

Safety & Environ'l Enforcement, Interior

§ 285.111

(4) Fail to 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.

[88 FR 6413, Jan. 31, 2023, as amended at 89 FR 42713, May 15, 2024]

§ 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 all applicable laws and regulations, the terms of your lease or grant under 30 CFR part 585 or 586, reports, notices, and approved plans prepared under this part, 30 CFR part 585 or 586, and any conditions imposed by BOEM or BSEE through its review of any of these reports, notices, and approved plans, as provided in this part *or in* 30 CFR part 585 or 586;

(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 con-

tracts 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.

[88 FR 6413, Jan. 31, 2023, as amended at 89 FR 42713, May 15, 2024]

§§ 285.106–285.109 [Reserved]

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

Unless otherwise stated, you must submit one electronic copy of all plans, applications, reports, or notices required by this part to BSEE. BSEE will inform you if it requires paper copies of specific documents. Unless stated otherwise, documents should be submitted to the relevant contacts listed on the BSEE website.[89 FR 42713, May 15, 2024]

§ 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:

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(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

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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.