For each RUE grant BOEM approves under subpart C of this part, you must pay ONRR, under the regulations at 30 CFR part 1218, a rent of:

(1) \$5 per acre per year; or

(2) A minimum of \$450 per year.

(c) You must make the rent payments required by paragraphs (a) and (b) of this section on:

(1) An annual basis;

(2) For a 5-year period; or

(3) For multiples of 5 years.

(d) You must make the first annual rent payment upon approval of your ROW grant or RUE grant request, as provided in § 585.500, and all subsequent rent payments to ONRR in accordance with the regulations at 30 CFR 1218.51.

§ 585.509 Who is responsible for submitting lease or grant payments to ONRR?

(a) For each lease, ROW grant, or RUE grant issued under this part, you must identify one person who is responsible for all payments due and payable under the provisions of the lease or grant. The responsible person identified is designated as the payor, and you must document acceptance of such responsibilities, as provided in 30 CFR 1218.52.

(b) All payors must submit payments and maintain auditable records in accordance with guidance we issue or any applicable regulations in subchapter A of this chapter. In addition, the lessee or grant holder must also maintain such auditable records.

§ 585.510 May BOEM reduce or waive my lease or grant payments?

(a) The BOEM Director may reduce or waive the rent or operating fee or components of the operating fee, such as the fee rate or capacity factor, when the Director determines that it is necessary to encourage continued or additional activities.

(b) When requesting a reduction or waiver, you must submit an application to us that includes all of the following:

- (1) The number of the lease, ROW grant, or RUE grant involved;
- (2) Name of each lessee or grant holder of record;
- (3) Name of each operator;
- (4) A demonstration that:

(i) Continued activities would be uneconomic without the requested reduction or waiver, or

(ii) A reduction or waiver is necessary to encourage additional activities; and

(5) Any other information required by the Director.

(c) No more than 6 years of your operations term will be subject to a full waiver of the operating fee.

§§ 585.511-585.514 [Reserved]

FINANCIAL ASSURANCE REQUIREMENTS FOR COMMERCIAL LEASES

§ 585.515 What financial assurance must I provide when I obtain my commercial lease?

(a) Before BOEM will issue your commercial lease or approve an assignment of an existing commercial lease, you (or, for an assignment, the proposed assignee) must guarantee compliance with all terms and conditions of the lease by providing either:

(1) A \$100,000 minimum, lease-specific bond; or

(2) Another approved financial assurance instrument guaranteeing performance up to \$100,000, as specified in §§ 585.526 through 585.529.

(b) You meet the financial assurance requirements under this subpart if your designated lease operator provides a \$100,000 minimum, lease-specific bond or other

approved financial assurance that guarantees compliance with all terms and conditions of the lease.

(1) The dollar amount of the minimum, lease-specific financial assurance in paragraphs (a)(1) and (b) of this section will be adjusted to reflect changes in the Consumer Price Index-All Urban Consumers (CPI-U) or a substantially equivalent index if the CPI-U is discontinued; and

(2) The first CPI-U-based adjustment can be made no earlier than the 5-year anniversary of the adoption of this rule. Subsequent CPI-U-based adjustments may be made every 5 years thereafter.

§ 585.516 What are the financial assurance requirements for each stage of my commercial lease?

(a) The basic financial assurance requirements for each stage of your commercial lease are as follows:

Before BOEM will . . .	You must provide . . .
(1) Issue a commercial lease or approve an assignment of an existing commercial lease	A \$100,000 minimum, lease-specific financial assurance.
(2) Approve your SAP	A supplemental bond or other financial assurance, in an amount determined by BOEM, if upon reviewing your SAP, BOEM determines that a supplemental bond is required in addition to your minimum lease-specific bond, due to the complexity,

	number, and location of any facilities involved in your site assessment activities.
(3) Approve your COP	A supplemental bond or other financial assurance, in an amount determined by BOEM based on the complexity, number, and location of all facilities involved in your planned activities and commercial operation. The supplemental financial assurance requirement is in addition to your lease-specific bond and, if applicable, the previous supplement associated with SAP approval.
(4) Allow you to install facilities approved in your COP	A decommissioning bond or other financial assurance, in an amount determined by BOEM based on anticipated decommissioning costs. BOEM will allow you to provide your financial assurance for decommissioning in accordance with the number of facilities installed or being installed. BOEM must approve the schedule for providing the appropriate financial assurance coverage.

(b) Each bond or other financial assurance must guarantee compliance with all terms and conditions of the lease. You may provide a new bond or increase the amount of your existing bond, to satisfy any additional financial assurance requirements.

(c) For hydrokinetic commercial leases, supplemental financial assurance may be required in an amount determined by BOEM before FERC issues a license.

§ 585.517 How will BOEM determine the amounts of the supplemental and decommissioning financial assurance requirements associated with commercial leases?

(a) BOEM will base the determination for the amounts of the SAP, COP, and decommissioning financial assurance requirements on estimates of the cost to meet all accrued lease obligations.

(b) We determine the amount of the supplemental and decommissioning financial assurance requirements on a case-by-case basis. The amount of the financial assurance must be no less than the amount required to meet all lease obligations, including:

(1) The projected amount of rent and other payments due the Government over the next 12 months;

(2) Any past due rent and other payments;

(3) Other monetary obligations; and

(4) The estimated cost of facility decommissioning, as required by part 285, subpart I of this title.

(c) If your cumulative potential obligations and liabilities increase or decrease, we may adjust the amount of supplemental or the decommissioning financial assurance.

(1) If we propose adjusting your financial assurance amount, we will notify you of the proposed adjustment and give you an opportunity to comment; and

(2) We may approve a reduced financial assurance amount if you request it and if the reduced amount that you request continues to be greater than the sum of:

(i) The projected amount of rent and other payments due the Government over the next 12 months;

(ii) Any past due rent and other payments;

(iii) Other monetary obligations; and

(iv) The estimated cost of facility decommissioning.

§§ 585.518-585.519 [Reserved]

**FINANCIAL ASSURANCE FOR LIMITED LEASES, ROW GRANTS, AND RUE
GRANTS**

**§ 585.520 What financial assurance must I provide when I obtain my limited lease,
ROW grant, or RUE grant?**

(a) Before BOEM will issue your limited lease, ROW grant, or RUE grant, you or a proposed assignee must guarantee compliance with all terms and conditions of the lease or grant by providing either:

(1) A \$300,000 minimum, lease- or grant-specific bond; or

(2) Another approved financial assurance instrument of such minimum level as specified in §§ 585.526 through 585.529.

(b) You meet the financial assurance requirements under this subpart if your designated lease or grant operator provides a minimum limited lease-specific or grant-specific bond in an amount sufficient to guarantee compliance with all terms and conditions of the limited lease or grant.

(1) The dollar amount of the minimum, lease- or grant-specific financial assurance in paragraph (a)(1) of this section will be adjusted to reflect changes in the CPI-U or a substantially equivalent index if the CPI-U is discontinued; and

(2) The first CPI-U-based adjustment can be made no earlier than the 5-year anniversary of the adoption of this rule. Subsequent CPI-U-based adjustments may be made every 5 years thereafter.

§ 585.521 Do my financial assurance requirements change as activities progress on my limited lease or grant?

(a) BOEM may require you to increase the level of your financial assurance as activities progress on your limited lease or grant. We will base the determination for the amount of financial assurance requirements on our estimate of the cost to meet all accrued lease or grant obligations, including:

(1) The projected amount of rent and other payments due the Government over the next 12 months;

(2) Any past due rent and other payments;

(3) Other monetary obligations; and

(4) The estimated cost of facility decommissioning.

(b) You may satisfy the requirement for increased financial assurance levels for the limited lease or grant by increasing the amount of your existing bond or replacing your existing bond.

(c) BOEM will authorize you to establish a separate decommissioning bond or other financial assurance for your limited lease or grant.

(1) The separate decommissioning bond or other financial assurance instrument must meet the requirements specified in §§ 585.525 through 585.529.

(2) BOEM will allow you to provide your financial assurance for decommissioning in accordance with the number of facilities installed or being installed. BOEM must approve the schedule for providing the appropriate financial assurance coverage.

§§ 585.522-585.524 [Reserved]

REQUIREMENTS FOR FINANCIAL ASSURANCE INSTRUMENTS

§ 585.525 What general requirements must a financial assurance instrument meet?

(a) Any bond or other acceptable financial assurance instrument that you provide must:

(1) Be payable to BOEM upon demand; and

(2) Guarantee compliance of all lessees, grant holders, operators, and payors with all terms and conditions of the lease or grant, any subsequent approvals and authorizations, and all applicable regulations.

(b) All bonds and other forms of financial assurance must be on or in a form approved by BOEM. You may submit this on an approved form that you have reproduced or generated by use of a computer. If the document you submit omits any terms and conditions that are included on the BOEM-approved form, your bond is deemed to contain the omitted terms and conditions.

(c) Surety bonds must be issued by an approved surety listed in the current Treasury Circular 570, as required by 31 CFR 223.16. You may obtain a copy of Circular 570 from the Treasury Web site at <http://www.fms.treas.gov/c570/>.

(d) Your surety bond cannot exceed the underwriting limit listed in the current Treasury Circular 570, except as permitted therein.

(e) You and a qualified surety must execute your bond. When the surety is a corporation, an authorized corporate officer must sign the bond and attest to it over the corporate seal.

(f) You may not terminate the period of liability of your bond or cancel your bond, except as provided in this subpart. Bonds must continue in full force and effect even though an event has occurred that could diminish or terminate a surety's obligation under State law.

(g) Your surety must notify you and BOEM within 5 business days after:

(1) It initiates any judicial or administrative proceeding alleging its insolvency or bankruptcy; or

(2) The Treasury decertifies the surety.

§ 585.526 What instruments other than a surety bond may I use to meet the financial assurance requirement?

(a) You may use other types of security instruments, if BOEM determines that such security protects BOEM to the same extent as the surety bond. BOEM will consider pledges of the following:

(1) U.S. Department of Treasury securities identified in 31 CFR part 225;

(2) Cash in an amount equal to the required dollar amount of the financial assurance, to be deposited and maintained in a Federal depository account of the U.S. Treasury by BOEM;

(3) Certificates of deposit or savings accounts in a bank or financial institution organized or authorized to transact business in the United States with:

(i) Minimum net assets of \$500,000,000; and

(ii) Minimum Bankrate.com Safe & Sound rating of 3 Stars, and Capitalization, Assets, Equity and Liquidity (CAEL) rating of 3 or less;

(4) Negotiable U.S. Government, State, and municipal securities or bonds having a market value of not less than the required dollar amount of the financial assurance and maintained in a Securities Investors Protection Corporation insured trust account by a licensed securities brokerage firm for the benefit of BOEM;

(5) Investment-grade rated securities having a Standard and Poor's rating of AAA or an equivalent rating from a nationally recognized securities rating service having a market value of not less than the required dollar amount of the financial assurance and maintained in a Securities Investors Protection Corporation insured trust account by a licensed securities brokerage firm for the benefit of BOEM; and

(6) Insurance, if its form and function is such that the funding or enforceable pledges of funding are used to guarantee performance of regulatory obligations in the event of default on such obligations by the lessee. Insurance must have an A.M. Best rating of “superior” or an equivalent rating from a nationally recognized insurance rating service.

(b) If you use a Treasury security:

(1) You must post 115 percent of your financial assurance amount;

(2) You must monitor the collateral value of your security. If the collateral value of your security as determined in accordance with the 31 CFR part 203 Collateral Margins Table (which can be found at <http://www.treasurydirect.gov>) falls below the required level of coverage, you must pledge additional security to provide 115 percent of the required amount; and

(3) You must include with your pledge authority for us to sell the security and use the proceeds if we determine that you have failed to comply with any of the terms and conditions of your lease or grant, any subsequent approval or authorization, or applicable regulations.

(c) If you use the instruments described in paragraphs (a)(4) or (a)(5) of this section, you must provide BOEM by the end of each calendar year a certified statement describing the nature and market value of the instruments maintained in that account, and including any current statements or reports furnished by the brokerage firm to the lessee concerning the asset value of the account.

§ 585.527 May I demonstrate financial strength and reliability to meet the financial assurance requirement for lease or grant activities?

BOEM may allow you to use your financial strength and reliability to meet financial assurance requirements. We will make this determination based on audited financial statements, business stability, reliability, and compliance with regulations.

(a) You must provide the following information if you want to demonstrate financial strength and reliability to meet your financial assurance requirements:

(1) Audited financial statements (including auditor's certificate, balance sheet, and profit and loss sheet) that show you have financial capacity substantially in excess of existing and anticipated lease and other obligations;

(2) Evidence that shows business stability based on 5 years of continuous operation and generation of renewable energy on the OCS or onshore;

(3) Evidence that shows reliability in meeting obligations based on credit ratings or trade references, including names and addresses of other lessees, contractors, and suppliers with whom you have dealt; and

(4) Evidence that shows a record of compliance with laws, regulations, and lease, ROW, or RUE terms.

(b) If we approve your request to use your financial strength and reliability to meet your financial assurance requirements, you must submit annual updates to the information required by paragraph (a) of this section. You must submit this information no later than March 31 of each year.

(c) If the annual updates to the information required by paragraph (a) of this section do not continue to demonstrate financial strength and reliability or BOEM has reason to believe that you are unable to meet the financial assurance requirements of this section, after notice and opportunity for a hearing, BOEM will terminate your ability to use financial strength and reliability for financial assurance and require you to provide another type of financial assurance. You must provide this new financial assurance instrument within 90 days after we terminate your use of financial strength and reliability.

§ 585.528 May I use a third-party guaranty to meet the financial assurance requirement for lease or grant activities?

(a) You may use a third-party guaranty if the guarantor meets the criteria prescribed in paragraph (b) of this section and submits an agreement meeting the criteria prescribed in paragraph (c) of this section. The agreement must guarantee compliance with the obligations of all lessees and operators and grant holders.

(b) BOEM will consider the following factors in deciding whether to accept an agreement:

(1) The length of time that your guarantor has been in continuous operation as a business entity. You may exclude periods of interruption that are beyond the guarantor's control by demonstrating, to the satisfaction of the Director, that the interruptions do not affect the likelihood of your guarantor remaining in business during the SAP, COP, and decommissioning stages of activities covered by the indemnity agreement.

(2) Financial information available in the public record or submitted by your guarantor in sufficient detail to show us that your guarantor meets the criterion stated in paragraph (b)(4) of this section. Such detail includes:

(i) The current rating for your guarantor's most recent bond issuance by a generally recognized bond rating service such as Moody's Investor Service or Standard and Poor's Corporation;

(ii) Your guarantor's net worth, taking into account liabilities for compliance with all terms and conditions of your lease, regulations, and other guarantees;

(iii) Your guarantor's ratio of current assets to current liabilities, taking into account liabilities for compliance with all terms and conditions of your lease, regulations, and other guarantees; and

(iv) Your guarantor's unencumbered domestic fixed assets.

