{*Option 2: If this notice is for a participant or beneficiary whose account balance meets the conditions of §2550.404a-3(d)(1)(iii), complete and include the following paragraph.*}

If you do not make an election within 30 days from your receipt of this notice, and your account balance is $1,000 or less, federal law permits us to transfer your balance to an interest-bearing federally insured bank account, to the unclaimed property fund of the State of your last known address, or to an individual retirement plan (inherited individual retirement plan in the case of a nonspouse beneficiary). Pursuant to federal law, your money, if transferred to an individual retirement plan would then be invested in an investment product designed to preserve principal and provide a reasonable rate of return and liquidity. {*If known, include the name, address, and telephone number of the financial institution or State fund into which the individual's account balance will be transferred or deposited. If the individual's account balance is to be transferred to a financial institution and fee information is known, include the following sentence:* Should your money be transferred into a plan or account, [*name of the financial institution*] charges the following fees for its services: {*add a statement of fees, if any, that will be paid from the individual's account*}.}

{*Option 3: If this notice is for a participant or participant's spouse whose distribution is subject to the survivor annuity requirements in sections 401(a)(11) and 417 of the Internal Revenue Code (or section 205 of ERISA), complete and include the following paragraph.*}

If you do not make an election within 30 days from your receipt of this notice, your account balance will be distributed in the form of a qualified joint and survivor annuity or qualified preretirement annuity as required by the Internal Revenue Code. {*If the name of the annuity provider is known, include the following sentence:* The name of the annuity provider is [*name, address and phone number of the provider*].}

For more information about the termination, your account balance, or distribution options, please contact [*name, address, and telephone number of the qualified termination administrator and, if different, the name, address, and telephone number of the appropriate contact person*].

Sincerely,
[*Name of qualified termination administrator or appropriate designee*]

Signed at Washington, DC, this 29th day of September 2008.

Bradford P. Campbell,

Assistant Secretary, Employee Benefits Security Administration, Department of Labor.

[FR Doc. E8–23424 Filed 10–6–08; 8:45 am]

BILLING CODE 4510–29–C

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 203 and 260

[Docket ID: MMS–2007–OMM–0074]

RIN 1010–AD29

Royalty Relief for Deepwater Outer Continental Shelf Oil and Gas Leases—Conforming Regulations to Court Decision

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: This rule amends 30 CFR parts 203 and 260 to conform the regulations to the decision of the United States Court of Appeals for the Fifth Circuit in *Santa Fe Snyder Corp., et al.* v. *Norton.* That decision found that certain provisions of the MMS regulations interpreting section 304 of the Deep Water Royalty Relief Act are contrary to the requirements of the statute. MMS will determine lessees' royalty under leases subject to Deep Water Royalty Relief Act section 304, for both past and future periods, in a manner consistent with the Fifth Circuit's decision in the *Santa Fe Snyder* case and this rule.

DATES: *Effective Date:* This rule is effective November 6, 2008

FOR FURTHER INFORMATION CONTACT: Marshall Rose, Chief, Economics Division, at (703) 787–1536.

SUPPLEMENTARY INFORMATION: The MMS published a proposed rule (PR) in the **Federal Register** on December 21, 2007 (72 FR 72652), to inform the public of our intent to revise 30 CFR part 203, which pertains to royalty relief and 30 CFR part 260, which pertains to Outer Continental Shelf (OCS) leasing, in a manner consistent with the *Santa Fe Snyder* ruling. The PR invited comments, recommendations, and specific remarks on our regulatory changes consistent with the *Santa Fe Snyder* decision. The regulatory changes in this final rule are exactly the same as those published in the PR with three clarifying exceptions. In § 203.71(a)(3) we add the expression of ''newly constituted'' field to distinguish between the field which was the subject of the original application and the new field which becomes the subject of the revised application. In § 203.71(a)(5) we label as field A the field to which the well was originally assigned and from which it is removed by re-assigning the well to a second field, which we label as field B. That step avoids an ambiguity in the old wording. Also, we re-word the new language in the last cell of the table to distinguish between the kind of lease referred to in § 260.114 and the kind of lease referred to in § 260.124. In § 260.114 we add language that each Final Notice of Sale Package, which contains the official information on a lease's water depth category, is announced in the **Federal Register**.

