§ 1.367(b)–14 Acquisition of parent stock for property in triangular reorganizations.

[The text of proposed § 1.367(b)–14 is the same as the text of § 1.367(b)–14T(a) through (e)(5) published elsewhere in this issue of the **Federal Register**.]

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

[FR Doc. E8–11647 Filed 5–23–08; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 219

[Docket ID: MMS–2007–OMM–0067]

RIN 1010–AD46

Allocation and Disbursement of Royalties, Rentals, and Bonuses—Oil and Gas, Offshore

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Proposed rule.

SUMMARY: The MMS proposes to amend the regulations on distribution and disbursement of royalties, rentals, and bonuses to include the allocation and disbursement of revenues from certain leases on the Gulf of Mexico Outer Continental Shelf in accordance with the provisions of the Gulf of Mexico Energy Security Act of 2006. The regulations would set forth the formula and methodology for calculating and allocating revenues to the States of Alabama, Louisiana, Mississippi, and Texas and their eligible political subdivisions. This proposed rule seeks to establish and ensure that the process for implementing the Gulf of Mexico Energy Security Act of 2006 provisions and the resulting distribution of revenues is accurate, transparent, and fully complies with our statutory responsibilities.

DATES: Submit comments by July 28, 2008. The MMS may not fully consider comments received after this date.

ADDRESSES: You may submit comments on the rulemaking by any of the following methods. Please use the Regulation Identifier Number (RIN) 1010–AD46 as an identifier in your message. See also Public Availability of Comments under Procedural Matters.

- *Federal eRulemaking Portal: http://www.regulations.gov.* Under the tab ''More Search Options,'' click Advanced Docket Search, then select ''Minerals Management Service'' from the agency drop-down menu, then click ''submit.'' In the Docket ID column, select MMS–2007–OMM–0067 to submit public comments and to view supporting and related materials available for this rulemaking. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link. The MMS will post all comments to the docket.
- Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; Attention: Regulations and Standards Branch (RSB); 381 Elden Street, MS–4024, Herndon, Virginia 20170–4817. Please reference ''Allocation and Disbursement of Royalties, Rentals, and Bonuses—Oil and Gas, Offshore, 1010–AD46'' in your comments and include your name and return address.

FOR FURTHER INFORMATION CONTACT: Marshall Rose, Chief, Economics Division, Offshore Minerals Management at (703) 787–1538.

SUPPLEMENTARY INFORMATION:

Background

President George W. Bush signed the Gulf of Mexico Energy Security Act of 2006 (GOMESA) into law on December 20, 2006 (Pub. L. No. 109–432, 120 Stat. 2922), as part of H.R. 6111, The Tax Relief and Health Care Act of 2006, which also extended several energy tax programs that encourage efficiency and conservation, as well as the production and use of renewable energy sources. With regard to the Gulf of Mexico (GOM) Outer Continental Shelf (OCS) provisions (Division C, Title 1, 120 Stat. 3000), GOMESA:

- Lifted the congressional moratorium on oil and gas leasing and development in a portion of the Central GOM and mandates lease sales in two areas of the GOM (the 181 Area and 181 South Area as defined by GOMESA) notwithstanding the omission of those two areas from any OCS leasing program under section 18 of the OCS Lands Act (43 U.S.C. 1344);
- Established a moratorium through June 30, 2022 in the vast majority of the Eastern Planning Area and a small portion of the Central Planning Area;
- Provided for the establishment of a process to exchange existing leases in the new moratorium areas for bonus or royalty credits that may only be used in the GOM; and
- Provided for the distribution of certain OCS revenues to the Gulf producing States of Alabama, Louisiana, Mississippi, and Texas, and to certain coastal political subdivisions within those States.

This proposed rule sets forth how the Department of the Interior plans to implement the GOMESA requirements related to the distribution of OCS revenues to the Gulf producing States and their coastal political subdivisions.

Summary

For each of the fiscal years from 2007 through 2016, GOMESA directs the Secretary of the Treasury to deposit 50 percent of qualified OCS revenues—bonuses, rents, and royalties—from OCS oil and gas leases in areas designated as the 181 Area in the Eastern Planning Area and the 181 South Area into a special account in the United States Treasury. The GOMESA directs the Secretary of the Interior, for each of these fiscal years, to disburse 25 percent of the revenues in the special account to the Land and Water Conservation Fund (LWCF) and the remaining 75 percent to the States of Alabama, Louisiana, Mississippi, and Texas (collectively identified as the ''Gulf producing States'') and their eligible coastal political subdivisions. The revenues are to be allocated among the Gulf producing States based on their inverse proportional distance from the leases in the 181 Area in the Eastern Planning Area and the 181 South Area and in accordance with regulations established by the Secretary of the Interior. The GOMESA also provides that in determining the individual Gulf producing States' share of the qualified OCS revenues, no State, irrespective of the amount established by the application of the inverse proportional distance formula, shall receive less than 10 percent of the revenues to be disbursed.

The GOMESA directs the Secretary of the Interior to disburse 20 percent of the funds allocated to each Gulf producing State to political subdivisions within the State which are located in the State's coastal zone and are within 200 nautical miles of the geographic center of any OCS leased tract. Revenues are allocated to the coastal political subdivisions based on their population, miles of coastline, and their inverse proportional distance from designated leases in the 181 Area in the Eastern Planning Area.

REVENUE DISTRIBUTION OF QUALIFIED OCS REVENUES UNDER GOMESA 2007–2016

Recipient of qualified OCS revenues	Percentage of qualified OCS revenues
U.S. Treasury	50.0
Land and Water Conservation Fund	12.5

REVENUE DISTRIBUTION OF QUALIFIED OCS REVENUES UNDER GOMESA 2007–2016—Continued

Recipient of qualified OCS revenues	Percentage of qualified OCS revenues
Gulf Producing States	30.0
Eligible Coastal Political Subdivisions	7.5

The GOMESA requires that each Gulf producing State and coastal political subdivision use all amounts received for one or more of the following purposes:

- Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses.
- Mitigation of damage to fish, wildlife, or natural resources.
- Implementation of a Federally-approved marine, coastal, or comprehensive conservation management plan.
- Mitigation of the impact of OCS activities through the funding of onshore infrastructure projects.
- Planning assistance and administrative costs not to exceed 3 percent of the amounts received.