(3) If the information in paragraph (b)(2) of this section is not publicly available, your guarantor must submit the information in the following table, to be updated annually within 90 days of the end of the fiscal year (FY) or as otherwise prescribed.

Your guarantor must submit . . .	That . . .
(i) Financial statements for the most recently completed FY	Include a report by an independent certified public accountant containing the accountant's audit or review opinion of the statements. The report must be prepared in conformance with generally accepted accounting principles and contain no adverse opinion.
(ii) Financial statement for completed quarter in the current FY	Your guarantor's financial officer certifies to be correct.
(iii) Additional information related to bonds, if requested by the Director	Your guarantor's financial officer certifies to be correct.

(4) Your guarantor's total outstanding and proposed guarantees must not exceed 25 percent of its unencumbered domestic net worth.

(c) Your guarantor must submit an agreement executed by the guarantor and all parties bound by the agreement. All parties are bound jointly and severally and must meet the qualifications set forth in § 585.107.

(1) When any party is a corporation, two corporate officers authorized to execute the guaranty agreement on behalf of the corporation must sign the agreement.

(2) When any party is a partnership, joint venture, or syndicate, the guaranty agreement must bind each party who has a beneficial interest in your guarantor and provide that, upon BOEM demand under your guaranty, each party is jointly and severally liable for compliance with all terms and conditions of your lease(s) or grant(s) covered by the agreement.

(3) When forfeiture of the guaranty is called for, the agreement must provide that your guarantor will either bring your lease(s) or grant(s) into compliance or provide, within 7 days, sufficient funds to permit BOEM to complete corrective action.

(4) The guaranty agreement must contain a confession of judgment, providing that, if we determine that you are, or your operator or operating rights owner is, in default, the guarantor must not challenge the determination and must remedy the default.

(5) If you fail, or your operator or operating rights owner fails, to comply with any law, term, or regulation, your guarantor must either take corrective action or provide, within 7 days or other agreed upon time period, sufficient funds for BOEM to complete corrective action. Such compliance must not reduce your guarantor's liability.

(6) If your guarantor wants to terminate the period of liability, your guarantor must notify you and us at least 90 days before the proposed termination date, obtain our approval for termination of all or a specified portion of the guarantee for liabilities arising

after that date, and remain liable for all your work performed during the period the agreement is in effect.

(7) Each guaranty submitted pursuant to this section is deemed to contain all the above terms, even if they are not actually in the agreement.

(d) Before the termination of your guaranty, you must provide an acceptable replacement in the form of a bond or other security.

§ 585.529 Can I use a lease- or grant-specific decommissioning account to meet the financial assurance requirements related to decommissioning?

(a) In lieu of a surety bond, BOEM may authorize you to establish a lease-, ROW grant-, or RUE grant-specific decommissioning account in a federally insured institution. The funds may not be withdrawn from the account without our written approval.

(1) The funds must be payable to BOEM and pledged to meet your lease or grant decommissioning and site clearance obligations; and

(2) You must fully fund the account within the time BOEM prescribes to cover all costs of decommissioning including site clearance. BOEM will estimate the cost of decommissioning, including site clearance.

(b) Any interest paid on the account will be treated as account funds unless we authorize in writing that any interest be paid to the depositor.

(c) We may allow you to pledge Treasury securities, payable to BOEM on demand, to satisfy your obligation to make payments into the account. Acceptable Treasury securities and their collateral value are determined in accordance with 31 CFR part 203, Collateral Margins Table (which can be found at <http://www.treasurydirect.gov>).

(d) We may require you to commit a specified stream of revenues as payment into the account so that the account will be fully funded, as prescribed in paragraph (a)(2) of this section. The commitment may include revenue from other operations.

CHANGES IN FINANCIAL ASSURANCE

§ 585.530 What must I do if my financial assurance lapses?

(a) If your surety is decertified by the Treasury, becomes bankrupt or insolvent, or if your surety's charter or license is suspended or revoked, or if any other approved financial assurance expires for any reason, you must:

(1) Inform BOEM within 3 business days about the financial assurance lapse; and

(2) Provide new financial assurance in the amount set by BOEM, as provided in this subpart.

(b) You must notify BOEM within 3 business days after you learn of any action filed alleging that you, your surety, or third-party guarantor, is insolvent or bankrupt.

§ 585.531 What happens if the value of my financial assurance is reduced?

If the value of your financial assurance is reduced below the required financial assurance amount because of a default or any other reason, you must provide additional financial assurance sufficient to meet the requirements of this subpart within 45 days or within a different period as specified by BOEM.

§ 585.532 What happens if my surety wants to terminate the period of liability of my bond?

(a) Terminating the period of liability of a bond ends the period during which surety liability continues to accrue. The surety continues to be responsible for obligations and liabilities that accrued during the period of liability and before the date on which BOEM terminates the period of liability under paragraph (b) of this section. The liabilities that accrue during a period of liability include:

(1) Obligations that started to accrue before the beginning of the period of liability and have not been met; and

(2) Obligations that began accruing during the period of liability.

(b) Your surety must submit to BOEM its request to terminate the period of liability under its bond and notify you of that request. If you intend to continue activities, or have not met all obligations of your lease or grant, you must provide a replacement bond or alternative form of financial assurance of equivalent or greater value. BOEM will terminate that period of liability within 90 days after BOEM receives the request.

§ 585.533 How does my surety obtain cancellation of my bond?

(a) BOEM will release a bond or allow a surety to cancel a bond, and will relieve the surety from accrued obligations only if:

(1) BOEM determines that there are no outstanding obligations covered by the bond;
or

(2) The following occurs:

(i) BOEM accepts a replacement bond or an alternative form of financial assurance in an amount equal to or greater than the bond to be cancelled to cover the terminated period of liability;

(ii) The surety issuing the new bond has expressly agreed to assume all outstanding liabilities under the original bond that accrued during the period of liability that was terminated; and

(iii) The surety issuing the new bond has agreed to assume that portion of the outstanding liabilities that accrued during the terminated period of liability that exceeds the coverage of the bond prescribed under §§ 585.515, 585.516, 585.520, or 585.521, and of which you were notified.

(b) When your lease or grant ends, your surety(ies) remain(s) responsible, and BOEM will retain any financial assurance as follows:

(1) The period of liability ends when you cease all operations and activities under the lease or grant, including decommissioning and site clearance;

(2) Your surety or collateral financial assurance will not be released until 7 years after the lease ends, or a longer period as necessary to complete any appeals or judicial litigation related to your bonded obligation, or for BOEM to determine that all of your obligations under the lease or grant have been satisfied; and

(3) BOEM will reduce the amount of your bond or return a portion of your financial assurance if we determine that we need less than the full amount of the bond or financial assurance to meet any possible future obligations.

§ 585.534 When may BOEM cancel my bond?

When your lease or grant ends, your surety(ies) remain(s) responsible, and BOEM will retain any pledged security as shown in the following table:

Bond	The period of liability ends . . .	Your bond will not be released until . . .
(a) Bonds for commercial leases submitted under § 585.515	When BOEM determines that you have met all of your obligations under the lease	Seven years after the lease ends, or a longer period as necessary to complete any appeals or judicial litigation related to your bond obligation. BOEM will reduce the amount of your bond or return a portion of your security if BOEM determines that you need less than the full amount of the bond to meet any possible future obligations.
(b) Supplemental or decommissioning bonds submitted under § 585.516	When BOEM determines that you have met all your decommissioning, site clearance, and other obligations	(1) Seven years after the lease ends, or a longer period as necessary to complete any appeals or judicial litigation related to your bond obligation. BOEM will reduce the amount of your bond or return a portion of your security if BOEM determines that you need less than the

		full amount of the bond to meet any possible future obligations; and
		(2) BOEM determines that the potential liability resulting from any undetected noncompliance is not greater than the amount of the lease base bond.
(c) Bonds submitted under §§ 585.520 and 585.521 for limited leases, ROW grants, or RUE grants	When BOEM determines that you have met all of your obligations under the limited lease or grant	Seven years after the limited lease, ROW, or RUE grant or a longer period as necessary to complete any appeals or judicial litigation related to your bond obligation. BOEM will reduce the amount of your bond or return a portion of your security if BOEM determines that you need less than the full amount of the bond to meet any possible future obligations.

§ 585.535 Why might BOEM call for forfeiture of my bond?

(a) BOEM may call for forfeiture of all or part of the bond, pledged security, or other form of guaranty if:

(1) After notice and demand for performance, you refuse or fail, within the timeframe prescribed, to comply with any term or condition of your lease or grant, other authorization or approval, or applicable regulations; or

(2) You default on one of the conditions under which we accepted your bond.

(b) We may pursue forfeiture without first making demands for performance against any co-lessee or holder of an interest in your ROW or RUE, or other person approved to perform obligations under your lease or grant.

§ 585.536 How will I be notified of a call for forfeiture?

(a) BOEM will notify you and your surety, including any provider of financial assurance, in writing of the call for forfeiture and provide the reasons for the forfeiture and the amount to be forfeited. We will base the amount upon an estimate of the total cost of corrective action to bring your lease or grant into compliance.

(b) We will advise you and your surety that you may avoid forfeiture if, within 10 business days:

(1) You agree to and demonstrate in writing to BOEM that you will bring your lease or grant into compliance within the timeframe we prescribe, and you do so; or

(2) Your surety agrees to and demonstrates that it will bring your lease or grant into compliance within the timeframe we prescribe, even if the cost of compliance exceeds the face amount of the bond.

§ 585.537 How will BOEM proceed once my bond or other security is forfeited?

(a) If BOEM determines that your bond or other security is forfeited, we will collect the forfeited amount and use the funds to bring your lease or grant(s) into compliance and correct any default.

(b) If the amount collected under your bond or other security is insufficient to pay the full cost of corrective action, BOEM may take or direct action to obtain full compliance

and recover all costs in excess of the forfeited bond from you or any co-lessee or co-grantee.

(c) If the amount collected under your bond or other security exceeds the full cost of corrective action to bring your lease or grant(s) into compliance, we will return the excess funds to the party from whom the excess was collected.

§§ 585.538-585.539 [Reserved]

REVENUE SHARING WITH STATES

§ 585.540 How will BOEM equitably distribute revenues to States?

(a) BOEM will distribute among the eligible coastal States 27 percent of the following revenues derived from qualified projects, where a qualified project and qualified project area is determined in § 585.541 and an eligible State is determined in § 585.542, with each term defined in § 585.113. Revenues subject to distribution to eligible States include all bonuses, acquisition fees, rentals, and operating fees derived from the entire qualified project area and associated project easements not limited to revenues attributable to the portion of the project area within 3 miles of the seaward boundary of a coastal State. The revenues to be shared do not include administrative fees such as service fees and those assessed for civil penalties and forfeiture of bond or other surety obligations.

(b) The project area is the area included within a single lease or grant. For each qualified project, BOEM will determine and announce the project area and its geographic

center at the time it grants or issues a lease, easement, or right-of-way on the OCS. If a qualified project lease or grant's boundaries change significantly due to actions pursuant to §§ 585.435 or 585.436, BOEM will re-evaluate the project area to determine whether the geographic center has changed. If it has, BOEM will re-determine State eligibility and shares accordingly.

(c) To determine each eligible State's share of the 27 percent of the revenues for a qualified project, BOEM will use the inverse distance formula, which apportions shares according to the relative proximity of the nearest point on the coastline of each eligible State to the geographic center of the qualified project area. If S_i is equal to the nearest distance from the geographic center of the project area to the $i = 1, 2, * * * n$ th eligible State's coastline, then eligible State i would be entitled to the fraction F_i of the 27-percent aggregate revenue share due to all the eligible States according to the formula:

$$F_i = (1/S_i) \div (\sum_{i=1}^n (1/S_i)).$$

§ 585.541 What is a qualified project for revenue sharing purposes?

A qualified project for the purpose of revenue sharing with eligible coastal States is one authorized under subsection 8(p) of the OCS Lands Act, which includes acreage within the area extending 3 nautical miles seaward of State submerged lands. A qualified project is subject to revenue sharing with those States that are eligible for revenue sharing under § 585.542. The entire area within a lease or grant for the qualified project, excluding project easements, is considered the qualified project area.

§ 585.542 What makes a State eligible for payment of revenues?

A State is eligible for payment of revenues if any part of the State's coastline is located within 15 miles of the announced geographic center of the project area of a qualified project. A State is not eligible for revenue sharing if all parts of that State's coastline are more than 15 miles from the announced geographic center of the qualified project area. This is the case even if the qualified project area is located wholly or partially within an area extending 3 nautical miles seaward of the submerged lands of that State or if there are no States with a coastline less than 15 miles from the announced geographic center of the qualified project area.

§ 585.543 Example of how the inverse distance formula works.

(a) Assume that the geographic center of the project area lies 12 miles from the closest coastline point of State A and 4 miles from the closest coastline point of State B. BOEM will round dollar shares to the nearest whole dollar. The proportional share due each State would be calculated as follows:

$$(1) \text{ State A's share} = [(1/12) \div (1/12 + 1/4)] = 1/4 .$$

$$(2) \text{ State B's share} = [(1/4) \div (1/12 + 1/4)] = 3/4 .$$

(b) Therefore, State B would receive a share of revenues that is three times as large as that awarded to State A, based on the finding that State B's nearest coastline is one-third the distance to the geographic center of the qualified project area as compared to State A's nearest coastline. Eligible States share the 27 percent of the total revenues from the qualified project as mandated under the OCS Lands Act. Hence, if the qualified project

generates \$1,000,000 of Federal revenues in a given year, the Federal Government would distribute the States' 27-percent share as follows:

$$(1) \text{ State A's share} = \$270,000 \times \frac{1}{4} = \$67,500.$$

$$(2) \text{ State B's share} = \$270,000 \times \frac{3}{4} = \$202,500.$$

Subpart F—Plan Requirements

§ 585.600 What plans must I submit to BOEM before I conduct activities on my lease or grant?

You must submit a SAP, COP, or GAP and receive BOEM approval as set forth in the following table:

Before you:	you must submit and obtain approval for your:
(a) conduct any site assessment activities on your commercial lease	SAP, according to §§ 585.605 through 585.613.
(b) conduct any activities pertaining to construction of facilities for commercial operations on your commercial lease	COP, according to §§ 585.620 through 585.628.
(c) conduct any activities on your limited lease, ROW grant, or RUE grant in any OCS area	GAP, according to §§ 585.640 through 585.648.

§ 585.601 When am I required to submit my plans to BOEM?

You must submit your plans as follows:

(a) You may submit your SAP or GAP prior to lease or grant issuance, but must submit your SAP or GAP no later than 12 months from the date of lease or grant issuance.

(b) If you intend to continue your commercial lease with an operations term, you must submit a COP, or a FERC license application, at least 6 months before the end of your site assessment term.

(c) You may submit your COP or FERC license application with your SAP.

(1) You must provide sufficient data and information with your COP for BOEM to complete the needed reviews and NEPA analysis; and

(2) BOEM may need to conduct additional reviews, including NEPA analysis, if significant new information becomes available after you complete your site assessment activities or you revise your COP. As a result of the additional reviews, we may require modification of your COP.