Furthermore, in the Regulatory Planning and Review (Executive Order 12866) section, we have properly determined this final rule to be ''significant'' as determined by the Office of Management and Budget and subject to review under Executive Order 12866.

Background

On November 28, 1995, President Clinton signed Public Law 104–58, which included the Deep Water Royalty Relief Act (Act). The Act was designed to encourage development of new supplies of energy. It included incentives to promote investment in a particularly high-cost, high-risk area, the deep waters of the Gulf of Mexico. These deep Gulf of Mexico waters were viewed as having potential for large oil and gas discoveries, but technological advances and multi-billion dollar investments would be needed to realize that potential. Since the enactment of the incentive, the deep waters of the Gulf of Mexico have become one of the most important sources of domestic oil and gas production.

The Secretary of the Interior was required to suspend royalties for certain volumes of production on new leases in more than 200 meters of water in the central and western Gulf of Mexico issued in the first 5 years following enactment of the Act. These royalty suspension volumes (RSVs) (i.e., specified volumes of royalty-free production) ranged from 17.5 million to 87.5 million barrels of oil equivalent (BOE), depending on water depth. The royalty suspension incentive was intended to provide companies that undertook these investments specific volumes of royalty-free production to help recover a portion of their capital costs before starting to pay royalties. Once the specified volume has been produced, royalties become due on all additional production. This was not a matter of agency discretion.

We published an advance notice of proposed rulemaking (ANPR) in the **Federal Register** on February 23, 1996 (61 FR 6958), to inform the public of our intent to develop comprehensive regulations implementing the Act. The ANPR sought comments and recommendations to assist us in that process. We continued to collect comments and conducted a public meeting in New Orleans on March 12 and 13, 1996, about the matters the ANPR addressed. We published an interim rule on March 25, 1996 (effective 30 days later). We invited comments on the interim rule and stated that we would consider them as part of our review of responses to the ANPR mentioned above. We further stated that based on comments received and experience gained, we may include changes to the matters the interim rule addresses in a comprehensive rulemaking implementing the Act.

Section 304 of the Act specifies RSVs for offshore oil and gas leases in 3 defined water depth ranges deeper than 200 meters of water issued in lease sales held in the first 5 years after the Act's enactment on November 28, 1995. We stated in our March 25, 1996, interim rule entitled Deepwater Royalty Relief for New Leases that ''[s]ection 304 of the Act does not provide specific guidance on how to apply the royalty suspension volumes to leases issued during sales after November 28, 1995'' and that ''[t]he primary question is how to apply the minimum royalty suspension volumes laid out in the statute'' (61 FR 12023). We published a final rule implementing section 304 of the Act in the **Federal Register**, with no substantive change in the regulatory language, on January 16, 1998 (63 FR 2626), that became effective on February 17, 1998.

On October 4, 2004, the U.S. Court of Appeals for the Fifth Circuit in *Santa Fe Snyder Corp., et al.* v. *Norton,* 385 F.3d 884, agreed with the conclusion of the U.S. District Court for the Western District of Louisiana that the regulations implementing royalty relief under section 304 are inconsistent with the statute. The regulations provided that leases issued under section 304 that are assigned to a field with a current lease that produced before November 28, 1995, are not eligible for royalty relief. The regulations further provided that where there is more than one section 304 lease in a field, leases share in the statutory RSV. These requirements were promulgated in the interim rule effective April 24, 1996 (61 FR 12022).

The effect of the court's ruling in *Santa Fe Snyder* was that: (1) The MMS could not condition royalty relief under section 304 on the lease being part of a field that was not producing before November 28, 1995; and (2) the RSVs prescribed in section 304 apply to each lease, not jointly to all leases in a particular field. An Information to Lessees (ITL) dated August 8, 2005, alerted affected lessees that we would abide by the decision and revise the regulations to conform to this decision, resulting in the proposed and now final rule.

Comments on the Proposed Rule

We received six comment letters on the PR. Two of the commenters were from industry trade associations (National Ocean Industries Association (NOIA) and American Petroleum Institute (API)). We also received comments from one operator and three individuals from the general public. Two of the individual comment letters were not germane to the PR and were not considered.

All comments received are available for review at *http://www.regulations.gov.* To view comments on this PR, 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–0074'' to view comments and supporting materials for this rulemaking. Information on using Regulations.gov and viewing the docket after the close of the comment period is available through the site's ''user tips'' link.