The GOMESA establishes a separate revenue sharing provision to be implemented for fiscal year 2017 and thereafter. This proposed rule and the resulting final rule will apply to the fiscal years 2007 through 2016 time period only; the later period will be addressed in a subsequent rulemaking.

The following sections provide specific information on the applicable GOMESA provisions and how MMS proposes to implement them.

Definitions

The MMS proposes, in some instances, to clarify the GOMESA definitions to make them more precise and consistent with MMS's existing leasing, financial, and accounting practices. The MMS also proposes to include additional definitions in the rule. The definitions we propose to add or to expand in order to clarify the meaning are discussed below. Other terms defined in proposed § 219.411 of the regulation have the exact same definition as stated in section 102 of GOMESA.

181 Area—adopted directly from section 102 of GOMESA.

181 Area in the Eastern Planning Area—is comprised of the area of overlap of the two geographic areas defined in GOMESA as the ''181 Area'' and the ''Eastern Planning Area.'' A map of the ''181 Area in the Eastern Planning Area'' can be found with publicly available information for GOM Eastern Sale 224 at: *http://www.gomr.mms.gov/homepg/lsesale/224/egom224.html.*

181 South Area—adopted from section 102 of GOMESA. Means any area located south of the 181 Area, west of the Military Mission Line and in the Central Planning Area. A map of the 181 South Area can be found with the Call for Information and Nominations, Central GOM Planning Area South of Sale 181 Area at: *http://www.gomr.mms.gov/homepg/lsesale/208/cgom208.html.*

Applicable Leased Tract—The term ''applicable leased tract'' means a tract that is subject to a lease under section 6 or 8 of the OCS Lands Act for the purpose of drilling for, developing, and producing oil or natural gas resources and is located fully or partially in either the 181 Area in the Eastern Planning Area or in the 181 South Area

Central Planning Area—adopted directly from Section 102 of GOMESA.

Coastal Political Subdivision—The term ''coastal political subdivision'' means a political subdivision of a Gulf producing State any part of which political subdivision is:

(a) Within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the Gulf producing State as of December 20, 2006; and

(b) Not more than 200 nautical miles from the geographic center of any leased tract.

The only difference between this definition and the GOMESA definition is that GOMESA refers to political subdivisions that were within the coastal zone of a Gulf producing State ''as of the date of enactment of this Act.'' The definition proposed for this rule would refer to the actual date GOMESA was enacted.

Coastline—The term ''coastline'' means the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters.

This is the definition of the coastline used in section 2 of the Submerged Lands Act (43 U.S.C. 1301) and refers to the same line as that established for use in the Coastal Impact Assistance Program (CIAP) by section 384 of the Energy Policy Act of 2005 (EPAct) codified at 43 U.S.C 1356a.

Distance—The term ''distance'' means the minimum great circle distance.

Eastern Planning Area—adopted directly from section 102 of GOMESA.

Gulf Producing State—adopted directly from section 102 of GOMESA.

Leased Tract—The term ''leased tract'' means a tract that is subject to a lease under section 6 or 8 of the OCS Lands Act for the purpose of drilling for, developing, and producing oil or natural gas resources.

Military Mission Line—adopted directly from section 102 of GOMESA.

Qualified OCS Revenues

(a) IN GENERAL—The term ''qualified OCS revenues'' means, in the case of each of fiscal years 2007 through 2016, all rentals, royalties, bonus bids, and other sums received by the United States from leases entered into on or after December 20, 2006, located in:

(1) The 181 Area in the Eastern Planning Area; and

(2) the 181 South Area.

(b) For applicable leased tracts intersected by the planning area administrative boundary line (e.g., separating the GOM Central Planning Area from the Eastern Planning Area), only the percent of revenues equivalent to the percent of surface acreage in the 181 Area in the Eastern Planning Area will be considered qualified OCS revenues.

(c) Exclusions—The term ''qualified OCS revenues'' does not include:

(1) Rental revenues or user fees credited to MMS appropriated funds through the annual Congressional appropriations process,

(2) Revenues from the forfeiture of a bond or other surety securing obligations other than royalties,

(3) Civil penalties, and

(4) Royalties taken by the Secretary in-kind and not sold.

The proposed definition of ''qualified OCS revenues'' includes several variations from the GOMESA definition. First, the GOMESA definition refers to ''leases entered into on or after the date of enactment of this Act.'' The definition proposed for this rule would refer to the actual date GOMESA was enacted.

Second, in paragraph (a)(1), consistent with the way MMS has interpreted a similar CIAP provision, MMS interprets the phrase ''due and payable to'' to mean ''received by.'' The GOMESA definition of qualified OCS revenues refers to ''* * * all rentals, royalties, bonus bids, and other sums due and payable to the United States * * *,'' which could imply that the revenues to be allocated to the Gulf producing States, coastal political subdivisions, and the LWCF for a given fiscal year would be the amounts owed by lessees for the payment of royalties in that fiscal year, whether or not the payments were actually received by MMS during that fiscal year. This interpretation, however,

is not consistent with MMS's system of collecting and disbursing royalty revenues.

Royalties on oil and gas produced in 1 month are due and payable by the end of the following month, e.g., royalties on oil and gas produced in October must be paid by the end of November. The MMS does not calculate royalty amounts owed and bill payors; rather, MMS accepts the amounts payors report and pay subject to subsequent audit and other verification procedures.

Royalty payors frequently make adjustments to previous months' royalty payments as final data become available on sales, volumes, prices, and the amount of allowable transportation or processing deductions. The adjustments may result in payors paying additional royalties or, if previous royalties were overpaid, claiming a credit against their current royalty obligation. These adjustments may not occur until several months after the payment was originally due. As a result, payments made in 1 fiscal year may be adjusted in a subsequent fiscal year.

The value of these adjustments for the leases that are subject to the GOMESA revenue sharing provisions are not expected to be substantial and, further, will in any event, tend to balance out over time as both positive and negative adjustments are made from 1 fiscal year to the next. Attempting to track all the adjustments and account for them in the revenue allocation process would be labor intensive, prohibitively costly, and require an uneconomic use of scarce Federal resources. Consequently, for the purposes of this rule, MMS proposes to use all rentals, royalties, bonus bids, and other sums traditionally received and subsequently transferred to the Treasury General Fund Miscellaneous Receipt Account as a proxy for revenues due and payable.