§§ 585.602-585.604 [Reserved]

SITE ASSESSMENT PLAN AND INFORMATION REQUIREMENTS FOR COMMERCIAL LEASES

§ 585.605 What is a Site Assessment Plan (SAP)?

(a) A SAP describes the activities (*e.g.*, installation of meteorological towers, meteorological buoys) you plan to perform for the characterization of your commercial lease, including your project easement, or to test technology devices.

(1) Your SAP must describe how you will conduct your resource assessment (*e.g.*, meteorological and oceanographic data collection) or technology testing activities; and

(2) BOEM will withhold trade secrets and commercial or financial information that is privileged or confidential from public disclosure under exemption 4 of the FOIA and as provided in § 585.114.

(b) Your SAP must include data from:

(1) Physical characterization surveys (*e.g.*, geological and geophysical surveys or hazards surveys); and

(2) Baseline environmental surveys (*e.g.*, biological or archaeological surveys).

(c) You must receive BOEM approval of your SAP before you can begin any of the approved activities on your lease, as provided in § 585.613.

(d) If you propose to construct a facility or combination of facilities deemed by BOEM to be complex or significant, as provided in § 585.613(a)(1), you must also comply with the requirements of part 285, subpart G, of this title and submit your safety management system as required by § 285.810 of this title.

§ 585.606 What must I demonstrate in my SAP?

(a) Your SAP must demonstrate that you have planned and are prepared to conduct the proposed site assessment activities in a manner that conforms to your responsibilities listed in § 585.105(a) and:

(1) Conforms to all applicable laws, regulations, and lease provisions of your commercial lease;

(2) Is safe;

(3) Does not unreasonably interfere with other uses of the OCS, including those involved with national security or defense;

(4) Does not cause undue harm or damage to natural resources; life (including human and wildlife); property; the marine, coastal, or human environment; or sites, structures, or objects of historical or archaeological significance;

(5) Uses best available and safest technology;

(6) Uses best management practices; and

(7) Uses properly trained personnel.

(b) You must also demonstrate that your site assessment activities will collect the necessary information and data required for your COP, as provided in § 585.626(a).

§ 585.607 How do I submit my SAP?

You must submit one paper copy and one electronic version of your SAP to BOEM at the address listed in § 585.110.

§§ 585.608-585.609 [Reserved]

CONTENTS OF THE SITE ASSESSMENT PLAN

§ 585.610 What must I include in my SAP?

Your SAP must include the following information, as applicable.

(a) For all activities you propose to conduct under your SAP, you must provide the following information:

Project information	Including
(1) Contact information	The name, address, e-mail address, and phone number of an authorized representative.
(2) The site assessment or technology testing concept	A discussion of the objectives; description of the proposed activities, including the technology you will use; and proposed schedule from start to completion.
(3) Designation of operator, if applicable	As provided in § 585.405.
(4) Commercial lease stipulations and compliance	A description of the measures you took, or will take, to satisfy the conditions of any lease stipulations related to your proposed activities.
(5) A location plat	The surface location and water depth for all proposed and existing structures, facilities, and appurtenances located both offshore and onshore.
(6) General structural and project design, fabrication, and installation	Information for each type of facility associated with your project.
(7) Deployment activities	A description of the safety, prevention, and environmental protection features or measures that you will use.
(8) Your proposed measures for avoiding, minimizing, reducing, eliminating, and monitoring environmental impacts	A description of the measures you will use to avoid or minimize adverse effects and any potential incidental take, before you conduct activities on your lease, and how you will mitigate environmental impacts from your proposed

	activities, including a description of the measures you will use as required by part 285, subpart H, of this title.
(9) CVA nomination, if required	CVA nominations for reports in part 285, subpart G, of this title as required by § 285.706, or a request to waive the CVA requirement, as required by § 285.705.
(10) Reference information	A list of any document or published source that you cite as part of your plan. You may reference information and data discussed in other plans you previously submitted or that are otherwise readily available to BOEM.
(11) Decommissioning and site clearance procedures	A discussion of methodologies.
(12) Air quality information	Information as described in § 585.700.
(13) A listing of all Federal, State, and local authorizations or approvals required to conduct site assessment activities on your lease	A statement indicating whether such authorization or approval has been applied for or obtained.
(14) A list of agencies and persons with whom you have communicated, or with whom you will communicate, regarding potential impacts associated with your proposed activities	Contact information and issues discussed.
(15) Financial assurance information	Statements attesting that the activities and facilities proposed in your SAP are or will be covered by an appropriate bond or other approved security, as required in §§ 585.515 and 585.516.
(16) Other information	Additional information as requested by BOEM.

(b) You must provide the results of geophysical and geological surveys, hazards surveys, archaeological surveys (if required), and baseline collection studies (*e.g.*, biological) with the supporting data in your SAP:

Information	Report contents	Including
(1) Geotechnical	The results from the geotechnical survey with supporting data	A description of all relevant seabed and engineering data and information to allow for the design of the foundation for that facility. You must provide data and information to depths below which the underlying conditions will not influence the integrity or performance of the structure. This could include a series of sampling locations (borings and in situ tests) as well as laboratory testing of soil samples, but may consist of a minimum of one deep boring with samples.
(2) Shallow hazards	The results from the shallow hazards survey with supporting data	A description of information sufficient to determine the presence of the following features and their likely effects on your proposed facility, including: (i) Shallow faults; (ii) Gas seeps or shallow gas; (iii) Slump blocks or slump sediments; (iv) Hydrates; and (v) Ice scour of seabed sediments.
(3) Archaeological resources	The results from the archaeological survey with supporting data, if required	(i) A description of the results and data from the archaeological survey; (ii) A description of the historic and prehistoric archaeological resources, as required by the National Historic Preservation Act (NHPA) of 1966, as amended.
(4) Geological survey	The results from the geological survey with supporting data	A report that describes the results of a geological survey that includes descriptions of: (i) Seismic activity at your proposed site; (ii) Fault zones; (iii) The possibility and effects of seabed subsidence; and (iv) The extent and geometry of faulting attenuation effects of geologic conditions near your site.

(5) Biological survey	The results from the biological survey with supporting data	A description of the results of a biological survey, including descriptions of the presence of live bottoms; hard bottoms; topographic features; and surveys of other marine resources such as fish populations (including migratory populations), marine mammals, sea turtles, and sea birds.
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(c) If you submit your COP or FERC license application with your SAP then:

(1) You must provide sufficient data and information with your COP or FERC license application for BOEM and/or FERC to complete the needed reviews and NEPA analysis.

(2) You may need to revise your COP or FERC license application and BOEM and/or FERC may need to conduct additional reviews, including NEPA analysis, if new information becomes available after you complete your site assessment activities.

§ 585.611 What information and certifications must I submit with my SAP to assist BOEM in complying with NEPA and other relevant laws?

You must submit, with your SAP, detailed information to assist BOEM in complying with NEPA and other relevant laws as appropriate.

(a) A SAP submitted for an area in which BOEM has not previously reviewed site assessment activities under NEPA or other applicable Federal laws, must describe those resources, conditions, and activities listed in the following table that could be affected by your proposed activities or that could affect the activities proposed in your SAP.

(b) For a SAP submitted for an area in which BOEM has previously considered site assessment activities under applicable Federal law (*e.g.*, a NEPA analysis and CZMA consistency determination for site assessment activities), BOEM will review the SAP to

determine if its impacts are consistent with those previously considered. If the anticipated effects of your proposed SAP activities are significantly different than those previously anticipated, we may determine that additional NEPA and other relevant Federal reviews are required. In that case, BOEM will notify you of such determination, and you must submit a SAP that describes those resources, conditions, and activities listed in the following table that could be affected by your proposed activities or that could affect the activities proposed in your SAP, including:

Type of information:	Including:
(1) Hazard information	Meteorology, oceanography, sediment transport, geology, and shallow geological or manmade hazards.
(2) Water quality	Turbidity and total suspended solids from construction.
(3) Biological resources	Benthic communities, marine mammals, sea turtles, coastal and marine birds, fish and shellfish, plankton, sea grasses, and other plant life.
(4) Threatened or endangered species	As required by the Endangered Species Act (ESA) of 1973 (16 U.S.C. 1531 <i>et seq.</i>).
(5) Sensitive biological resources or habitats	Essential fish habitat, refuges, preserves, special management areas identified in coastal management programs, sanctuaries, rookeries, hard bottom habitat, chemosynthetic communities, calving grounds, barrier islands, beaches, dunes, and wetlands.
(6) Archaeological resources	As required by the NHPA (16 U.S.C. 470 <i>et seq.</i>), as amended.
(7) Social and economic conditions	Employment, existing offshore and coastal infrastructure (including major sources of supplies, services, energy, and water), land use, subsistence resources and harvest practices, recreation, recreational and commercial fishing (including typical fishing seasons, location,

	and type), minority and lower income groups, coastal zone management programs, and viewshed.
(8) Coastal and marine uses	Military activities, vessel traffic, and energy and non-energy mineral exploration or development.
(9) Consistency Certification	If required by CZMA, as appropriate: (i) 15 CFR part 930, subpart D, if the SAP is submitted prior to lease issuance; (ii) 15 CFR part 930, subpart E, if the SAP is submitted after lease issuance.
(10) Other resources, conditions, and activities	As identified by BOEM.

§ 585.612 How will my SAP be processed for Federal consistency under the Coastal Zone Management Act?

Your SAP will be processed based on whether it is submitted before or after your lease is issued:

If your SAP is submitted:	Consistency review of your SAP will be handled as follows:
(a) Before lease issuance	You will furnish a copy of your SAP, consistency certification, and necessary data and information pursuant to 15 CFR part 930, subpart D, to the applicable State CZMA agency or agencies and BOEM at the same time.
(b) After lease issuance	You will submit a copy of your SAP, consistency certification, and necessary data and information pursuant to 15 CFR part 930, subpart E, to BOEM. BOEM will forward to the applicable State CZMA agency or agencies one paper copy and one electronic copy of your SAP, consistency certification, and necessary data and information required under 15 CFR part 930, subpart E, after BOEM has determined that all information requirements for the SAP are met.

§ 585.613 How will BOEM process my SAP?

(a) BOEM will review your submitted SAP, and additional information provided pursuant to § 585.611, to determine if it contains the information necessary to conduct our technical and environmental reviews.

(1) We will notify you if we deem your proposed facility or combination of facilities to be complex or significant;

(2) We will notify you if your submitted SAP lacks any necessary information;

(b) BOEM will prepare NEPA analysis, as appropriate.

(c) As appropriate, we will coordinate and consult with relevant Federal and State agencies, executives of relevant local governments, and affected Indian Tribes and will provide to other Federal, State, and local agencies and affected Indian Tribes relevant nonproprietary data and information pertaining to your proposed activities.

(d) During the review process, we may request additional information if we determine that the information provided is not sufficient to complete the review and approval process. If you fail to provide the requested information, BOEM may disapprove your SAP.

(e) Upon completion of our technical and environmental reviews and other reviews required by Federal laws (*e.g.*, CZMA), BOEM may approve, disapprove, or approve with modifications your SAP.

(1) If we approve your SAP, we will specify terms and conditions to be incorporated into your SAP. You must certify compliance with those terms and conditions, required under § 285.615(b) of this title; and

(2) If we disapprove your SAP, we will inform you of the reasons and allow you an opportunity to submit a revised plan making the necessary corrections, and may suspend the term of your lease, as appropriate, to allow this to occur.

ACTIVITIES UNDER AN APPROVED SAP

§ 585.614 When may I begin conducting activities under my approved SAP?

(a) You may begin conducting the activities approved in your SAP following BOEM approval of your SAP.

(b) If you are installing a facility or a combination of facilities deemed by BOEM to be complex or significant, as provided in § 585.613(a)(1), you must comply with the requirements of part 285, subpart G, of this title and also submit your Safety Management System required by § 285.810 of this title before construction may begin.

§ 585.615 What other reports or notices must I submit to BOEM under my approved SAP?

You must prepare and submit to BOEM a report annually on November 1 of each year that summarizes your site assessment activities and the results of those activities. BOEM will withhold trade secrets and commercial or financial information that is privileged or

confidential from public disclosure under exemption 4 of the FOIA and as provided in § 585.114.

§ 585.616 [Reserved]

§ 585.617 What activities require a revision to my SAP, and when will BOEM approve the revision?

(a) You must notify BOEM in writing before conducting any activities not described in your approved SAP, describing in detail the type of activities you propose to conduct. We will determine whether the activities you propose are authorized by your existing SAP or require a revision to your SAP. We may request additional information from you, if necessary, to make this determination.

(b) BOEM will periodically review the activities under an approved SAP. The frequency and extent of the review will be based on the significance of any changes in available information and on onshore or offshore conditions affecting, or affected by, the activities conducted under your SAP. If the review indicates that the SAP should be revised to meet the requirements of this part, BOEM will require you to submit the needed revisions.

(c) Activities for which a proposed revision to your SAP will likely be necessary include:

(1) Activities not described in your approved SAP;

(2) Modifications to the size or type of facility or equipment you will use;

- (3) Changes in the surface location of a facility or structure;
 - (4) Addition of a facility or structure not contemplated in your approved SAP;
 - (5) Changes in the location of your onshore support base from one State to another, or to a new base requiring expansion;
 - (6) Changes in the location of bottom disturbances (anchors, chains, *etc.*) by 500 feet (152 meters) or greater from the approved locations. If a specific anchor pattern was approved as a mitigation measure to avoid contact with bottom features, any change in the proposed bottom disturbances would likely trigger the need for a revision;
 - (7) Structural failure of one or more facilities; or
 - (8) Changes to any other activity specified by BOEM.
- (d) We may begin the appropriate NEPA analysis and other relevant consultations when we determine that a proposed revision could:
- (1) Result in a significant change in the impacts previously identified and evaluated;
 - (2) Require any additional Federal authorizations; or
 - (3) Involve activities not previously identified and evaluated.
- (e) When you propose a revision, we may approve the revision if we determine that the revision is:

(1) Designed not to cause undue harm or damage to natural resources; life (including human and wildlife); property; the marine, coastal, or human environment; or sites, structures, or objects of historical or archaeological significance; and

(2) Otherwise consistent with the provisions of subsection 8(p) of the OCS Lands Act.

§ 585.618 What must I do upon completion of approved site assessment activities?

(a) If, prior to the expiration of your site assessment term, you timely submit a COP meeting the requirements of this subpart, or a complete FERC license application, that describes the continued use of existing facilities approved in your SAP, you may keep such facilities in place on your lease during the time that BOEM reviews your COP for approval or FERC reviews your license application for approval.

(b) You are not required to initiate the decommissioning process for facilities that are authorized to remain in place under your approved COP or approved FERC license.

(c) If, following the technical and environmental review of your submitted COP, BOEM determines that such facilities may not remain in place, you must initiate the decommissioning process, as provided in part 285, subpart I, of this title.