All four commenters submitting germane comments on the PR were

supportive of amending the regulations at 30 CFR parts 203 and 260 to conform to the *Santa Fe Snyder Corp., et al.* v. *Norton* decision. The respondents were appreciative of the regulatory change that would bring clarity and avoid confusion to readers of the regulations. No suggestions or proposals were received to change or clarify our proposed regulatory changes to implement the court's decision and its interpretation of section 304 of the DWRRA.

Summary of Changes to Proposed Rule

The regulatory changes in this final rule are exactly the same as those published in the PR with three clarifying exceptions. In § 203.71(a)(3), we add the expression of ''newly constituted'' field to distinguish between the field which was the subject of the original application and the new field which becomes the subject of the revised application. In § 203.71(a)(5), we label as field A the field to which the well was originally assigned and from which it is removed by re-assigning the well to a second field, which we label as field B. That step avoids an ambiguity in the old wording. Also, we re-word the new language in the last cell of the table to distinguish between the kind of lease referred to in § 260.114 and the kind of lease referred to in § 260.124. In § 260.114, we add language that each Final Notice of Sale Package, which contains the official information on a lease's water depth category, is announced in the **Federal Register**.

Regulatory Change

This final rule will revise 30 CFR part 203, which pertains to royalty relief; and 30 CFR part 260, which pertains to OCS leasing, to treat leases issued under section 304 (referred to in our regulations as ''eligible leases'') in a manner consistent with the *Santa Fe Snyder* ruling. The revisions conform our regulations to the court ruling and are non-discretionary.

Changes in 30 CFR part 203 delete references to ''eligible leases'' in § 203.69 and change the sharing rule in § 203.71 for purposes of consistency. It removes the eligible leases from the section that discusses how to allocate RSVs on a field. These changes mean that regardless of the outcome of an application for royalty relief for leases issued either before or after the 5-year period covered by section 304, which may affect the field to which they are assigned, both eligible leases and leases issued in sales held after November 25, 2000 (referred to in the regulation as ''Royalty Suspension'' (RS) leases), receive the full RSVs stated in the lease instrument. Further, as with a RS lease, production from an eligible lease counts against any RSVs available to pre-Act leases on a field to which the eligible lease or RS lease has been assigned. However, unlike RS leases, lessees of eligible leases may not initiate an application seeking, or requesting a share in, an additional RSV granted to an RS lease. This is because there would now be more than enough financial incentive for any single lease.

The revisions to the regulations in part 260 modify § 260.3 relating to MMS's authority to collect information and remove references in § 260.113(a) to prior production on the field to which a lease is assigned. Deletions in § 260.114 remove paragraphs on procedures for notification, determination of RSVs, and having more than one RSV on a lease because they are no longer required. Section 260.114(b) is also revised to change the reference from ''fields'' to ''each eligible lease.'' Section 260.124 is revised to remove a reference to eligible leases establishing an RSV for a field, which is not valid under section 304 of the Act, as interpreted in *Santa Fe Snyder.* Thus, royalty-free production from an RS lease only counts against the RSV of a field if that volume was established as a result of an approved application for royalty relief for a pre-Act lease under part 203. Finally, all of § 260.117 is eliminated, because provisions for allocation of RSVs among multiple leases on a field are no longer needed.

Retroactive Effect

As explained above, the need for this rule arises from the Fifth Circuit's decision. The effect of the Fifth Circuit's decision was to declare void the regulatory provisions that the court found to be inconsistent with section 304. Because section 304 had not changed, the necessary implication is that the relevant regulations were unlawful from their inception. The Fifth Circuit's decision created a regulatory void between the date on which the interim rule became effective (April 24, 1996) and the present. The Fifth Circuit plainly would apply its interpretation of section 304 for all time periods, not just the period after the decision. This rule does nothing more than conform the regulations to the Fifth Circuit's decision, and reflects the legal interpretation of section 304 that the Fifth Circuit would apply. We thus replace the rule that the court struck down with this rule for the time period that the invalidated provisions covered, so as to avoid having a gap and consequent ambiguity in the rule between April 24, 1996, and the date of this rule. See *Citizens to Save Spencer County* v. *EPA* 600 F.2d 844, 879–880 (DC Cir. 1979), or *Beverly Hospital* v. *Bowen* 872 F.2d 483, 485–486 (DC Cir. 1989). Therefore, this rule is effective immediately upon being published with retroactive effect to April 24, 1996.