With the passage of the GOMESA, qualified OCS revenues will be deposited into the Treasury General Fund Miscellaneous Receipt Account (50 percent Federal share) and the Treasury Special Account (50 percent LWCF-State-CPS share).

Third, in paragraph (c)(1), to maintain consistency with all rentals, royalties, bonus bids, and other sums traditionally received and subsequently transferred to the Treasury General Fund Miscellaneous Receipt Account, this definition of qualified OCS revenues excludes any rental revenues and cost recovery user fees that may be designated by Congress to MMS through the annual appropriations process. Since 1993, Congress has funded a significant part of MMS' operations with a portion of the OCS rental revenue receipts and cost recovery fees.

The fiscal year 2009 President's Budget proposed appropriation language allocates to MMS:

> * * * an amount not to exceed *$133,730,000,* to be credited to this appropriation and to remain available until expended, from additions to [rental] receipts resulting from increases to rates in effect on August 5, 1993.

This reference to the *receipts* resulting from increases to rates in effect on August 5, 1993, provides a significant share of MMS appropriated funds. These receipts are retained by MMS to fund current operations.

The fiscal year 2009 President's Budget adds appropriations language confirming GOMESA qualified OCS revenues do not include Congress' appropriation of OCS rental receipts to MMS.

> Provided further, that the term ''qualified Outer Continental Shelf revenues'', as defined in section 102(9)(A) of the Gulf of Mexico Energy Security Act, Division C of Public Law 109–432, shall include only the portion of rental revenues that would have been collected at the rental rates in effect before August 5, 1993.

Additionally, payments made by owners of applicable leases for provision of special services are collected by MMS under the authority based on the direct cost of providing that service to the lessees, and are not considered receipts directly emerging from a lease's revenues themselves. These fees are collected by MMS under the authority of the Independent Office Appropriations Act and are consistent with the Office of Management and Budget's Circular A–25. This revenue also provides a significant share of MMS operating funds. For these reasons, rentals and cost recovery fees designated by Congress as part of MMS appropriations are not included as qualified OCS revenues.

Fourth, this definition of qualified OCS revenues omits GOMESA subparagraph § 102(9)(A)(ii), that defines qualified OCS revenues for the period 2017, and thereafter because the allocation of qualified OCS revenues during that period will be addressed in a regulation to be issued later.

Fifth, this definition of qualified OCS revenues omits GOMESA subparagraph § 102(9)(B)(ii) (revenues generated from leases subject to section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)) since none of the applicable (GOMESA) leased tracts are within the so-called 8(g) zone.

Sixth, GOMESA excludes from the definition of qualified OCS revenues, revenues from the forfeiture of a bond or other surety securing obligations other than royalties, civil penalties, or royalties taken by the Secretary in-kind and not sold (which would include oil taken in-kind and transferred into the Strategic Petroleum Reserve).

Finally, for applicable leased tracts intersected by the planning area administrative boundary line (e.g., separating the GOM Central Planning Area from the Eastern Planning Area), only the percentage of revenues equal to the percentage of acreage in the 181 Area in the Eastern Planning Area will be considered qualified OCS revenues. This is consistent with the distribution of revenues from tracts only partially within the 8(g) zone. When a tract is only partially within the 8(g) zone, States receive 27 percent of a percentage of bonuses, rents, and royalties equal to the percentage of surface acreage within the 8(g) zone.

We believe these elements of the definitions are consistent with the intent of the GOMESA provisions and other applicable laws. We welcome your comments and suggestions on the definitions as proposed by MMS.

Disposition of Qualified OCS Revenues to Gulf Producing States

For the fiscal year 2007 through fiscal year 2016, GOMESA provides that 50 percent of qualified OCS revenues are to be placed in a special Treasury account from which the Secretary of the Interior shall disburse:

- 75 percent to the Gulf producing States (of which 20 percent would subsequently be allocated to local eligible coastal political subdivisions); and
- 25 percent to provide financial assistance to States in accordance with section 6 of the LWCF.

The GOMESA provides that qualified OCS revenues shall be allocated to each Gulf producing State in amounts that are inversely proportional to the respective distances between the point on the coastline of each Gulf producing State that is closest to the geographic center of the applicable leased tract and the geographic center of the leased tract. Implementation of this provision requires MMS to make three key sets of determinations:

- The points that are the geographic centers of each applicable leased tract;
- The point on the coastline of each Gulf producing State that is closest to the geographic center of each applicable leased tract; and
- The distances between the two points for each applicable leased tract.

Although the set of States and leases involved differs between the two

programs, MMS proposes to use a similar methodology to calculate the distances between the Gulf producing States and the geographic center of the applicable leased tracts for GOMESA as it does for CIAP. Likewise, the formula and methodology MMS will use to calculate the Gulf producing States' shares of qualified OCS revenues is based on their inverse proportional distance from the applicable leased tracts, which is the same concept employed for the CIAP.

The GOMESA provides that in determining the individual Gulf producing States' share of the qualified OCS revenues, no State, irrespective of the amount established by the application of the inverse proportional distance formula, shall receive less than 10 percent of the revenues to be disbursed.

Procedures for Distance Calculations

The following information describes how MMS proposes to calculate the distances between the Gulf producing States and coastal political subdivisions and applicable leased tracts which would be used in the inverse proportional distance calculations to allocate the qualified OCS revenues.

Determination of leased tract center points—From MMS databases, we will identify all applicable leased tracts (i.e., all blocks that were subject to an oil and gas lease either on the first or last day of the fiscal year) in the 181 Area located in the Eastern Planning Area and in the 181 South Area. The MMS will calculate, by mathematical methods, the geographic center of each leased tract in the two areas using standard accepted mapping software (ArcGIS). The center will be that location which provides a balancing point in two-dimensional space. If the leased tract is intersected by the planning area administrative boundary line (administrative boundary between the Central Planning Area and Eastern Planning Area), MMS will use the geographic center of the entire leased tract to calculate the inverse distance. In the unusual case where a lease is both awarded and relinquished between the first and last days of the same fiscal year, we count the lease revenues but not the lease's location in applying the distribution formula.