(d) If FERC determines that such facilities may not remain in place, you must initiate the decommissioning process as provided in part 285, subpart I, of this title.

(e) You must initiate the decommissioning process, as set forth in part 285, subpart I, of this title upon the termination of your lease.

§ 585.619 [Reserved]

CONSTRUCTION AND OPERATIONS PLAN FOR COMMERCIAL LEASES

§ 585.620 What is a Construction and Operations Plan (COP)?

The COP describes your construction, operations, and conceptual decommissioning plans under your commercial lease, including your project easement. BOEM will withhold trade secrets and commercial or financial information that is privileged or confidential from public disclosure under exemption 4 of the FOIA and in accordance with the terms of § 585.114.

(a) Your COP must describe all planned facilities that you will construct and use for your project, including onshore and support facilities and all anticipated project easements.

(b) Your COP must describe all proposed activities including your proposed construction activities, commercial operations, and conceptual decommissioning plans for all planned facilities, including onshore and support facilities.

(c) You must receive BOEM approval of your COP before you can begin any of the approved activities on your lease.

§ 585.621 What must I demonstrate in my COP?

Your COP must demonstrate that you have planned and are prepared to conduct the proposed activities in a manner that conforms to your responsibilities listed in § 585.105(a) and:

(a) Conforms to all applicable laws, implementing regulations, lease provisions, and stipulations or conditions of your commercial lease;

- (b) Is safe;
- (c) Does not unreasonably interfere with other uses of the OCS, including those involved with national security or defense;
- (d) Does not cause undue harm or damage to natural resources; life (including human and wildlife); property; the marine, coastal, or human environment; or sites, structures, or objects of historical or archaeological significance;
- (e) Uses best available and safest technology;
- (f) Uses best management practices; and
- (g) Uses properly trained personnel.

§ 585.622 How do I submit my COP?

- (a) You must submit one paper copy and one electronic version of your COP to BOEM at the address listed in § 585.110.
- (b) You may submit information and a request for any project easement as part of your original COP submission or as a revision to your COP.

§§ 585.623-585.625 [Reserved]

CONTENTS OF THE CONSTRUCTION AND OPERATIONS PLAN

§ 585.626 What must I include in my COP?

(a) You must submit the results of the following surveys for the proposed site(s) of your facility(ies). Your COP must include the following information:

Information:	Report contents:	Including:
(1) Shallow hazards	The results of the shallow hazards survey with supporting data	Information sufficient to determine the presence of the following features and their likely effects on your proposed facility, including:
		(i) Shallow faults;
		(ii) Gas seeps or shallow gas;
		(iii) Slump blocks or slump sediments;
		(iv) Hydrates; or
		(v) Ice scour of seabed sediments.
(2) Geological survey relevant to the design and siting of your facility	The results of the geological survey with supporting data	Assessment of: (i) Seismic activity at your proposed site; (ii) Fault zones; (iii) The possibility and effects of seabed subsidence; and (iv) The extent and geometry of faulting attenuation effects of geologic conditions near your site.
(3) Biological	The results of the biological survey with supporting data	A description of the results of biological surveys used to determine the presence of live bottoms, hard bottoms, and topographic features, and surveys of other marine resources such as fish populations (including migratory

		populations), marine mammals, sea turtles, and sea birds.
(4) Geotechnical survey	The results of your sediment testing program with supporting data, the various field and laboratory test methods employed, and the applicability of these methods as they pertain to the quality of the samples, the type of sediment, and the anticipated design application. You must explain how the engineering properties of each sediment stratum affect the design of your facility. In your explanation, you must describe the uncertainties inherent in your overall testing program, and the reliability and applicability of each test method	(i) The results of a testing program used to investigate the stratigraphic and engineering properties of the sediment that may affect the foundations or anchoring systems for your facility. (ii) The results of adequate <i>in situ</i> testing, boring, and sampling at each foundation location, to examine all important sediment and rock strata to determine its strength classification, deformation properties, and dynamic characteristics. (iii) The results of a minimum of one deep boring (with soil sampling and testing) at each edge of the project area and within the project area as needed to determine the vertical and lateral variation in seabed conditions and to provide the relevant geotechnical data required for design.
(5) Archaeological resources	The results of the archaeological resource survey with supporting data	A description of the historic and prehistoric archaeological resources, as required by the NHPA (16 U.S.C. 470 <i>et. seq.</i>), as amended.
(6) Overall site investigation	An overall site investigation report for your facility that integrates the findings of your shallow hazards surveys and geologic surveys, and, if required, your subsurface surveys with supporting data	An analysis of the potential for: (i) Scouring of the seabed; (ii) Hydraulic instability; (iii) The occurrence of sand waves; (iv) Instability of slopes at the facility location; (v) Liquefaction, or possible

		reduction of sediment strength due to increased pore pressures;
		(vi) Degradation of subsea permafrost layers;
		(vii) Cyclic loading;
		(viii) Lateral loading;
		(ix) Dynamic loading;
		(x) Settlements and displacements;
		(xi) Plastic deformation and formation collapse mechanisms; and
		(xii) Sediment reactions on the facility foundations or anchoring systems.

(b) Your COP must include the following project-specific information, as applicable.

Project information:	Including:
(1) Contact information	The name, address, e-mail address, and phone number of an authorized representative.
(2) Designation of operator, if applicable	As provided in § 585.405.
(3) The construction and operation concept	A discussion of the objectives, description of the proposed activities, tentative schedule from start to completion, and plans for phased development, as provided in § 585.238.
(4) Commercial lease stipulations and compliance	A description of the measures you took, or will take, to satisfy the conditions of any lease stipulations related to your proposed activities.

(5) A location plat	The surface location and water depth for all proposed and existing structures, facilities, and appurtenances located both offshore and onshore, including all anchor/mooring data.
(6) General structural and project design, fabrication, and installation	Information for each type of structure associated with your project and, unless BSEE provides otherwise, how you will use a CVA to review and verify each stage of the project.
(7) All cables and pipelines, including cables on project easements	Location, design and installation methods, testing, maintenance, repair, safety devices, exterior corrosion protection, inspections, and decommissioning.
(8) A description of the deployment activities	Safety, prevention, and environmental protection features or measures that you will use.
(9) A list of solid and liquid wastes generated	Disposal methods and locations.
(10) A listing of chemical products used (if stored volume exceeds Environmental Protection Agency (EPA) reportable quantities)	A list of chemical products used; the volume stored on location; their treatment, discharge, or disposal methods used; and the name and location of the onshore waste receiving, treatment, and/or disposal facility. A description of how these products would be brought onsite, the number of transfers that may take place, and the quantity that will be transferred each time.
(11) A description of any vessels, vehicles, and aircraft you will use to support your activities	An estimate of the frequency and duration of vessel/vehicle/aircraft traffic.
(12) A general description of the operating procedures and systems	(i) Under normal conditions. (ii) In the case of accidents or emergencies, including those that are natural or manmade.
(13) Decommissioning and site clearance procedures	A discussion of general concepts and methodologies.
(14) A listing of all Federal, State, and local authorizations, approvals, or permits that are	(i) The U.S. Coast Guard, U.S. Army Corps of Engineers, and any other applicable authorizations, approvals, or permits, including any Federal, State or

required to conduct the proposed activities, including commercial operations	local authorizations pertaining to energy gathering, transmission or distribution (<i>e.g.</i> , interconnection authorizations).
	(ii) A statement indicating whether you have applied for or obtained such authorization, approval, or permit.
(15) Your proposed measures for avoiding, minimizing, reducing, eliminating, and monitoring environmental impacts	A description of the measures you will use to avoid or minimize adverse effects and any potential incidental take before you conduct activities on your lease, and how you will mitigate environmental impacts from your proposed activities, including a description of the measures you will use as required by this part and part 285, subpart H, of this title.
(16) Information you incorporate by reference	A listing of the documents you referenced.
(17) A list of agencies and persons with whom you have communicated, or with whom you will communicate, regarding potential impacts associated with your proposed activities	Contact information and issues discussed.
(18) Reference	A list of any document or published source that you cite as part of your plan. You may reference information and data discussed in other plans you previously submitted or that are otherwise readily available to BOEM.
(19) Financial assurance	Statements attesting that the activities and facilities proposed in your COP are or will be covered by an appropriate bond or security, as required by §§ 585.515 and 585.516.
(20) CVA nominations for reports required in part 285, subpart G, of this title	CVA nominations for reports in part 285, subpart G, of this title as required by § 285.706, or a request for a waiver under § 285.705(c).

(21) Construction schedule	A reasonable schedule of construction activity showing significant milestones leading to the commencement of commercial operations.
(22) Air quality information	As described in § 585.700.
(23) Other information	Additional information as required by BOEM.

§ 585.627 What information and certifications must I submit with my COP to assist BOEM in complying with NEPA and other relevant laws?

(a) You must submit with your COP detailed information to assist BOEM in complying with NEPA and other relevant laws. Your COP must describe those resources, conditions, and activities listed in the following table that could be affected by your proposed activities, or that could affect the activities proposed in your COP, including:

Type of information:	Including:
(1) Hazard information	Meteorology, oceanography, sediment transport, geology, and shallow geological or manmade hazards.
(2) Water quality	Turbidity and total suspended solids from construction.
(3) Biological resources	Benthic communities, marine mammals, sea turtles, coastal and marine birds, fish and shellfish, plankton, seagrasses, and plant life.
(4) Threatened or endangered species	As defined by the ESA (16 U.S.C. 1531 <i>et seq.</i>).
(5) Sensitive biological resources or habitats	Essential fish habitat, refuges, preserves, special management areas identified in coastal management programs, sanctuaries, rookeries, hard bottom habitat, chemosynthetic communities, calving grounds, barrier islands, beaches, dunes, and wetlands.

(6) Archaeological resources	As required by the NHPA (16 U.S.C. 470 <i>et seq.</i>), as amended.
(7) Social and economic resources	Employment, existing offshore and coastal infrastructure (including major sources of supplies, services, energy, and water), land use, subsistence resources and harvest practices, recreation, recreational and commercial fishing (including typical fishing seasons, location, and type), minority and lower income groups, coastal zone management programs, and viewshed.
(8) Coastal and marine uses	Military activities, vessel traffic, and energy and non-energy mineral exploration or development.
(9) Consistency Certification	As required by the CZMA regulations: (i) 15 CFR part 930, subpart D, if your COP is submitted before lease issuance. (ii) 15 CFR part 930, subpart E, if your COP is submitted after lease issuance.
(10) Other resources, conditions, and activities	As identified by BOEM.

(b) You must submit one paper copy and one electronic copy of your consistency certification. Your consistency certification must include:

(1) One copy of your consistency certification either under subsection 307(c)(3)(B) of the CZMA (16 U.S.C. 1456(c)(3)(B)) and 15 CFR 930.76, or under subsection 307(c)(3)(A) of the CZMA (16 U.S.C. 1456(c)(3)(A)) and 15 CFR 930.57, stating that the proposed activities described in detail in your plans comply with the State(s) approved coastal management program(s) and will be conducted in a manner that is consistent with such program(s); and

(2) “Necessary data and information,” as required by 15 CFR 930.58.

(c) You must submit your oil spill response plan to BSEE as required by 30 CFR part 254.

(d) You must submit your safety management system to BSEE as required by § 285.810 of this title.

§ 585.628 How will BOEM process my COP?

(a) BOEM will review your submitted COP, and the information provided pursuant to § 585.627, to determine if it contains all the required information necessary to conduct our technical and environmental reviews. We will notify you if your submitted COP lacks any necessary information.

(b) BOEM will prepare an appropriate NEPA analysis.

(c) If your COP is submitted after lease issuance, BOEM will forward one copy of your COP, consistency certification, and associated data and information under the CZMA to the applicable State CZMA agency or agencies after all information requirements for the COP are met.

(d) As appropriate, BOEM will coordinate and consult with relevant Federal, State, and local agencies and affected Indian Tribes, and provide to them relevant nonproprietary data and information pertaining to your proposed activities.

(e) During the review process, we may request additional information if we determine that the information provided is not sufficient to complete the review and approval

process. If you fail to provide the requested information, BOEM may disapprove your COP.

(f) Upon completion of our technical and environmental reviews and other reviews required by Federal law (*e.g.*, CZMA), BOEM may approve, disapprove, or approve with modifications your COP.

(1) If we approve your COP, we will specify terms and conditions to be incorporated into your COP. You must certify compliance with certain of those terms and conditions, as required under § 285.633(a) of this title; and

(2) If we disapprove your COP, we will inform you of the reasons and allow you an opportunity to resubmit a revised plan addressing the concerns identified, and may suspend the term of your lease, as appropriate, to allow this to occur.

(g) If BOEM approves your project easement, BOEM will issue an addendum to your lease specifying the terms of the project easement. A project easement may include off-lease areas that:

(1) Contain the sites on which cable, pipeline, or associated facilities are located;

(2) Do not exceed 200 feet (61 meters) in width, unless safety and environmental factors during construction and maintenance of the associated cables or pipelines require a greater width; and

(3) For associated facilities, are limited to the area reasonably necessary for power or pumping stations or other accessory facilities.

§§ 585.629- 585.630 [Reserved]

ACTIVITIES UNDER AN APPROVED COP

§585.631 When must I initiate activities under an approved COP?

After your COP is approved, you must commence construction by the date given in the construction schedule required by § 585.626(b)(21), and included as a part of your approved COP, unless BOEM approves a deviation from your schedule.

§ 585.632 What documents must I submit before I may construct and install facilities under my approved COP?

(a) You must submit to BSEE the documents listed in the following table:

Document:	Requirements are found in:
(1) Facility Design Report	§ 285.701 of this title
(2) Fabrication and Installation Report	§ 285.702 of this title

(b) You must submit your Safety Management System, as required by § 285.810 of this title.

(c) These activities must fall within the scope of your approved COP. If they do not fall within the scope of your approved COP, you will be required to submit a revision to your COP, under § 585.634, for BOEM approval before commencing the activity.

§ 585.633 [Reserved]

§ 585.634 What activities require a revision to my COP, and when will BOEM approve the revision?

(a) You must notify BOEM in writing before conducting any activities not described in your approved COP, describing in detail the type of activities you propose to conduct. We will determine whether the activities you propose are authorized by your existing COP or require a revision to your COP. We may request additional information from you, if necessary, to make this determination.

(b) BOEM will periodically review the activities conducted under an approved COP. The frequency and extent of the review will be based on the significance of any changes in available information, and on onshore or offshore conditions affecting, or affected by, the activities conducted under your COP. If the review indicates that the COP should be revised to meet the requirement of this part, BOEM will require you to submit the needed revisions.

(c) Activities for which a proposed revision to your COP will likely be necessary include:

- (1) Activities not described in your approved COP;
- (2) Modifications to the size or type of facility or equipment you will use;
- (3) Change in the surface location of a facility or structure;
- (4) Addition of a facility or structure not described in your approved COP;

(5) Change in the location of your onshore support base from one State to another or to a new base requiring expansion;

(6) Changes in the location of bottom disturbances (anchors, chains, *etc.*) by 500 feet (152 meters) or greater from the approved locations (*e.g.*, if a specific anchor pattern was approved as a mitigation measure to avoid contact with bottom features, any change in the proposed bottom disturbances would likely trigger the need for a revision);

(7) Structural failure of one or more facilities; or

(8) Change in any other activity specified by BOEM.