Procedural Matters

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

This final rule is a significant rule as determined by the Office of Management and Budget (OMB) and is subject to review under E.O. 12866.

(1) This final rule conform the regulations to the Fifth Circuit's decision. It will have an annual effect on the economy of $100 million or more. The following are the same aggregate fiscal estimates presented in the December 21, 2007 (72 FR 72652), PR.

The Fifth Circuit's decision means that production on more section 304 leases will be subject to royalty relief than under the previous regulations, resulting in larger fiscal costs to the Federal Government. The magnitudes of these fiscal losses (on past and future royalty collections) will vary significantly depending upon whether the Federal Government ultimately prevails (low case) or does not prevail (high case) in litigation over the MMS authority to condition royalty relief on price thresholds (see *Kerr McGee Oil and Gas Corp.* v. *Allred,* Docket No. 2:06 CV 0439). In the low case, only deepwater leases issued in 1998 and 1999 likely would be affected, because those leases were not issued with price thresholds; and for the other DWRRA leases, market prices most likely will exceed threshold levels, thereby eliminating future royalty relief on these other deepwater leases. In the high case, all deepwater leases issued throughout the 1996 to 2000 period would be affected, because deepwater leases issued in 1996, 1997, and 2000 then would be treated similar to deepwater leases issued in 1998 and 1999 with respect to price thresholds.

There are two basic categories of section 304 leases affected by the Fifth Circuit Court's decision. For section 304 leases placed on fields by MMS that consist of one or more leases which produced prior to the DWRRA, we projected that from 2000 through 2024, production of oil and gas could range from 4 million BOE in the low case to 27 million BOE in the high case. The total royalty losses using OMB economic assumptions for the 2009 Budget (oil and gas prices) during this 25-year period are estimated to range

from $16 million in the low case to almost $205 million in the high case (expressed in current-year dollars). Applying discount rates of 3 and 7 percent to the potential cash flows, the present value range of fiscal losses becomes $17 to $192 million at 3 percent and $20 to $189 million at 7 percent (the lower bound figures increase slightly as the discount rate rises because all of the losses in this case, associated with leases issued in 1998 and 1999, represent historical royalties that must be paid back, with interest, to the lessees). Essentially all production and royalties from this category of section 304 leases, up to the prescribed royalty suspension volumes for each lease, contribute to the fiscal cost to the Federal Government. This is because, in previous DWRRA regulations, such section 304 leases that were placed on fields that produced prior to the DWRRA were not considered eligible for royalty relief.

The Fifth Circuit Court's ruling also means that the suspension volumes cited in the DWRRA must apply to each lease, not shared by all leases on a geologic field, as MMS interpreted the Act. Thus, the added production from a field that could be eligible for royalty relief consists of production from all the Section 304 leases on the field (up to one RSV per lease) that is in excess of the single RSV (cited in the Act for the applicable water depth) for the entire field as interpreted by MMS in the prior DWRRA regulations. In fact, the vast majority of the royalty losses from section 304 leases will occur as a result of this aspect of the court's ruling. We estimate the additional production that will be subject to royalty relief from this ''lease-based'' court interpretation will be about 400 million BOE in the 20-year period from 2007 through 2026 in the low case (covering only DWRRA leases issued in 1998 and 1999), and approximately 1.3 billion BOE in the 28-year period from 2007 through 2034 in the high case (covering all DWRRA leases). The royalty costs using OMB economic assumptions for the 2009 Budget (oil and gas prices) associated with these production levels during the time periods of production are estimated to be $3 billion in the low case and $10 billion in the high case (expressed in current-year dollars). Discounting these cash flows yields ranges of present value royalty losses of $2.5 to $7.5 billion at 3 percent, and $1.9 to $5.2 billion at 7 percent.