Determination of measurement points on State coastlines—According to the Submerged Lands Act (43 U.S.C. 1301), the term ''coast line'' means the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters. For purposes of both international and domestic law, the boundary line dividing the land from the ocean is called the *baseline*. The baseline is determined according to principles described in the 1958 United Nations Convention on the Territorial Sea and the Contiguous Zone and the 1982 United Nations Convention on the Law of the Sea (LOS Convention), and is normally the low water line along the coast, as marked on charts officially recognized by the coastal nation.

In the United States, the definition has been further refined based on Federal court decisions; the U.S. baseline is the mean lower low water line along the coast, as shown on official U.S. nautical charts. The baseline is the set of points and connected lines, representing the mean lower low water line in direct contact with the open sea and marking the seaward limit of open water. The baseline is drawn across river mouths, the opening of bays, and along the outer points of complex coastlines. The normal baseline from which the maritime zones are charted can be considered synonymous with the coastline as defined by the Submerged Lands Act.

We will use the latitudinal and longitudinal data for the baseline data points in conjunction with the leased tract center point data to identify the points on the States' coastlines that are closest to the geographic center of the applicable leased tracts.

Measurement of distances from States to leased tracts—Using the data identifying the geographic centers of the applicable leased tracts and the above described points on the States' coastlines, we will find the nearest coastline points to each applicable leased tract by measuring the distances between all of the appropriate data points, using calculated coastline-to-leased tract distances, and then determining the pairs of points with the shortest distance for each State/applicable leased tract pair.

The EPAct requires MMS to use the great circle distance to establish the distances between the States' coastlines and the leased tracts in the CIAP and MMS proposes to use the great circle distance for the GOMESA program as well. The great circle distance is the shortest distance between any two points on the surface of the Earth measured along a path on the surface of the Earth. Between any two points on a sphere which are not directly opposite each other, there is a unique great circle. The two points separate the great circle into two arcs. The length of the shorter arc is the great circle distance between the points.

Calculation of Gulf Producing State Revenue Allocations

The MMS will calculate each Gulf producing State's share of the qualified OCS revenues using the following proposed procedure:

(1) For each Gulf producing State, we propose to calculate and total, over all applicable leased tracts, the mathematical inverses of the distances between the points on the State's coastline that are closest to the geographic centers of the applicable leased tracts and the geographic centers of the applicable leased tracts.

(2) For each Gulf producing State, we would divide the sum of each State's inverse distances, from all applicable leased tracts, by the sum of the inverse distances from all applicable leased tracts across all four Gulf producing States. We would multiply the result by the amount of qualified OCS revenues to be shared, as shown below. In the formulas, I_{AL}, I_{LA}, I_{MS}, and I_{TX} represent the sum of the inverses of the closest distances between Alabama, Louisiana, Mississippi, and Texas and all applicable leased tracts, respectively.

Alabama Share = $(I_{AL} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ Qualified OCS Revenues

Louisiana Share = $(I_{LA} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ Qualified OCS Revenues

Mississippi Share = $(I_{MS} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ Qualified OCS Revenues

Texas Share = $(I_{TX} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ Qualified OCS Revenues

The following simplified example, involving only two applicable leased tracts, illustrates the application of the steps above in calculating the revenue allocations for the Gulf producing States and also demonstrates how the inverse distance formulas work to reward those closest to the sources of revenue.

Suppose there are two applicable leased tracts (t_1 and t_2) and that the following table represents the closest distance from each Gulf producing State to the geographic centers of each applicable leased tract:

Gulf producing state	Applicable leased tracts				Sum of inverse distances
	t_1		t_2		
	Distance (nautical miles)	Inverse distance	Distance (nautical miles)	Inverse distance	
Alabama	50	0.0200	70	0.0143	0.0343
Louisiana	90	0.0111	80	0.0125	0.0236
Mississippi	70	0.0143	60	0.0167	0.0310
Texas	230	0.0043	210	0.0048	0.0091
All States	440	0.0497	420	0.0483	0.0980

Further, suppose that fiscal year qualified OCS revenues are $96 million, $12 million of which would go to the LWCF and $36 million of which would be allocated to the Gulf producing States. Applying the formulas above, the $36 million would be allocated to the Gulf producing States as shown below.

Alabama Share = (0.0343 ÷ 0.0980) × $36 million = $12,600,000.00

Louisiana Share = (0.0236 ÷ 0.0980) × $36 million = $8,669,387.76

Mississippi Share = (0.0310 ÷ 0.0980) × $36 million = $11,387,755.10

Texas Share = (0.0091 ÷ 0.0980) × $36 million = $3,342,857.14

However, because Texas' share is less than $3.6 million or 10 percent of the allocation of $36 million, we would allocate a 10 percent share to Texas and recalculate the other Gulf producing States' shares omitting Texas and its 10 percent share from the calculation as shown below.

Alabama Share = (0.0343 ÷ (0.0980 − 0.0091)) × $32.4 million = $12,500,787.40

Louisiana Share = (0.0236 ÷ (0.0980 − 0.0091)) × $32.4 million = $8,601,124.86

Mississippi Share = (0.0310 ÷ (0.0980 − 0.0091)) × $32.4 million = $11,298,087.74

Total = $32,400,000

Texas Share = 10% × $36 million = $3,600,000

Adding the three States' shares to the Texas' 10 percent share sums to $36,000,000.

Payments to Coastal Political Subdivisions

The MMS will pay 20 percent of the allocable share of each Gulf producing State to eligible coastal political subdivisions of the Gulf producing State. The coastal political subdivisions eligible for GOMESA funds are shown in the table below.