(d) We may begin the appropriate NEPA analysis and relevant consultations when we determine that a proposed revision could:

(1) Result in a significant change in the impacts previously identified and evaluated;

(2) Require any additional Federal authorizations; or

(3) Involve activities not previously identified and evaluated.

(e) When you propose a revision, we may approve the revision if we determine that the revision is:

(1) Designed not to cause undue harm or damage to natural resources; life (including human and wildlife); property; the marine, coastal, or human environment; or sites, structures, or objects of historical or archaeological significance; and

(2) Otherwise consistent with the provisions of subsection 8(p) of the OCS Lands Act.

§ 585.635 What must I do if I cease activities approved in my COP before the end of my commercial lease?

You must notify the BSEE, within 5 business days, any time you cease commercial operations, without an approved suspension, under your approved COP. If you cease commercial operations for an indefinite period which extends longer than 6 months, we may cancel your lease under § 585.422 and, you must initiate the decommissioning process as set forth in part 285, subpart I, of this title.

§§ 585.636-585.639 [Reserved]

**GENERAL ACTIVITIES PLAN REQUIREMENTS FOR LIMITED LEASES,
ROW GRANTS, AND RUE GRANTS**

§ 585.640 What is a General Activities Plan (GAP)?

(a) A GAP describes your proposed construction, activities, and conceptual decommissioning plans for all planned facilities, including testing of technology devices and onshore and support facilities that you will construct and use for your project, including any project easements for the assessment and development of your limited lease or grant.

(b) You must receive BOEM approval of your GAP before you can begin any of the approved activities on your lease or grant. You must submit your GAP no later than 12 months from the date of the lease or grant issuance.

§ 585.641 What must I demonstrate in my GAP?

Your GAP must demonstrate that you have planned and are prepared to conduct the proposed activities in a manner that:

- (a) Conforms to all applicable laws, implementing regulations, lease provisions and stipulations;
- (b) Is safe;
- (c) Does not unreasonably interfere with other uses of the OCS, including those involved with national security or defense;
- (d) Does not cause undue harm or damage to natural resources; life (including human and wildlife); property; the marine, coastal, or human environment; or sites, structures, or objects of historical or archaeological significance;
- (e) Uses best available and safest technology;
- (f) Uses best management practices; and
- (g) Uses properly trained personnel.

§ 585.642 How do I submit my GAP?

- (a) You must submit one paper copy and one electronic version of your GAP to BOEM at the address listed in § 585.110.
- (b) If you have a limited lease, you may submit information on any project easement as part of your original GAP submission or as a revision to your GAP.

§§ 585.643-585.644 [Reserved]

CONTENTS OF THE GENERAL ACTIVITIES PLAN

§ 585.645 What must I include in my GAP?

(a) You must provide the following results of geophysical and geological surveys, hazards surveys, archaeological surveys (if required), and baseline collection studies (e.g., biological) with the supporting data in your GAP:

Information:	Report contents:	Including:
(1) Geotechnical	The results from the geotechnical survey with supporting data	A description of all relevant seabed and engineering data and information to allow for the design of the foundation for that facility. You must provide data and information to depths below which the underlying conditions will not influence the integrity or performance of the structure. This could include a series of sampling locations (borings and in situ tests) as well as laboratory testing of soil samples, but may consist of a minimum of one deep boring with samples.
(2) Shallow hazards	The results from the shallow hazards survey with supporting data	A description of information sufficient to determine the presence of the following features and their likely effects on your proposed facility, including:
		(i) Shallow faults;
		(ii) Gas seeps or shallow gas;
		(iii) Slump blocks or slump sediments;
		(iv) Hydrates; or
		(v) Ice scour of seabed sediments.
(3) Archaeological resources	The results from the archaeological survey with	(i) A description of the results and data from the archaeological survey;

	supporting data, if required	
		(ii) A description of the historic and prehistoric archaeological resources, as required by NHPA (16 U.S.C. 470 <i>et seq.</i>), as amended.
(4) Geological survey	The results from the geological survey with supporting data	A report that describes the results of a geological survey that includes descriptions of:
		(i) Seismic activity at your proposed site;
		(ii) Fault zones;
		(iii) The possibility and effects of seabed subsidence; and
		(iv) The extent and geometry of faulting attenuation effects of geologic conditions near your site.
(5) Biological survey	The results from the biological survey with supporting data	A description of the results of a biological survey, including the presence of live bottoms, hard bottoms, and topographic features, and surveys of other marine resources such as fish populations (including migratory populations), marine mammals, sea turtles, and sea birds.

(b) For all activities you propose to conduct under your GAP, you must provide the following information:

Project information:	Including:
(1) Contact information	The name, address, e-mail address, and phone number of an authorized representative.
(2) The site assessment or technology testing concept	A discussion of the objectives; description of the proposed activities, including the technology you will use; and proposed schedule from start to completion.

(3) Designation of operator, if applicable	As provided in § 585.405.
(4) ROW, RUE or limited lease grant stipulations, if known	A description of the measures you took, or will take, to satisfy the conditions of any lease stipulations related to your proposed activities.
(5) A location plat	The surface location and water depth for all proposed and existing structures, facilities, and appurtenances located both offshore and onshore.
(6) General structural and project design, fabrication, and installation	Information for each type of facility associated with your project.
(7) Deployment activities	A description of the safety, prevention, and environmental protection features or measures that you will use.
(8) A list of solid and liquid wastes generated	Disposal methods and locations.
(9) A listing of chemical products used (only if stored volume exceeds USEPA reportable quantities)	A list of chemical products used; the volume stored on location; their treatment, discharge, or disposal methods used; and the name and location of the onshore waste receiving, treatment, and/or disposal facility. A description of how these products would be brought onsite, the number of transfers that may take place, and the quantity that will be transferred each time.
(10) Reference information	A list of any document or published source that you cite as part of your plan. You may reference information and data discussed in other plans you previously submitted or that are otherwise readily available to BOEM.
(11) Decommissioning and site clearance procedures	A discussion of methodologies.
(12) Air quality information	As described in § 585.700.

(13) A listing of all Federal, State, and local authorizations or approvals required to conduct site assessment activities on your lease	A statement indicating whether such authorization or approval has been applied for or obtained.
(14) A list of agencies and persons with whom you have communicated, or with whom you will communicate, regarding potential impacts associated with your proposed activities	Contact information and issues discussed.
(15) Financial assurance information	Statements attesting that the activities and facilities proposed in your GAP are or will be covered by an appropriate bond or other approved security, as required in §§ 585.520-.521.
(16) Other information	Additional information as requested by BOEM.

(c) If you are applying for a project easement or constructing a facility, or a combination of facilities deemed by BOEM to be complex or significant, you must provide the following information in addition to what is required in paragraphs (a) and (b) of this section and comply with the requirements of part 285, subpart G, of this title:

Project information:	Including:
(1) The construction and operation concept	A discussion of the objectives, description of the proposed activities, and tentative schedule from start to completion.
(2) All cables and pipelines, including cables on project easements	The location, design, installation methods, testing, maintenance, repair, safety devices, exterior corrosion protection, inspections, and decommissioning.
(3) A description of the deployment activities	Safety, prevention, and environmental protection features or measures that you will use.

(4) A general description of the operating procedures and systems	(i) Under normal conditions. (ii) In the case of accidents or emergencies, including those that are natural or manmade.
(5) CVA nominations for reports required in part 285, subpart G, of this title.	CVA nominations for reports in part 285, subpart G, of this title, as required by § 285.706, or a request for a waiver under § 285.705.
(6) Construction schedule	A reasonable schedule of construction activity showing significant milestones leading to the commencement of activities.
(7) Other information	Additional information as required by the BOEM.

(d) BOEM will withhold trade secrets and commercial or financial information that is privileged or confidential from public disclosure in accordance with the terms of § 585.114.

§ 585.646 What information and certifications must I submit with my GAP to assist BOEM in complying with NEPA and other relevant laws?

You must submit, with your GAP, detailed information to assist BOEM in complying with NEPA and other relevant laws as appropriate.

(a) A GAP submitted for an area in which BOEM has not reviewed GAP activities under NEPA or other applicable Federal laws must describe those resources, conditions, and activities listed in the following table that could be affected by your proposed activities or that could affect the activities proposed in your GAP.

(b) For a GAP submitted for an area in which BOEM has considered GAP activities under applicable Federal law (*e.g.*, a NEPA analysis and CZMA consistency determination for the GAP activities), BOEM will review the GAP to determine if its

impacts are consistent with those previously considered. If the anticipated effects of your proposed GAP activities are significantly different than those previously anticipated, we may determine that additional NEPA and other relevant Federal reviews are required. In that case, BOEM will notify you of such determination, and you must submit a GAP that describes those resources, conditions, and activities listed in the following table that could be affected by your proposed activities or that could affect the activities proposed in your GAP, including:

Type of information:	Including:
(1) Hazard information	Meteorology, oceanography, sediment transport, geology, and shallow geological or manmade hazards.
(2) Water quality	Turbidity and total suspended solids from construction.
(3) Biological resources	Benthic communities, marine mammals, sea turtles, coastal and marine birds, fish and shellfish, plankton, sea grasses, and other plant life.
(4) Threatened or endangered species	As required by the ESA (16 U.S.C. 1531 <i>et seq.</i>).
(5) Sensitive biological resources or habitats	Essential fish habitat, refuges, preserves, special management areas identified in coastal management programs, sanctuaries, rookeries, hard bottom habitat, chemosynthetic communities, calving grounds, barrier islands, beaches, dunes, and wetlands.
(6) Archaeological resources	As required by NHPA (16 U.S.C. 470 <i>et seq.</i>), as amended.
(7) Social and economic conditions	Employment, existing offshore and coastal infrastructure (including major sources of supplies, services, energy, and water), land use, subsistence resources and harvest practices, recreation, recreational and commercial fishing (including typical fishing seasons, location,

	and type), minority and lower income groups, coastal zone management programs, and view shed.
(8) Coastal and marine uses	Military activities, vessel traffic, and energy and non-energy mineral exploration or development.
(9) Consistency Certification	If required by CZMA, as appropriate: (i) 15 CFR part 930, subpart D, if the GAP is submitted prior to lease or grant issuance; (ii) 15 CFR part 930, subpart E, if the GAP is submitted after lease or grant issuance.
(10) Other resources, conditions, and activities	As required by BOEM.

§ 585.647 How will my GAP be processed for Federal consistency under the Coastal Zone Management Act?

Your GAP will be processed based on whether it is submitted before or after your lease or grant is issued:

If your GAP is submitted:	Consistency review of your GAP will be handled as follows:
(a) Before lease or grant issuance	You will furnish a copy of your GAP, consistency certification, and necessary data and information pursuant to 15 CFR part 930, subpart D, to the applicable State CZMA agency or agencies and BOEM at the same time.
(b) After lease or grant issuance	You will submit a copy of your GAP, consistency certification, and necessary data and information pursuant to 15 CFR 930, subpart E, to BOEM. BOEM will forward to the applicable State CZMA agency or agencies one paper copy and one electronic copy of your GAP, consistency certification, and necessary data and information required under 15 CFR part 930, subpart E, after BOEM has determined that all information requirements for the GAP are met.

§ 585.648 How will BOEM process my GAP?

(a) BOEM will review your submitted GAP, along with the information and certifications provided pursuant to § 585.646, to determine if it contains all the required information necessary to conduct our technical and environmental reviews.

(1) We will notify you if we deem your proposed facility or combination of facilities to be complex or significant; and

(2) We will notify you if your submitted GAP lacks any necessary information.

(b) BOEM will prepare appropriate NEPA analysis.

(c) When appropriate, we will coordinate and consult with relevant State and Federal agencies and affected Indian Tribes and provide to other local, State, and Federal agencies and affected Indian Tribes relevant nonproprietary data and information pertaining to your proposed activities.

(d) During the review process, we may request additional information if we determine that the information provided is not sufficient to complete the review and approval process. If you fail to provide the requested information, BOEM may disapprove your GAP.

(e) Upon completion of our technical and environmental reviews and other reviews required by Federal law (*e.g.*, CZMA), BOEM may approve, disapprove, or approve with modifications your GAP.

(1) If we approve your GAP, we will specify terms and conditions to be incorporated into your GAP. You must certify compliance with certain of those terms and conditions, as required under § 285.653(b) of this title; and

(2) If we disapprove your GAP, we will inform you of the reasons and allow you an opportunity to resubmit a revised plan making the necessary corrections, and may suspend the term of your lease or grant, as appropriate, to allow this to occur.

§ 585.649 [Reserved]

ACTIVITIES UNDER AN APPROVED GAP

§ 585.650 When may I begin conducting activities under my GAP?

After BOEM approves your GAP, you may begin conducting the approved activities that do not involve a project easement or the construction of facilities on the OCS that BOEM has deemed to be complex or significant.

§ 585.651 When may I construct complex or significant OCS facilities on my limited lease or any facilities on my project easement proposed under my GAP?

If you are applying for a project easement, or installing a facility or a combination of facilities on your limited lease deemed by BOEM to be complex or significant, as provided in § 585.648(a)(1), you also must comply with the requirements of part 285, subpart G, of this title and submit your safety management system description required by § 285.810 of this title before construction may begin.

§ 585.652 How long do I have to conduct activities under an approved GAP?

After BOEM approves your GAP, you have:

(a) For a limited lease, 5 years to conduct your approved activities, unless we renew the term under §§ 585.425 through 585.429.

(b) For a ROW grant or RUE grant, the time provided in the terms of the grant.

§ 585.653 What other reports or notices must I submit to BOEM under my approved GAP?

You must prepare and submit to BOEM annually a report that summarizes the findings from any activities you conduct under your approved GAP and the results of those activities. We will protect the information from public disclosure as provided in § 585.114.

§ 585.654 [Reserved]

§ 585.655 What activities require a revision to my GAP, and when will BOEM approve the revision?

(a) You must notify BOEM in writing before conducting any activities not described in your approved GAP, describing in detail the type of activities you propose to conduct. We will determine whether the activities you propose are authorized by your existing GAP or require a revision to your GAP. We may request additional information from you, if necessary, to make this determination.

(b) BOEM will periodically review the activities conducted under an approved GAP. The frequency and extent of the review will be based on the significance of any

changes in available information and on onshore or offshore conditions affecting, or affected by, the activities conducted under your GAP. If the review indicates that the GAP should be revised to meet the requirement of this part, BOEM will require you to submit the needed revisions.

(c) Activities for which a proposed revision to your GAP will likely be necessary include:

- (1) Activities not described in your approved GAP;
- (2) Modifications to the size or type of facility or equipment you will use;
- (3) Change in the surface location of a facility or structure;
- (4) Addition of a facility or structure not contemplated in your approved GAP;
- (5) Change in the location of your onshore support base from one State to another or to a new base requiring expansion;
- (6) Changes in the locations of bottom disturbances (anchors, chains, *etc.*) by 500 feet (152 meters) or greater from the approved locations. If a specific anchor pattern was approved as a mitigation measure to avoid contact with bottom features, any change in the proposed bottom disturbances would likely trigger the need for a revision;
- (7) Structural failure of one or more facilities; or
- (8) Change to any other activity specified by BOEM.

(d) We may begin the appropriate NEPA analysis and any relevant consultations when we determine that a proposed revision could:

(1) Result in a significant change in the impacts previously identified and evaluated;

(2) Require any additional Federal authorizations; or

(3) Involve activities not previously identified and evaluated.

(e) When you propose a revision, we may approve the revision if we determine that the revision is:

(1) Designed not to cause undue harm or damage to natural resources; life (including human and wildlife); property; the marine, coastal, or human environment; or sites, structures, or objects of historical or archaeological significance; and

(2) Otherwise consistent with the provisions of subsection 8(p) of the OCS Lands Act.

§ 585.656 What must I do if I cease activities approved in my GAP before the end of my term?

You must notify the BOEM any time you cease activities under your approved GAP without an approved suspension. If you cease activities for an indefinite period that exceeds 6 months, BOEM may cancel your lease or grant under § 585.422, as applicable, and you must initiate the decommissioning process, as set forth in part 285, subpart I, of this title.

§ 585.657 What must I do upon completion of approved activities under my GAP?

Upon completion of your approved activities under your GAP, you must initiate the decommissioning process as set forth in part 285, subpart I, of this title. You must submit your decommissioning application as provided in §§ 285.905 and 285.906 of this title.

CABLE AND PIPELINE DEVIATIONS

§ 585.658 Can my cable or pipeline construction deviate from my approved COP or GAP?

(a) You must make every effort to ensure that all cables and pipelines are constructed in a manner that minimizes deviations from the approved plan under your lease or grant.

(b) If BOEM determines that a significant change in conditions has occurred that would necessitate an adjustment to your ROW, RUE or lease before the commencement of construction of the cable or pipeline on the grant or lease, BOEM will consider modifications to your ROW grant, RUE grant, or your lease addendum for a project easement in connection with your COP or GAP.

(c) If, after construction, it is determined that a deviation from the approved plan has occurred, you must:

(1) Notify the operators of all leases (including mineral leases issued under this subchapter) and holders of all ROW grants or RUE grants (including all grants issued under this subchapter) which include the area where a deviation has occurred and provide BOEM with evidence of such notification;

- (2) Relinquish any unused portion of your lease or grant; and
- (3) Submit a revised plan for BOEM approval as necessary.
- (d) Construction of a cable or pipeline that substantially deviates from the approved plan may be grounds for cancellation of the lease or grant.

§ 585.659 [Reserved]

**ENVIRONMENTAL PROTECTION REQUIREMENTS UNDER APPROVED
PLANS**

§ 585.700 What requirements must I include in my SAP, COP, or GAP regarding air quality?

- (a) You must comply with the Clean Air Act (42 U.S.C. 7409) and its implementing regulations, according to the following table.

If your project is located . . .	you must . . .
(1) in the Gulf of Mexico west of 87.5° west longitude (western Gulf of Mexico),	include in your plan any information required for BOEM to make the appropriate air quality determinations for your project.
(2) anywhere else on the OCS	follow the appropriate implementing regulations as promulgated by the EPA under 40 CFR part 55.

- (b) For air quality modeling that you perform in support of the activities proposed in your plan, you should contact the appropriate regulatory agency to establish a modeling protocol to ensure that the agency's needs are met and that the meteorological files used are acceptable before initiating the modeling work. In the western Gulf of Mexico (west

of 87.5° west longitude), you must submit to BOEM three copies of the modeling report and three sets of digital files as supporting information. The digital files must contain the formatted meteorological files used in the modeling runs, the model input file, and the model output file.

§ 585.701 How must I conduct my approved activities to protect marine mammals, threatened and endangered species, and designated critical habitat?

(a) You must not conduct any activity under your lease or grant that may affect threatened or endangered species or that may affect designated critical habitat of such species until the appropriate level of consultation is conducted, as required under the ESA, as amended (16 U.S.C. 1531 *et seq.*), to ensure that your actions are not likely to jeopardize a threatened or endangered species and are not likely to destroy or adversely modify designated critical habitat.

(b) You must not conduct any activity under your lease or grant that may result in an incidental taking of marine mammals until the appropriate authorization has been issued under the Marine Mammal Protection Act of 1972 (MMPA) as amended (16 U.S.C. 1361 *et seq.*).

(c) If there is reason to believe that a threatened or endangered species may be present while you conduct your BOEM-approved activities or may be affected by the direct or indirect effects of your actions:

(1) You must notify us that endangered or threatened species may be present in the vicinity of the lease or grant or may be affected by your actions; and

(2) We will consult with appropriate State and Federal fish and wildlife agencies and, after consultation, shall identify whether, and under what conditions, you may proceed.

(d) If there is reason to believe that designated critical habitat of a threatened or endangered species may be affected by the direct or indirect effects of your BOEM-approved activities:

(1) You must notify us that designated critical habitat of a threatened or endangered species in the vicinity of the lease or grant may be affected by your actions; and

(2) We will consult with appropriate State and Federal fish and wildlife agencies and, after consultation, shall identify whether, and under what conditions, you may proceed.

(e) If there is reason to believe that marine mammals may be incidentally taken as a result of your proposed activities:

(1) You must agree to secure an authorization from National Oceanic and Atmospheric Administration (NOAA) or the U.S. Fish and Wildlife Service (FWS) for incidental taking, including taking by harassment, that may result from your actions; and

(2) You must comply with all measures required by the NOAA or FWS, including measures to affect the least practicable impact on such species and their habitat and to ensure no immitigable adverse impact on the availability of the species for subsistence use.

(f) Submit to us:

- (1) Measures designed to avoid or minimize adverse effects and any potential incidental take of the endangered or threatened species or marine mammals;
- (2) Measures designed to avoid likely adverse modification or destruction of designated critical habitat of such endangered or threatened species; and
- (3) Your agreement to monitor for the incidental take of the species and adverse effects on the critical habitat, and provide the results of the monitoring as required; and
- (4) Your agreement to perform any relevant terms and conditions of the Incidental Take Statement that may result from the ESA consultation.
- (5) Your agreement to perform any relevant mitigation measures under an MMPA incidental take authorization.

§ 585.702 What must I do if I discover a potential archaeological resource while conducting my approved activities?

- (a) If you, your subcontractors, or any agent acting on your behalf discovers a potential archaeological resource while conducting construction activities, or any other activity related to your project, you must:
 - (1) Immediately halt all seafloor-disturbing activities within the area of the discovery;
 - (2) Notify BOEM of the discovery within 72 hours; and
 - (3) Keep the location of the discovery confidential and not take any action that may adversely affect the archaeological resource until we have made an evaluation and instructed you on how to proceed.

(b) We may require you to conduct additional investigations to determine if the resource is eligible for listing in the National Register of Historic Places under 36 CFR 60.4. We will do this if:

(1) The site has been impacted by your project activities; or

(2) Impacts to the site or to the area of potential effect cannot be avoided.

(c) If investigations under paragraph (b) of this section indicate that the resource is potentially eligible for listing in the National Register of Historic Places, we will tell you how to protect the resource, or how to mitigate adverse effects to the site.

(d) If we incur costs in protecting the resource, under section 110(g) of the NHPA, we may charge you reasonable costs for carrying out preservation responsibilities under the OCS Lands Act.

§ 585.703 How must I conduct my approved activities to protect essential fish habitats identified and described under the Magnuson-Stevens Fishery Conservation and Management Act?

(a) If, during the conduct of your approved activities, BOEM finds that essential fish habitat or habitat areas of particular concern may be adversely affected by your activities, BOEM must consult with National Marine Fisheries Service.

(b) Any conservation recommendations adopted by BOEM to avoid or minimize adverse effects on essential fish habitat will be incorporated as terms and conditions in the lease

and must be adhered to by the applicant. BOEM may require additional surveys to define boundaries and avoidance distances.

(c) If required, BOEM will specify the survey methods and instrumentations for conducting the biological survey and will specify the contents of the biological report.

4. Add part 586 to subchapter B to read as follows:

PART 586—ALTERNATE USES OF EXISTING FACILITIES ON THE OUTER CONTINENTAL SHELF

Subpart A—General Provisions

Sec.

586.100 Authority.

586.101 What is the purpose of this part?

586.102 What activities does this part regulate?

586.103 What are BOEM's responsibilities under this part?

586.104 When may BOEM prescribe or approve departures from these regulations?

586.105 What are my responsibilities under this part?

586.106 What happens if I fail to comply with this part?

586.107 Who can hold a grant under this part?

586.108 How do I show that I am qualified to be a grant holder?

586.109 When must I notify BOEM if an action has been filed alleging that I am insolvent or bankrupt?

586.110 When must I notify BOEM of mergers, name changes, or changes of business form?

586.111 How do I submit plans, applications, or notices required by this part?

586.112 When and how does BOEM charge me processing fees on a case-by-case basis?

586.113 Definitions.

586.114 How will data and information obtained by BOEM under this part be disclosed to the public?

586.115 Paperwork Reduction Act statements—information collection.

586.116 – 586.117 [Reserved]

586.118 What are my appeal rights?

Subpart B—Issuance of Alternate Use RUEs for Energy- and Marine-Related Activities Using Existing OCS Facilities

Sec.

REQUESTING AN ALTERNATE USE RUE

586.200 What must I do before I request an Alternate Use RUE?

586.201 How do I request an Alternate Use RUE?

586.202 How will BOEM decide whether to issue an Alternate Use RUE?

586.203 What process will BOEM use for competitively offering an Alternate Use RUE

586.204-586.209 [Reserved]

ALTERNATE USE RUE ADMINISTRATION

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586.211 What payments are required for an Alternate Use RUE?

586.212 What financial assurance is required for an Alternate Use RUE?

586.213 Is an Alternate Use RUE assignable?

586.214 When will BOEM suspend an Alternate Use RUE?

586.215 How do I relinquish an Alternate Use RUE?

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586.217 [Reserved]

586.218 Who is responsible for decommissioning an OCS facility subject to an Alternate Use RUE?

586.219 What are the decommissioning requirements for an Alternate Use RUE?

Subpart A—General Provisions

§586.100 Authority.

The authority for this part derives from subsection 8 of the Outer Continental Shelf Lands Act (OCS Lands Act) (43 U.S.C. 1337). The Secretary of the Interior delegated to the Bureau of Ocean Energy Management (BOEM) the authority to regulate activities under section 1337(p)(1)(D) of OCS Lands Act.

§ 586.101 What is the purpose of this part?

The purpose of this part is to:

(a) Establish procedures for issuance and administration of right-of-use and easement (RUE) grants for the alternate use of existing OCS facilities for energy or marine-related purposes;

(b) Inform you and third parties of your obligations when you undertake activities authorized in this part; and

(c) Ensure that activities involving the alternate use of OCS facilities for energy or marine-related purposes are conducted in a safe and environmentally sound manner, in conformance with the requirements of subsection 8(p) of the OCS Lands Act, other applicable laws and regulations, and the terms of your Alternate Use RUE grant.

(d) This part will not convey access rights for oil, gas, or other minerals.

§ 586.102 What activities does this part regulate?

(a) This part provides the general provisions for authorizing and regulating activities that use, or propose to use, an existing OCS facility for energy- or marine-related purposes, that are not otherwise authorized under any other part of this subchapter or any other applicable Federal statute. Activities authorized under any other part of this subchapter or under any other Federal law that use (or propose to use) an existing OCS facility are not subject to this part.

(b) BOEM will issue an Alternate Use RUE for activities authorized under this part.

(c) At the discretion of the Director, an Alternate Use RUE may:

(1) Permit alternate use activities to occur at an existing facility that is currently in use under an approved OCS lease; or

(2) Limit alternate use activities at the existing facility until after previously authorized activities at the facility have ceased and the OCS lease terminates.

§ 586.103 What are BOEM's responsibilities under this part?

(a) BOEM will ensure that any activities authorized in this part are carried out in a manner that provides for:

(1) Safety;

(2) Protection of the environment;

(3) Prevention of waste;

(4) Conservation of the natural resources of the OCS;

(5) Coordination with relevant Federal agencies (including, in particular, those agencies involved in planning activities that are undertaken to avoid conflicts among users and to maximize the economic and ecological benefits of the OCS, including multifaceted spatial planning efforts);

(6) Protection of National security interests of the United States;

(7) Protection of the rights of other authorized users of the OCS;

- (8) A fair return to the United States;
- (9) Prevention of interference with reasonable uses (as determined by the Secretary or Director) of the exclusive economic zone, the high seas, and the territorial seas;
- (10) Consideration of the location of and any schedule relating to a grant under this part for an area of the OCS, and any other use of the sea or seabed;
- (11) Public notice and comment on any proposal submitted for a grant under this part; and
- (12) Oversight, research, and monitoring of activities authorized by a grant under this part.

(b) BOEM will require compliance with all applicable laws, regulations, other requirements, and the terms of your grant and approved plans under this part. BOEM will approve, disapprove, or approve with conditions any plans, applications, or other documents submitted to BOEM for approval under the provisions of this part.

(c) Unless otherwise provided in this part, BOEM may give oral directives or decisions whenever prior BOEM approval is required under this part. BOEM will document in writing any such oral directives within 10 business days.

(d) BOEM will establish practices and procedures to govern the collection of all payments due to the Federal Government, including any cost recovery fees, rents, operating fees, and other fees or payments. BOEM will do this in accordance with the

terms of this part, the grant under this part, and applicable Office of Natural Resources Revenue (ONRR) regulations or guidance.

(e) BOEM will provide for coordination and consultation with the Governor of any State, the executive of any local government, and the executive of any Indian Tribe that may be affected by a grant issued under this part. BOEM may invite any affected State Governor, representative of an affected Indian Tribe, and affected local government executive to join in establishing a task force or other joint planning or coordination agreement in carrying out our responsibilities under this part.

§ 586.104 When may BOEM prescribe or approve departures from these regulations?

(a) BOEM may prescribe or approve departures from these regulations when departures are necessary to:

- (1) Facilitate the appropriate activities on a grant under this part;
- (2) Conserve natural resources;
- (3) Protect life (including human and wildlife), property, or the marine, coastal, or human environment; or
- (4) Protect sites, structures, or objects of historical or archaeological significance.

(b) Any departure approved under this section and its rationale must:

- (1) Be consistent with subsection 8(p) of the OCS Lands Act;
- (2) Protect the environment and the public health and safety to the same degree as if there was no approved departure from the regulations;
- (3) Not impair the rights of third parties; and
- (4) Be documented in writing.

§ 586.105 What are my responsibilities under this part?