COASTAL POLITICAL SUBDIVISIONS ELIGIBLE FOR A SHARE OF QUALIFIED OCS REVENUES UNDER THE GULF OF MEXICO ENERGY SECURITY ACT

Alabama counties	Louisiana parishes	Mississippi counties	Texas counties
Baldwin, Mobile	Assumption, Calcasieu, Cameron, Iberia, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermillion	Hancock, Harrison, Jackson	Arkansas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Harris, Jackson, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, Orange, Refugio, San Patricio, Victoria, Willacy

In the allocation of revenues among the States' coastal political subdivisions, GOMESA refers to the CIAP provisions in EPAct that amend section 31 of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a). Specifically, GOMESA states that the funds shall be allocated to each coastal political subdivision in accordance with subparagraphs (B), (C), and (E) of section 31(b)(4) of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a(b)(4)) which provides that:

''(B) FORMULA.—Of the amount paid by the Secretary to coastal political subdivisions under subparagraph (A)—

(i) 25 percent shall be allocated to each coastal political subdivision in the proportion that—

(I) The coastal population of the coastal political subdivision; bears to

(II) The coastal population of all coastal political subdivisions in the producing State;

(ii) 25 percent shall be allocated to each coastal political subdivision in the proportion that—

(I) The number of miles of coastline of the coastal political subdivision; bears to

(II) The number of miles of coastline of all coastal political subdivisions in the producing State; and

(iii) 50 percent shall be allocated in amounts that are inversely proportional to the respective distances between the points in each coastal political subdivision that are closest to the geographic center of each leased tract, as determined by the Secretary.

(C) EXCEPTION FOR THE STATE OF LOUISIANA.—For the purposes of subparagraph (B)(ii), the coastline for coastal political subdivisions in the State of Louisiana without a coastline shall be considered to be ⅓ the average length of the coastline of all coastal political subdivisions with a coastline in the State of Louisiana.

* * *

(E) EXCLUSION OF CERTAIN LEASED TRACTS.—For purposes of subparagraph (B)(iii), a leased tract or portion of a leased tract shall be excluded if the tract or portion of a leased tract is located in a geographic area subject to a leasing moratorium on January 1, 2005, unless the lease was in production on that date.''

We will allocate 50 percent of the funds available to the coastal political subdivisions based on the population formula (25 percent), coastline formula (25 percent) and (B)(i) and (ii) above. To determine coastal political subdivision coastline lengths for calculating the coastline length shares, we will use standard geographical information system software (ArcGIS). To determine the population shares, we will make our

allocations using the latest official U.S. Census Bureau census population data.

We will allocate the remaining 50 percent of the funds available to the coastal political subdivisions ((B)(iii)) by calculating and applying the inverse proportional distance ratios in the same way we do for allocating revenues to the Gulf producing States in this proposed rule, except we would exclude leased tracts in the 181 South Area due to the provisions of paragraph (E) of section 31(b)(4) of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a(b)(4)) as amended by the Energy Poly Act of 2005. The 181 South Area was under a moratorium as of January 1, 2005, and no lease has ever produced in this area, thus those tracts cannot be included in the calculations for coastal political subdivisions in accordance with paragraph (E). In calculating the inverse proportional distances for States, we will use applicable leased tracts in the 181 Area in the Eastern Planning Area and in the 181 South Area. For the coastal political subdivisions, however, we will only use applicable leased tracts in the 181 Area in the Eastern Planning Area.

There is a slight possibility that there could be a fiscal year in which there are no applicable leased tracts in the 181 Area in the Eastern Planning Area, so there would be no way to allocate the 50 percent funds to coastal political subdivisions based on their inverse proportional distances to applicable leased tracts. This would only occur if no leasing occurred in the 181 Area in the Eastern Planning Area or all leases awarded in this area were relinquished at some point before 2016. In the event this situation should occur, we propose to allocate:

- 50 percent of the funds based on the proportion that each coastal political subdivision's population bears to the coastal population of all coastal political subdivisions in the Gulf producing State; and
- 50 percent of the funds based on the proportion that each coastal political subdivision's miles of coastline bears to the number of miles of coastline of all coastal political subdivisions in the producing State.

We believe this proposal is fair and is the alternative that is most consistent with the GOMESA provisions. We welcome your suggestions and recommendations about other alternatives to allocate funds among coastal political subdivisions if there were no applicable leased tracts in the Sale 181 Area in the Eastern Gulf of Mexico Planning Area in the fiscal year for which funds are being disbursed.

Bonus or Royalty Credits for Relinquished Leases

Section 104(c) of GOMESA authorizes the Secretary of the Interior (Secretary) to issue a bonus or royalty credit for use only in the Gulf of Mexico for the exchange of certain leases located offshore of the State of Florida. The proposed regulations for Bonus or Royalty Credits authorized under GOMESA can be found in the proposed rule RIN 1010–AD44, Bonus or Royalty Credits for Relinquishing Certain Leases Offshore, published February 1, 2008 (FR 73 6073). The statute does not exclude these credits from being applied to bonus or royalty obligations for leases subject to GOMESA revenue sharing provisions. To the extent this occurs, the United States would receive less qualified OCS revenues than if the bidders or lessees had paid in cash. It necessarily follows that any distribution of royalty or bonus payments to a State or coastal political subdivision would result in a corresponding reduction from what it would have been had the entire payment been made in cash.

The MMS projects the effect of section 104(c) on GOMESA revenue sharing during fiscal years 2007 through 2016 to be very limited. Since the GOMESA distribution requirements apply only to revenues derived from new leases issued in the portion of the 181 Area located in the Eastern Planning Area and to the 181 South Area, production, and hence royalty, from such leases likely will not occur anytime soon. Further, MMS allocates the portion of qualified OCS revenues paid to Gulf producing States between those States based on an inverse distance formula. This effect on a particular State from a reduction in a particular bonus payment for a new lease in the subject areas, because of use of a bonus credit, would be minimal. Finally, given the thousands of other leases to which the credits may be applied, the credits are more likely to be used to pay bonus and royalty obligations on leases that are not subject to revenue sharing provisions.

Timing of Annual Disbursements to States and Coastal Political Subdivisions

Per Section 105(c) of GOMESA, funds are required to be made available during the fiscal year immediately following the applicable fiscal year.

For the portion of qualified OCS revenues represented by bonuses and rental payments, the calculation of the revenue sharing distribution on applicable leased tracts can be finalized relatively quickly once the computational software is operational. In the case of the royalty portion, additional time can be expected. However, it will likely be several years before there are any royalties paid on GOMESA leases subject to revenue sharing during 2007–2016. Accordingly, MMS expects that during the first few years of the 2007–2016 revenue sharing period, before there are any producing leases, revenue sharing funds can be distributed within the first half of the following fiscal year.