As an applicant, operator, or holder of an Alternate Use RUE grant, you must:

- (a) Design your projects and conduct all activities in a manner that ensures safety and will not cause undue harm or damage to natural resources, including their physical, atmospheric, and biological components to the extent practicable; and take measures to prevent unauthorized discharge of pollutants including marine trash and debris into the offshore environment.
- (b) Submit requests, applications, plans, notices, modifications, and supplemental information to BOEM as required by this part;
- (c) Follow-up, in writing, any oral request or notification you made, within 3 business days;

(d) Comply with the terms, conditions, and provisions of all reports and notices submitted to BOEM, and of all plans, revisions, and other BOEM approvals, as provided in this part;

(e) Make all applicable payments on time;

(f) Comply with the DOI's non-procurement debarment regulations at 2 CFR part 1400;

(g) Include the requirement to comply with 2 CFR part 1400 in all contracts and transactions related to a lease or grant under this part;

(h) Conduct all activities authorized by the lease or grant in a manner consistent with the provisions of subsection 8(p) of the OCS Lands Act;

(i) Compile, retain, and make available to BOEM representatives, within the time specified by BOEM, any data and information related to the site assessment, design, and operations of your project; and

(j) Respond to requests from the Director in a timely manner.

§ 586.106 What happens if I fail to comply with this part?

(a) BOEM may take appropriate corrective action under this part if you fail to comply with applicable provisions of Federal law, the regulations in this part, other applicable regulations, any order of the Director, the provisions of a grant issued under this part, or the requirements of an approved plan or other approval under this part.

(b) BOEM may issue to you a notice of noncompliance if we determine that there has been a violation of the regulations in this part, any order of the Director, or any provision of your grant or other approval issued under this part. When issuing a notice of noncompliance, BOEM will serve you at your last known address.

(c) A notice of noncompliance will tell you how you failed to comply with this part or any order of the Director, and/or the provisions of your grant or other approval, and will specify what you must do to correct the noncompliance and the time limits within which you must act.

(d) Failure of an operator or grant holder to take the actions specified in a notice of noncompliance issued under this part within the time limit specified provides the basis for cancellation of the grant by the Secretary (§ 586.216).

(e) BOEM may assess civil penalties, as authorized by section 24 of the OCS Lands Act, if you fail to comply with any provision of this part or any term of a grant or order issued under the authority of this part, after notice of such failure and expirations of any reasonable period allowed for corrective action. Civil penalties will be determined and assessed in accordance with the procedures set forth in part 550, subpart N, of this chapter.

(f) You may be subject to criminal penalties as authorized by section 24 of the OCS Lands Act.

§ 586.107 Who can hold a grant under this part?

(a) You may hold a grant under this part if you can demonstrate that you have the technical and financial capabilities to conduct the activities authorized by the grant and you are a(n):

(1) Citizen or national of the United States;

(2) Alien lawfully admitted for permanent residence in the United States as defined in 8 U.S.C. 1101(a)(20);

(3) Private, public, or municipal corporations organized under the laws of any State of the United States, the District of Columbia, or any territory or insular possession subject to U.S. jurisdiction;

(4) Association of such citizens, nationals, resident aliens, or corporations;

(5) Executive agency of the United States as defined in section 105 of Title 5 of the U.S. Code;

(6) State of the United States; or

(7) Political subdivision of a State of the United States.

(b) You may not hold a grant under this part or acquire an interest in a grant under this part if:

(1) You or your principals are excluded or disqualified from participating in transactions covered by the Federal non-procurement debarment and suspension system

(2 CFR part 1400), unless BOEM explicitly has approved an exception for this transaction;

(2) BOEM determines or has previously determined after notice and opportunity for a hearing that you or your principals have failed to meet or exercise due diligence under any OCS lease or grant; or

(3) BOEM determines or has previously determined after notice and opportunity for a hearing that you:

(i) Remained in violation of the terms and conditions of any lease or grant issued under the OCS Lands Act for a period extending longer than 30 days (or such other period allowed for compliance) BSEE directed you to comply; and

(ii) You took no action to correct the noncompliance within that time period.

§ 586.108 How do I show that I am qualified to be a grant holder?

(a) You must demonstrate your technical and financial capability to construct, operate, maintain, and terminate/decommission projects for which you are requesting authorization. Documentation can include:

(1) Descriptions of international or domestic experience with renewable energy projects or other types of electric-energy-related projects; and

(2) information establishing access to sufficient capital to carry out development.

(b) An individual must submit a written statement of citizenship status attesting to U.S. citizenship. It does not need to be notarized nor give the age of individual. A resident alien may submit a photocopy of the U.S. Citizenship and Immigration Services form evidencing legal status of the resident alien.

(c) A corporation or association must submit evidence, as specified in the table in paragraph (d) of this section, acceptable to BOEM that:

(1) It is qualified to hold grants under this part;

(2) It is authorized to conduct business under the laws of its State;

(3) It is authorized to hold grants on the OCS under the operating rules of its business;
and

(4) The persons holding the titles listed are authorized to bind the corporation or association when conducting business with BOEM.

(d) Acceptable evidence under paragraph (c) of this section includes, but is not limited to the following:

Requirements to qualify to hold grants on the OCS:	Corp.	Ltd. Prtnsp.	Gen. Prtnsp.	LLC	Trust
(1) Original certificate or certified copy from the State of incorporation stating the name of the corporation exactly as it must appear on all legal documents.	XX				
(2) Certified statement by Secretary/Assistant Secretary over corporate seal, certifying that the corporation is authorized to hold OCS grants.	XX				

(3) Evidence of authority of titled positions to bind corporation, certified by Secretary/Assistant Secretary over corporate seal, including the following:	XX				
(i) Certified copy of resolution of the board of directors with titles of officers authorized to bind corporation.					
(ii) Certified copy of resolutions granting corporate officer authority to issue a power of attorney.					
(iii) Certified copy of power of attorney or certified copy of resolution granting power of attorney.					
(4) Original certificate or certified copy of partnership or organization paperwork registering with the appropriate State official.		XX	XX	XX	
(5) Copy of articles of partnership or organization evidencing filing with appropriate Secretary of State, certified by Secretary/Assistant Secretary of partnership or member or manager of LLC.		XX	XX	XX	
(6) Original certificate or certified copy evidencing State where partnership or LLC is registered. Statement of authority to hold OCS leases, certified by Secretary/Assistant Secretary, <i>OR</i> original paperwork registering with the appropriate State official.		XX	XX	XX	
(7) Statements from each partner or LLC member indicating the following:		XX	XX	XX	
(i) If a corporation or partnership, statement of State of organization and authorization to hold OCS grants, certified by Secretary/Assistant Secretary over corporate seal, if a corporation.					
(ii) If an individual, a statement of citizenship.					
(8) Statement from general partner, certified by Secretary/Assistant Secretary that:		XX			
(i) Each individual limited partner is a U.S. citizen and;					

(ii) Each corporate limited partner or other entity is incorporated or formed and organized under the laws of a U.S. State or territory.					
(9) Evidence of authority to bind partnership or LLC, if not specified in partnership agreement, articles of organization, or LLC regulations, <i>i.e.</i> , certificates of authority from Secretary/Assistant Secretary reflecting authority of officers.		XX	XX	XX	
(10) Listing of members of LLC certified by Secretary/Assistant Secretary or any member or manager of LLC.				XX	
(11) Copy of trust agreement or document establishing the trust and all amendments, properly certified by the trustee with reference to where the original documents are filed.					XX
(12) Statement indicating the law under which the trust is established and that the trust is authorized to hold OCS grants.					XX

(e) A local, State, or Federal executive entity must submit a written statement that:

(1) It is qualified to hold grants under this part; and

(2) The person(s) acting on behalf of the entity is authorized to bind the entity when conducting business with us.

(f) BOEM may require you to submit additional information at any time considering your bid or request for a noncompetitive grant.

§ 586.109 When must I notify BOEM if an action has been filed alleging that I am insolvent or bankrupt?

You must notify BOEM within 3-business days after you learn of any action filed alleging that you are insolvent or bankrupt.

§ 586.110 When must I notify BOEM of mergers, name changes, or changes of business form?

You must notify BOEM in writing of any merger, name change, or change of business form. You must notify BOEM as soon as practicable following the merger, name change, or change in business form, but no later than 120 days after the earliest of either the effective date, or the date of filing the change or action with the Secretary of the State or other authorized official in the State of original registry.

§ 586.111 How do I submit plans, applications, or notices required by this part?

(a) You must submit all plans, applications, or notices required by this part to BOEM at the following address: Office of Renewable Energy Programs, 45600 Woodland Road, Sterling, VA 20166.

(b) Unless otherwise stated, you must submit one paper copy and one electronic copy of all plans, applications, or notices required by this part.

§ 586.112 When and how does BOEM charge me processing fees on a case-by-case basis?

(a) BOEM will charge a processing fee on a case-by-case basis under the procedures in this section with regard to any application or request under this part if we decide at any

time that the preparation of a particular document or study is necessary for the application or request and it will have a unique processing cost, such as the preparation of an environmental assessment (EA) or environmental impact statement (EIS).

(1) Processing costs will include contract oversight and efforts to review and approve documents prepared by contractors, whether the contractor is paid directly by the applicant or through BOEM.

(2) We may apply a standard overhead rate to direct processing costs.

(b) We will assess the ongoing processing fee for each individual application or request according to the following procedures:

(1) Before we process your application or request, we will give you a written estimate of the proposed fee based on reasonable processing costs.

(2) You may comment on the proposed fee.

(3) You may:

(i) Ask for our approval to perform, or to directly pay a contractor to perform, all or part of any document, study, or other activity according to standards we specify, thereby reducing our costs for processing your application or request; or

(ii) Ask to pay us to perform, or contract for, all or part of any document, study, or other activity.

(4) We will then give you the final estimate of the processing fee amount with payment terms and instructions after considering your comments and any BOEM-approved work you will do.

(i) If we encounter higher or lower processing costs than anticipated, we will re-estimate our reasonable processing costs following the procedures in paragraphs (b)(1) through (4) of this section, but we will not stop ongoing processing unless you do not pay in accordance with paragraph (b)(5) of this section.

(ii) Once processing is complete, we will refund to you the amount of money that we did not spend on processing costs.

(5)(i) Consistent with the payment and billing terms provided in the final estimate, we will periodically estimate what our reasonable processing costs will be for a specific period and will bill you for that period. Payment is due to us 30 days after you receive your bill. We will stop processing your document if you do not pay the bill by the date payment is due.

(ii) If a periodic payment turns out to be more or less than our reasonable processing costs for the period, we will adjust the next billing accordingly or make a refund. Do not deduct any amount from a payment without our prior written approval.

(6) You must pay the entire fee before we will issue the final document or take final action on your application or request.

(7) You may appeal our estimated processing costs in accordance with the regulations in 43 CFR part 4. We will not process the document further until the appeal is resolved, unless you pay the fee under protest while the appeal is pending. If the appeal results in a decision changing the proposed fee, we will adjust the fee in accordance with paragraph (b)(5)(ii) of this section. If we adjust the fee downward, we will not pay interest.

§ 586.113 Definitions.

Terms used in this part have the meanings as defined in this section:

Affected local government means with respect to any activities proposed, conducted, or approved under this part, any locality—

(1) That is, or is proposed to be, the site of gathering, transmitting, or distributing electricity or other energy product, or is otherwise receiving, processing, refining, or transshipping product, or services derived from activities approved under this part;

(2) That is used, or is proposed to be used, as a support base for activities approved under this part; or

(3) In which there is a reasonable probability of significant effect on land or water uses from activities approved under this part.

Affected State means with respect to any activities proposed, conducted, or approved under this part, any coastal State—

(1) That is, or is proposed to be, the site of gathering, transmitting, or distributing energy or is otherwise receiving, processing, refining, or transshipping products, or services derived from activities approved under this part;

(2) That is used, or is scheduled to be used, as a support base for activities approved under this part; or

(3) In which there is a reasonable probability of significant effect on land or water uses from activities approved under this part.

Alternate Use refers to the energy- or marine-related use of an existing OCS facility for activities not otherwise authorized by this part.

Alternate Use RUE means a right-of-use and easement issued for activities authorized under this part.

Archaeological resource means any material remains of human life or activities that are at least 50 years of age and that are of archaeological interest (*i.e.*, which are 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 measurement, controlled collection, analysis, interpretation, and explanation).

BOEM means Bureau of Ocean Energy Management of the Department of the Interior.

BSEE means Bureau of Safety and Environmental Enforcement of the Department of the Interior.

Director means the Director of the Bureau of Ocean Energy Management (BOEM), of the Department of the Interior, or an official authorized to act on the Director's behalf.

Decommissioning means removing BOEM and BSEE approved facilities and returning the site of the grant to a condition that meets the requirements of this part.

Facility means an installation that is permanently or temporarily attached to the seabed of the OCS. Facilities include any structures; devices; appurtenances; gathering, transmission, and distribution cables; pipelines; and permanently moored vessels. Any group of OCS installations interconnected with walkways, or any group of installations that includes a central or primary installation with one or more satellite or secondary installations, is a single facility. BOEM and BSEE may decide that the complexity of the installations justifies their classification as separate facilities.

Governor means the Governor of a State or the person or entity lawfully designated by or under State law to exercise the powers granted to a Governor.

Grant means an alternate use right-of-use and easement issued under the provisions of this part.

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

Lease means an agreement authorizing the use of a designated portion of the OCS for activities allowed under part 585 of this title. The term also means the area covered by that agreement, when the context requires.

Lessee means the holder of a lease, a BOEM-approved assignee, and, when describing the conduct required of parties engaged in activities on the lease, it also refers to the operator and all persons authorized by the holder of the lease or operator to conduct activities on the lease.

Income, unless clearly specified to the contrary, refers to the money received by the project owner or holder of the lease or grant issued under this part. The term does not mean that project receipts exceed project expenses.

Marine environment means the physical, atmospheric, and biological components, conditions, and factors that interactively determine the productivity, state, condition, and quality of the marine ecosystem. These include the waters of the high seas, the contiguous zone, transitional and intertidal areas, salt marshes, and wetlands within the coastal zone and on the OCS.

Natural resources include, without limiting the generality thereof, renewable energy, oil, gas, and all other minerals (as defined in section 2(q) of the OCS Lands Act), and marine animal and marine plant life.

Operator means the individual, corporation, or association having control or management of activities on the grant under this part. The operator may be a grant holder or a contractor designated by the holder of a grant under this part.

Outer Continental Shelf (OCS) means 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), whose subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

Person means, in addition to a natural person, an association (including partnerships and joint ventures); a Federal agency; a State; a political subdivision of a State; a Native American Tribal government; or a private, public, or municipal corporation.

Project, for the purposes of defining the source of revenues to be shared, means an Alternate Use RUE on which the activities authorized under this part are conducted on the OCS. The term “project” may be used elsewhere in this rule to refer to these same authorized activities, the facilities used to conduct these activities, or to the geographic area of the project, *i.e.*, the project area.