Procedural Matters

Regulatory Planning and Review (Executive Order (E.O.) 12866)

This proposed rule is not a significant rule as determined by the Office of Management and Budget (OMB) and is not subject to review under E.O. 12866.

(1) This proposed rule would not have an annual effect of $100 million or more on the economy. It would not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The GOMESA directs the Secretary to disburse a portion of qualified OCS revenues to the Gulf producing States, coastal political subdivisions, and the LWCF. This proposed rule describes the formula and methodology MMS would use to allocate the revenues among the Gulf producing States and the coastal political subdivisions. The transfer of revenues from the Federal Government to State and local governments would not impose additional costs on any sector of the U.S. economy, and would not have any appreciable effect on the National economy. Internal estimates in June 2007, made for official budget projections, indicate that the annual transfers will total less than the $100 million annual threshold because of the relatively small OCS area whose bonus, rental, and royalty payments are subject to revenue sharing.

(2) This proposed rule would not create any serious inconsistency or otherwise interfere with an action taken or planned by another agency. No other agency is affected by the disbursements mandated by GOMESA.

(3) This proposed rule would not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This proposed rule does not raise novel legal or policy issues. This proposed rule would merely provide formulas and methods to implement an Act of Congress. Previously, section 8(g) of the OCS Lands Act and section 384 of the Energy Policy Act of 2005 have provided for the distribution of a

portion of OCS revenues to coastal States and local governments with distributions under the latter statute using essentially the same formulas and methods proposed in this rule.

Regulatory Flexibility Act

The Department of the Interior (DOI) certifies that this proposed rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The provisions of this proposed rule specify how qualified OCS revenues would be allocated to certain States and eligible coastal political subdivisions. The proposed rule would have no effect on the amount of royalties, rents, or bonuses owed by lessees, operators, or payors regardless of size and, consequently, would not have a significant economic effect on offshore lessees and operators, including those classified as small businesses. Small entities may benefit from expenditures funded by these shared revenues, but it is not possible to estimate that effect since under the statute, States, and political subdivisions will be receiving such revenues.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the actions of MMS, call 1–888–734–3247. You may comment to the Small Business Administration without fear of retaliation. Disciplinary action for retaliation by an MMS employee may include suspension or termination from employment with the DOI.

Small Business Regulatory Enforcement Fairness Act

This proposed rule is not a major rule under 5 U.S.C. 804(2) of the Small Business Regulatory Enforcement Fairness Act. This proposed rule:

a. Would not have an annual effect on the economy of $100 million or more. The provisions of this proposed rule specify how qualified OCS revenues would be allocated to States and coastal political subdivisions. The proposed rule would have no effect on the amount of royalties, rents, or bonuses owed by lessees, operators, or payors regardless of size and, consequently, would not have a significant adverse economic effect on offshore lessees and operators, including those classified as small businesses. The Gulf producing States and coastal political subdivision recipients of the revenues would likely fund contracts that would benefit the local economies, small entities, and the environment. These effects are projected to be less than $100 million annually.

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

c. Would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. The effects, if any, of distributing revenues to the States and coastal political subdivision are projected to be beneficial.

Unfunded Mandates Reform Act

This proposed rule would not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The proposed rule would not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required because the proposal is not a mandate. It merely provides the formulas and methods to implement an allocation of revenue to certain States and eligible coastal political subdivisions, as directed by Congress. Further, the statute allows 3 percent of funds allocated to Gulf producing States and coastal political subdivisions to be used for planning and administrative activities.

Takings Implication Assessment (E.O. 12630)

Under the criteria in E.O. 12630, this proposed rule does not have significant takings implications. The proposed rule is not a governmental action capable of interference with constitutionally protected property rights. A takings implication assessment is not required.

Federalism (E.O. 13132)

Under the criteria in E.O. 13132, this proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This proposed rule would not substantially and directly affect the relationship between the Federal and State governments. To the extent that State and local governments have a role in OCS activities, this proposed rule would not affect that role, though it may fund activities that mitigate local challenges attributed to OCS exploration and development. A Federalism Assessment is not required.

Civil Justice Reform (E.O. 12988)

This proposed rule complies with the requirements of E.O. 12988. Specifically, this proposed rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian Tribes (E.O. 13175)

Under the criteria in E.O. 13175, we have evaluated this proposed rule and determined that it has no potential effects on federally recognized Indian tribes. There are no Indian or tribal lands in the OCS or tribes that qualify as GOMESA revenue sharing recipients.

Paperwork Reduction Act

The proposed revisions do not contain any information collection subject to the Paperwork Reduction Act (PRA) and does not require a submission to OMB for review and approval under section 3507(d) of the PRA.

National Environmental Policy Act

This proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment. The MMS has analyzed this rule under the criteria of the National Environmental Policy Act (NEPA) and 516 Departmental Manual 6, Appendix 10.4C(1). The MMS completed a Categorical Exclusion Review for this action and concluded that the rulemaking is categorically excluded from NEPA because it involves "issuance and modification of regulations * * * for which the impacts are limited to administrative, economic, or technical effects * * *." Therefore, preparation of an environmental analysis or environmental impact statement will not be required.

Data Quality Act

In developing this proposed rule we did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106–554, app. C § 515, 114 Stat. 2763, 2763A–153–154).

Effects on the Energy Supply (E.O. 13211)

This proposed rule is not a significant energy action under the definition in

E.O. 13211. A Statement of Energy Effects is not required.

Clarity of This Regulation

We are required by E.O. 12866, E.O.12988, and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by any of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

List of Subjects in 30 CFR Part 219

Government contracts, Indian—lands, Mineral royalties, Oil and gas exploration, Public lands—mineral resources.

Dated: March 25, 2008.

C. Stephen Allred,

Assistant Secretary—Land and Minerals Management.

For the reasons stated in the preamble, the Minerals Management Service (MMS) proposes to amend 30 CFR part 219 as follows:

PART 219—DISTRIBUTION AND DISBURSEMENT OF ROYALTIES, RENTALS, AND BONUSES

1. The authority citation for part 219 is revised to read as follows:

Authority: Section 104, Pub. L. 97–451, 96 Stat. 2451 (30 U.S.C. 1714), Pub. L. No. 109–432, Div C, Title I, 120 Stat. 3000.