Project area means the geographic surface leased, or granted, for the purpose of a specific project. If OCS acreage is granted for a project under some form of agreement other than a lease (*i.e.*, a ROW, or RUE, or Alternate Use RUE issued under this part or part 585), the Federal acreage granted would be considered the project area.

Renewable Energy means energy resources other than oil and gas and minerals as defined in 30 CFR part 580. Such resources include, but are not limited to, wind, solar, and ocean waves, tides, and current.

Revenues mean bonuses, rents, operating fees, and similar payments made in connection with a project. It does not include administrative fees such as those assessed for cost recovery, civil penalties, and forfeiture of financial assurance.

Secretary means the Secretary of the Interior or an official authorized to act on the Secretary's behalf.

Significant archaeological resource means an archaeological resource that meets the criteria of significance for eligibility for listing in the National Register of Historic Places, as defined in 36 CFR 60.4 or its successor.

You and *your* means an applicant, the operator or designated operator of an Alternate Use RUE, or an Alternate Use RUE grant holder under this part, or the designated agent of any of these, or the possessive of each, depending on the context. The terms *you* and *your* also include contractors and subcontractors of the entities specified in the preceding sentence.

We, *us*, and *our* refer to the Bureau of Ocean Energy Management of the Department of the Interior, or its possessive, depending on the context.

§ 586.114 How will data and information obtained by BOEM under this part be disclosed to the public?

(a) BOEM will make data and information available in accordance with the requirements and subject to the limitations of the Freedom of Information Act (FOIA) (5 U.S.C. 552) and the regulations contained in 43 CFR part 2 (Records and Testimony).

(b) BOEM will not release such data and information that we have determined is exempt from disclosure under exemption 4 of FOIA. We will review such data and information and objections of the submitter to determine whether release at that time will result in substantial competitive harm or disclosure of trade secrets.

(c) After considering any objections from the submitter, if we determine that release of such data and information will result in:

(1) No substantial competitive harm or disclosure of trade secrets, then the data and information will be released.

(2) Substantial competitive harm or disclosure of trade secrets, then the data and information will not be released at that time but will be subject to further review every 3 years thereafter.

§ 586.115 Paperwork Reduction Act statements—information collection.

(a) The Office of Management and Budget (OMB) has approved the information collection requirements in 30 CFR part 586 under 44 U.S.C. 3501, *et seq.*, and assigned OMB Control Number 1010-0176. The table in paragraph (e) of this section lists the subparts in the rule requiring the information and its title, summarizes the reasons for collecting the information, and summarizes how BOEM uses the information.

(b) Respondents are primarily Alternate Use RUE grant holders and operators. The requirement to respond to the information collection in this part is mandated under subsection 8(p) of the OCS Lands Act. Some responses are also required to obtain or retain a benefit, or may be voluntary.

(c) The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) requires us to inform the public that an agency 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.

(d) Comments regarding any aspect of the collections of information under this part, including suggestions for reducing the burden, should be sent to the Information Collection Clearance Officer, Bureau of Ocean Energy Management, 45600 Woodland Road, Sterling, VA 20166.

(e) BOEM is collecting this information for the reasons given in the following table:

30 CFR 586 subpart and title	Reasons for collecting information and how used
(1) Subpart A—General Provisions	To inform BOEM of actions taken to comply with general operational requirements on the OCS. To ensure that operations on the OCS meet statutory and regulatory requirements, are safe and protect the environment, and result in diligent development on OCS leases.
(2) Subpart B—Issuance of Alternate Use RUEs for Energy- and Marine-Related Activities Using Existing OCS Facilities	To enable BOEM to review information regarding the design, installation, and operation of Alternate Use RUEs on the OCS, to ensure that Alternate Use RUE operations are safe and protect the human, marine, and coastal environment. To ensure adherence with other Federal laws, these regulations, the Alternate Use RUE grant, and, where applicable, the approved plan.

§ 586.116 – 586.117 [Reserved]

§ 586.118 What are my appeal rights?

(a) Any party adversely affected by a BOEM official's final decision or order issued under the regulations of this part may appeal that decision or order to the Interior Board of Land Appeals. The appeal must conform with the procedures found in part 590 of this chapter and in 43 CFR part 4, subpart E. Appeal of a final decision for bid acceptance is covered under paragraph (c) of this section.

(b) A decision will remain in full force and effect during the period in which an appeal may be filed and during an appeal, unless a stay is granted pursuant to 43 CFR part 4.

(c) Our decision on a bid is the final action of the Department, except that an unsuccessful bidder may apply for reconsideration by the Director.

(1) A bidder whose bid we reject may file a written request for reconsideration with the Director within 15 days of the date of the receipt of the notice of rejection, accompanied by a statement of reasons, with one copy to us. The Director will respond in writing either affirming or reversing the decision.

(2) The delegation of review authority given to the Office of Hearings and Appeals does not apply to decisions on high bids for leases or grants under this part.

Subpart B— Issuance of Alternate Use RUEs for Energy- and Marine-Related Activities Using Existing OCS Facilities

REQUESTING AN ALTERNATE USE RUE

§ 586.200 What must I do before I request an Alternate Use RUE?

If you are not the owner of the existing facility on the OCS and the lessee of the area in which the facility is located, you must contact the lessee and owner of the facility and reach a preliminary agreement as to the proposed activity for the use of the existing facility.

§ 586.201 How do I request an Alternate Use RUE?

To request an Alternate Use RUE, you must submit to BOEM all of the following:

(a) The name, address, e-mail address, and phone number of an authorized representative.

(b) A summary of the proposed activities for the use of an existing OCS facility, including:

(1) The type of activities that would involve the use of the existing OCS facility;

(2) A description of the existing OCS facility, including a map providing its location on the lease block;

(3) The names of the owner of the existing OCS facility, the operator, the lessee, and any owner of operating rights on the lease at which the facility is located;

(4) A description of additional structures or equipment that will be required to be located on or in the vicinity of the existing OCS facility in connection with the proposed activities;

(5) A statement indicating whether any of the proposed activities are intended to occur before existing activities on the OCS facility have ceased; and

(6) A statement describing how existing activities at the OCS facility will be affected if proposed activities are to occur at the same time as existing activities at the OCS facility.

(c) A statement affirming that the proposed activities sought to be approved under this subpart are not otherwise authorized by other provisions in this subchapter or any other Federal law.

(d) Evidence that you meet the requirements of § 586.107, as required by § 586.108.

(e) The signatures of the applicant, the owner of the existing OCS facility, and the lessee of the area in which the existing facility is located.

§ 586.202 How will BOEM decide whether to issue an Alternate Use RUE?

(a) We will consider requests for an Alternate Use RUE on a case-by-case basis. In considering such requests, we will consult with relevant Federal agencies and evaluate

whether the proposed activities involving the use of an existing OCS facility can be conducted in a manner that:

(1) Ensures safety and minimizes adverse effects to the coastal and marine environments, including their physical, atmospheric, and biological components, to the extent practicable;

(2) Does not inhibit or restrain orderly development of OCS mineral or energy resources;

(3) Avoids serious harm or damage to, or waste of, any natural resource (including OCS mineral deposits and oil, gas, and sulfur resources in areas leased or not leased), any life (including fish and other aquatic life), or property (including sites, structures, or objects of historical or archaeological significance);

(4) Is otherwise consistent with subsection 8(p) of the OCS Lands Act; and

(5) DOI can effectively regulate.

(b) Based on the evaluation that we perform under paragraph (a) of this section, BOEM may authorize, reject, or authorize with modifications or stipulations, the proposed activity.

§ 586.203 What process will BOEM use for competitively offering an Alternate Use RUE?

(a) An Alternate Use RUE must be issued on a competitive basis unless BOEM determines, after public notice of the proposed Alternate Use RUE, that there is no competitive interest.

(b) We will issue a public notice in the *Federal Register* to determine if there is competitive interest in using the proposed facility for alternate use activities. BOEM will specify a time period for members of the public to express competitive interest.

(c) If we receive indications of competitive interest within the published timeframe, we will proceed with a competitive offering. As part of such competitive offering, each competing applicant must submit a description of the types of activities proposed for the existing facility, as well as satisfactory evidence that the competing applicant qualifies to hold a grant on the OCS, as required in §§ 586.107 and 586.108, by a date we specify. We may request additional information from competing applicants, as necessary, to adequately evaluate the competing proposals.

(d) We will evaluate all competing proposals to determine whether:

(1) The proposed activities are compatible with existing activities at the facility; and

(2) BOEM and BSEE have the expertise and resources available to regulate the activities effectively.

(e) We will evaluate all proposals under the requirements of NEPA, CZMA, and other applicable laws.

(f) Following our evaluation, we will select one or more acceptable proposals for activities involving the alternate use of an existing OCS facility, notify the competing applicants, and submit each acceptable proposal to the lessee and owner of the existing OCS facility. If the lessee and owner of the facility agree to accept a proposal, we will proceed to issue an Alternate Use RUE. If the lessee and owner of the facility are unwilling to accept any of the proposals that we deem acceptable, we will not issue an Alternate Use RUE.

§§ 586.204-586.209 [Reserved]

ALTERNATE USE RUE ADMINISTRATION

§ 586.210 How long may I conduct activities under an Alternate Use RUE?

(a) We will establish on a case-by-case basis, and set forth in the Alternate Use RUE, the length of time for which you are authorized to conduct activities approved in your Alternate Use RUE instrument.

(b) In establishing this term, BOEM will consider the size and scale of the proposed alternate use activities, the type of alternate use activities, and any other relevant considerations.

(c) BOEM may authorize renewal of Alternate Use RUEs at its discretion.

§ 586.211 What payments are required for an Alternate Use RUE?

We will establish rental or other payments for an Alternate Use RUE on a case-by-case basis, as set forth in the Alternate Use RUE grant, depending on our assessment of the following factors:

- (a) The effect on the original OCS Lands Act approved activity;
- (b) The size and scale of the proposed alternate use activities;
- (c) The income, if any, expected to be generated from the proposed alternate use activities; and
- (d) The type of alternate use activities.

§ 586.212 What financial assurance is required for an Alternate Use RUE?

(a) The holder of an Alternate Use RUE will be required to secure financial assurances in an amount determined by BOEM that is sufficient to cover all obligations under the Alternate Use RUE, including decommissioning obligations, and must retain such financial assurance amounts until all obligations have been fulfilled, as determined by BOEM.

(b) We may revise financial assurance amounts, as necessary, to ensure that there is sufficient financial assurance to secure all obligations under the Alternate Use RUE.

(c) We may reduce the amount of the financial assurance that you must retain if it is not necessary to cover existing obligations under the Alternate Use RUE.

§ 586.213 Is an Alternate Use RUE assignable?

(a) BOEM may authorize assignment of an Alternate Use RUE.

(b) To request assignment of an Alternate Use RUE, you must submit a written request for assignment that includes the following information:

(1) BOEM-assigned Alternate Use RUE number;

(2) The names of both the assignor and the assignee, if applicable;

(3) The names and telephone numbers of the contacts for both the assignor and the assignee;

(4) The names, titles, and signatures of the authorizing officials for both the assignor and the assignee;

(5) A statement affirming that the owner of the existing OCS facility and lessee of the lease in which the facility is located approve of the proposed assignment and assignee;

(6) A statement that the assignee agrees to comply with and to be bound by the terms and conditions of the Alternate Use RUE;

(7) Evidence required by § 586.108 that the assignee satisfies the requirements of § 586.107; and

(8) A statement on how the assignee will comply with the financial assurance requirements set forth in the Alternate Use RUE.

(c) The assignment takes effect on the date we approve your request.

(d) The assignor is liable for all obligations that accrue under an Alternate Use RUE before the date we approve your assignment request. An assignment approval by BOEM does not relieve the assignor of liability for accrued obligations that the assignee, or a subsequent assignee, fails to perform.

(e) The assignee and each subsequent assignee are liable for all obligations that accrue under an Alternate Use RUE after the date we approve the assignment request.

§ 586.214 When will BOEM suspend an Alternate Use RUE?

(a) BOEM may suspend an Alternate Use RUE if:

(1) necessary to comply with judicial decrees; or

(2) necessary for reasons of national security or defense.

(b) A suspension will extend the term of your Alternate Use RUE grant for the period of the suspension.

§586.215 How do I relinquish an Alternate Use RUE?

(a) You may voluntarily surrender an Alternate Use RUE by submitting a written request to us that includes the following:

(1) The name, address, e-mail address, and phone number of an authorized representative;

- (2) The reason you are requesting relinquishment of the Alternate Use RUE;
 - (3) BOEM-assigned Alternate Use RUE number;
 - (4) The name of the associated OCS facility, its owner, and the lessee for the lease in which the OCS facility is located;
 - (5) The name, title, and signature of your authorizing official (which must match exactly the name, title, and signature in the BOEM qualification records); and
 - (6) A statement that you will adhere to the decommissioning requirements in the Alternate Use RUE.
- (b) We will not approve your relinquishment request until you have paid all outstanding rentals (or other payments) and fines.
 - (c) The relinquishment takes effect on the date we approve your request.

§ 586.216 When will an Alternate Use RUE be cancelled?

The Secretary may cancel an Alternate Use RUE if it is determined, after notice and opportunity to be heard:

- (a) You no longer qualify to hold an Alternate Use RUE;
- (b) You failed to provide any additional financial assurance required by BOEM, replace or provide additional coverage for a de-valued bond, or replace a lapsed or forfeited bond within the prescribed time period;

(c) Continued activity under the Alternate Use RUE is likely to cause serious harm or damage to natural resources; life (including human and wildlife); property; the marine, coastal, or human environment; or sites, structures, or objects of historical or archaeological significance;

(d) Continued activity under the Alternate Use RUE is determined to be adversely impacting the original OCS Lands Act approved activities on the existing OCS facility;

(e) You failed to comply with any of the terms and conditions of your approved Alternate Use RUE or your approved plan; or

(f) You otherwise failed to comply with applicable laws or regulations.

§ 586.217 [Reserved]

§ 586.218 Who is responsible for decommissioning an OCS facility subject to an Alternate Use RUE?

(a) The holder of an Alternate Use RUE is responsible for all decommissioning obligations that accrue following the issuance of the Alternate Use RUE and which pertain to the Alternate Use RUE.

(b) The lessee under the lease originally issued under Chapter V of this title will remain responsible for decommissioning obligations that accrued before issuance of the Alternate Use RUE, as well as for decommissioning obligations that accrue following

issuance of the Alternate Use RUE to the extent associated with continued activities authorized under other parts of this title.

§ 586.219 What are decommissioning requirements for an Alternate Use RUE?

(a) Decommissioning requirements will be determined by BOEM and BSEE on a case-by-case basis and will be included in the terms of the Alternate Use RUE.

(b) Decommissioning activities must be completed within 1 year of termination of the Alternate Use RUE.

(c) If you fail to satisfy all decommissioning requirements within the prescribed time period, BOEM will call for the forfeiture of your bond or other financial guarantee, and you will remain liable for all accidents or damages that might result from such failure.