2. Amend part 219 by adding a new Subpart D—Oil and Gas, Offshore, to read as follows:

Subpart D—Oil and Gas, Offshore

Sec.
219.410 What does this subpart contain?
219.411 What definitions apply to this subpart?
219.412 How will the qualified OCS revenues be divided?
219.413 How will the coastal political subdivisions of Gulf producing States share in the qualified OCS revenues?
219.414 How will MMS determine each Gulf producing State's share of the qualified OCS Revenues?
219.415 How will bonuses and royalty credits effect revenues allocated to Gulf producing States?
219.416 How will the qualified OCS revenues be allocated to coastal political subdivisions within the Gulf producing States?
219.417 How will MMS disburse qualified OCS revenues to the coastal political subdivisions if, during any fiscal year, there are no applicable leased tracts in the 181 Area in the Eastern Gulf of Mexico Planning Area?
219.418 When will funds be disbursed to Gulf producing States and eligible coastal political subdivisions?

§ 219.410 What does this subpart contain?

The Gulf of Mexico Energy Security Act of 2006 directs the Secretary of the Interior to disburse a portion of the rentals, royalties, bonus, and other sums derived from certain Outer Continental Shelf (OCS) leases in the Gulf of Mexico to the States of Alabama, Louisiana, Mississippi, and Texas (collectively identified as the Gulf producing States); to eligible coastal political subdivisions within those States; and to the Land and Water Conservation Fund. This subpart sets forth the formula and methodology MMS will use to determine the amount of revenues to be disbursed and the amount to be allocated to each Gulf producing State and each eligible coastal political subdivision.

§ 219.411 What definitions apply to this subpart?

Terms in this subpart have the following meaning:

181 Area means the area identified in map 15, page 58, of the Proposed Final Outer Continental Shelf Oil and Gas Leasing Program for 1997–2002, dated August 1996, of the Minerals Management Service, available in the Office of the Director of the Minerals Management Service, excluding the area offered in OCS Lease Sale 181, held on December 5, 2001.

181 Area in the Eastern Planning Area is comprised of the area of overlap of the two geographic areas defined as the ''181 Area'' and the ''Eastern Planning Area''.

181 South Area means any area—

(1) located—

(i) south of the 181 Area;

(ii) West of the Military Mission Line; and

(iii) in the Central Planning Area;

(2) excluded from the Proposed Final Outer Continental Shelf Oil and Gas Leasing Program for 1997–2002, dated August 1996, of the Minerals Management Service; and

(3) Included in the areas considered for oil and gas leasing, as identified in map 8, page 37 of the document entitled ''Draft Proposed Program Outer Continental Shelf Oil and Gas Leasing Program 2007–2012'', dated February 2006.

Applicable Leased Tract means a tract that is subject to a lease under section 6 or 8 of the Outer Continental Shelf Lands Act for the purpose of drilling for, developing, and producing oil or natural gas resources and is located fully or partially in either the 181 Area in the Eastern Planning Area or in the 181 South Area.

Central Planning Area means the Central Gulf of Mexico Planning Area of the outer Continental Shelf, as designated in the document entitled ''Draft Proposed Program Outer Continental Shelf Oil and Gas Leasing Program 2007–2012'', dated February 2006.

Coastal political subdivision means a political subdivision of a Gulf producing State any part of which political subdivision is—

(1) Within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the Gulf producing State as of December 20, 2006; and

(2) Not more than 200 nautical miles from the geographic center of any leased tract.

Coastline means the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters. This is the same definition used in section 2 of the Submerged Lands Act (43 U.S.C. 1301).

Distance means the minimum great circle distance.

Eastern Planning Area means the Eastern Gulf of Mexico Planning Area of the Outer Continental Shelf, as designated in the document entitled ''Draft Proposed Program Outer Continental Shelf Oil and Gas Leasing Program 2007–2012'', dated February 2006.

Gulf Producing State means each of the States of Alabama, Louisiana, Mississippi, and Texas.

Leased Tract means any tract that is subject to a lease under section 6 or 8 of the Outer Continental Shelf Lands Act for the purpose of drilling for, developing, and producing oil or natural gas resources.

Military Mission Line means the north-south line at 86°41′ W. longitude.

Qualified OCS Revenues—

(1) The term ''qualified OCS revenues'' means, in the case of each of fiscal years 2007 through 2016, all rentals, royalties, bonus bids, and other sums received by the United States from leases entered into on or after December 20, 2006, located:

(i) In the 181 Area in the Eastern Planning Area; and

(ii) In the 181 South Area.

(2) For applicable leased tracts intersected by the planning area administrative boundary line (e.g., separating the GOM Central Planning Area from the Eastern Planning Area), only the percent of revenues equivalent to the percent of surface acreage in the 181 Area in the Eastern Planning Area will be considered qualified OCS revenues.

(3) Exclusions to the term ''qualified OCS revenues'' include:

(i) Rental revenues or user fees credited to MMS appropriated funds through the annual Congressional appropriations process;

(ii) Revenues from the forfeiture of a bond or other surety securing obligations other than royalties;

(iii) Civil penalties; and

(iv) Royalties taken by the Secretary in-kind and not sold.

§ 219.412 How will the qualified OCS revenues be divided?

For each of the fiscal years 2007 through 2016, 50 percent of the qualified OCS revenues will be placed in a special United States Treasury account from which 75 percent of the revenues will be disbursed to the Gulf producing States and 25 percent will be disbursed to the Land and Water Conservation Fund. Each Gulf producing State will receive at least 10 percent of the qualified OCS revenues available for allocation to the Gulf producing States each fiscal year.

REVENUE DISTRIBUTION OF QUALIFIED OCS REVENUES UNDER GOMESA

Recipient of qualified OCS revenues	Percentage of qualified OCS revenues
U.S. Treasury	50
Land and Water Conservation Fund	12.5
Gulf Producing States	30
Eligible Coastal Political Subdivisions	7.5

§ 219.413 How will the coastal political subdivisions of the Gulf producing States share in the qualified OCS revenues?

Of the revenues allocated to a Gulf producing State, 20 percent will be distributed to the coastal political subdivisions within that State.

§ 219.414 How will MMS determine each Gulf producing State's share of the qualified OCS revenues?

(a) The MMS will determine the geographic centers of each applicable leased tract and, using the great circle distance method, will determine the closest distance from the geographic centers of each applicable leased tract to each Gulf producing State's coastline.

(b) Based on these distances, we will calculate the qualified OCS revenues to be disbursed to each Gulf producing State using the following proposed procedure:

(1) For each Gulf producing State, we will calculate and total, over all applicable leased tracts, the mathematical inverses of the distances between the points on the State's coastline that are closest to the geographic centers of the applicable leased tracts and the geographic centers of the applicable leased tracts. For applicable leased tracts intersected by the planning area administrative boundary line, the geographic center used for the inverse distance determination will be the geographic center of the entire lease as if it were not intersected.

(2) For each Gulf producing State, we would divide the sum of each State's inverse distances, from all applicable leased tracts, by the sum of the inverse distances from all applicable leased tracts across all four Gulf producing States. We would multiply the result by the amount of qualified OCS revenues to be shared, as shown below. In the formulas, I_{AL}, I_{LA}, I_{MS}, and I_{TX} represent the sum of the inverses of the closest distances between Alabama, Louisiana, Mississippi, and Texas and all applicable leased tracts, respectively.

Alabama Share = $(I_{AL} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ Qualified OCS Revenues

Louisiana Share = $(I_{LA} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ Qualified OCS Revenues

Mississippi Share = $(I_{MS} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ Qualified OCS Revenues

Texas Share = $(I_{TX} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ Qualified OCS Revenues

(3) If in any fiscal year, this calculation results in less than a 10 percent allocation of the qualified OCS revenues to any Gulf producing State, we will recalculate the distribution. We will allocate 10 percent of the qualified OCS revenues to the State and recalculate the other States' shares of the remaining qualified OCS revenues omitting the State receiving the 10 percent minimum share and its 10 percent share from the calculation.

§ 219.415 How will the use of bonus and royalty credits effect revenue allocation to Gulf producing States?

If bonus and royalty credits issued under Section 104(c) of the Gulf of Mexico Energy Security Act are used to pay bonuses or royalties on leases in the 181 Area located in the Eastern Planning Area and the 181 South Area, then there will be a corresponding reduction in qualified OCS revenues available for distribution.

§ 219.416 How will the qualified OCS revenues be allocated to coastal political subdivisions within the Gulf producing States?

The MMS will disburse funds to the coastal political subdivisions in accordance with the following criteria:

(a) Twenty-five percent of the qualified OCS revenues will be allocated to a Coastal producing State's coastal political subdivisions in the proportion that each coastal political subdivision's population bears to the population of all coastal political subdivisions in the producing State;

(b) Twenty-five percent of the qualified OCS revenues will be allocated to a Coastal producing State's coastal political subdivisions in the proportion that each coastal political subdivision's miles of coastline bears to the number of miles of coastline of all coastal political subdivisions in the producing State. Except that, for the State of Louisiana, proxy coastline lengths for coastal political subdivisions without a coastline will be considered to be one-third the average length of the coastline of all political subdivisions within Louisiana having a coastline.

(c) Fifty percent of the revenues will be allocated to a Coastal producing State's coastal political subdivisions in amounts that are inversely proportional to the respective distances between the geographic center of each applicable leased tract and the point in each coastal political subdivision that is

closest to the geographic center of each applicable leased tract. Except that, an applicable leased tract will be excluded from this calculation if any portion of the tract is located in a geographic area that was subject to a leasing moratorium on January 1, 2005, unless the leased tract was in production on that date.

§ 219.417 How will MMS disburse qualified OCS revenues to the coastal political subdivisions if, during any fiscal year, there are no applicable leased tracts in the 181 Area in the Eastern Gulf of Mexico Planning Area?

If, during any fiscal year, there are no applicable leased tracts in the 181 Area in the Eastern Gulf of Mexico Planning Area, MMS will disburse funds to the coastal political subdivisions in accordance with the following criteria:

(a) Fifty percent of the revenues will be allocated to a Coastal producing State's coastal political subdivisions in the proportion that each coastal political subdivision's population bears to the population of all coastal political subdivisions in the State; and

(b) Fifty percent of the revenues will be allocated to a Coastal producing State's coastal political subdivisions in the proportion that each coastal political subdivision's miles of coastline bears to the number of miles of coastline of all coastal political subdivisions in the State. Except that, for the State of Louisiana, proxy coastline lengths for coastal political subdivisions without a coastline will be considered to be ⅓ the average length of the coastline of all political subdivisions within Louisiana having a coastline.

§ 219.418 When will funds be disbursed to Gulf producing States and eligible coastal political subdivisions?

The MMS will disburse allocated funds in the fiscal year after MMS collects the qualified OCS revenues. For example, MMS will disburse funds in fiscal year 2010 from the qualified OCS revenues collected during fiscal year 2009.

[FR Doc. E8–11709 Filed 5–23–08; 8:45 am]

BILLING CODE 4310–MR–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2008–0333; FRL–8571–1]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Reasonably Available Control Technology (RACT) for Norfolk Southern Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. This revision pertains to the removal of a nitrogen oxide (NO_X) RACT permit for sources located at the Norfolk Southern Corporation in Roanoke, Virginia, which have permanently shut down. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before June 26, 2008.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2008–0333 by one of the following methods:

A. *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

B. *E-mail: fernandez.cristina@epa.gov*.

C. *Mail:* EPA–R03–OAR–2008–0333, Cristina Fernandez, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket(s normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2008–0333. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Ellen Wentworth, (215) 814–2034, or by e-mail at *wentworth.ellen@epa.gov*.

SUPPLEMENTARY INFORMATION: On February 11, 2008, the Virginia Department of Environmental Quality (VADEQ) submitted a revision to its State Implementation Plan (SIP) pertaining to the removal of a NO_X RACT permit for sources located at the Norfolk Southern Railway Company, located in Roanoke, Virginia, that had permanently shut down.

I. Background

Prior to the final designations of the 8-hour ozone nonattainment area, EPA developed a program to allow potential nonattainment areas to voluntarily adopt local emission control programs to avoid air quality violations and mandated nonattainment area controls. Areas with air quality meeting the