It is important to recognize that the prior DWRRA regulations granted relief in the amount of one RSV per geologic field to all fields containing at least one section 304 lease as long as that field had not produced prior to the DWRRA. The Fifth Circuit Court's ruling on this category of Section 304 leases has changed the relief to apply to each section 304 lease regardless of which other leases are on the field. The differences in royalty free production and royalty relief dollars from the Court's ''lease'' interpretation and the MMS ''field'' interpretation represent measures of the cost to the Federal Government for this category of section 304 leases associated with this regulation.

In estimating these measures, one needs to recognize that a loss to the Federal Government occurs only on fields containing multiple Section 304 leases on which their total combined production exceeds a single RSV for the field. For such section 304 leases, the dollar cost loss measure is represented by royalty value from each section 304 lease (up to one RSV per lease) on a field less the royalty value of the one RSV of relief that the field would have gotten under the previous DWRRA regulation. It follows that no Federal Government cost is incurred in terms of royalty losses on fields containing only a single section 304 lease or from fields with multiple section 304 leases whose combined reserves are less than a single RSV.

Following the above logic, in our low case scenario we estimate the incremental royalty free production from all 1998–1999 section 304 leases of up to one RSV per lease beyond one RSV per field to be 400 million BOE, representing 49.3 percent of the total production (limited to no more than one RSV per lease) from all 1998–1999 section 304 leases. The royalty value of this 400 million BOE increment is estimated to be $3 billion, or 52.1 percent of the total royalty value from all 1998–1999 section 304 leases (limited to no more than one RSV per lease).

In our high case estimate, we estimate the incremental royalty free production from all 1996–2000 section 304 leases of up to one RSV per lease beyond one RSV per field to be 1.3 billion BOE, representing 54 percent of the total production (limited to no more than one RSV per lease) from all section 304 leases. The royalty value of this 1.3 billion BOE increment is estimated to be $10 billion, or 56.7 percent of the total royalty value from all section 304 leases (limited to no more than one RSV per lease).

Thus, almost all of the fiscal costs of the Fifth Circuit Court's ruling in *Santa Fe Snyder* can be attributed to the changes to the designated amounts of royalty relief from geologic fields to individual leases. The total royalty costs of the court's ruling, spanning the 35-year period from 2000 through 2034 for both categories of section 304 leases, are estimated to be between $3.1 and $10.3 billion (expressed in current-year dollars). These are the same figures that we estimated in the PR.

(2) This final rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency because royalty relief is confined to leasing in Federal offshore waters that lie outside the coastal jurisdiction of state and other local agencies. Careful review of the lease sale notices, along with stringent leasing policies now in force, ensure that the Federal OCS leasing program, of which royalty relief is only a component, does not conflict with the work of other Federal agencies.

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

(4) This final rule will not raise novel legal or policy issues.

Regulatory Flexibility Act

The Department of the Interior certifies that this final rule will 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.*).

This final rule conforms the regulations to the Fifth Circuit's decision, and reflects the legal interpretation of section 304 that the Fifth Circuit would apply. We are modifying or deleting relevant sections of the regulations that the court struck down so as to avoid having a gap and consequent ambiguity in the regulations between April 24, 1996, and the date of this rule.

A Regulatory Flexibility Analysis is not required because there are no legal alternatives to the court's decision that deemed our current regulations to be inconsistent with the statute, as cited in the preamble, other than to publish this rule. We have determined that this rule will not have a significant economic effect on a substantial number of small entities. A Small Entity Compliance Guide is not required.

This change affects lessees and operators of deepwater leases in the OCS. This includes about 40 different companies. These companies are generally classified under the North American Industry Classification System (NAICS) Code 211111, which includes companies that extract crude petroleum and natural gas. For this NAICS code classification, a small company is one with fewer than 500

employees. Based on these criteria, only 10 of these companies are considered small. This final rule, therefore, will not affect a substantial number of small entities.

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 final rule is a major rule under 5 U.S.C. 804(2) of the Small Business Regulatory Enforcement Fairness Act. This final rule:

a. Will have an annual effect on the economy of $100 million or more, based on the analysis presented in the previous section. Current MMS estimates indicate the royalty costs of the rule, occasioned by the court ruling, will be from $3.1 billion to $10.3 billion, based on applicable production amounts during the 35-year period from 2000 through 2034. This low case dollar amount represents the added royalty losses to the Federal Government only on deepwater leases issued without price thresholds, i.e., in 1998 and 1999. The high case estimate represents royalty collection losses on all DWRRA leases, and assumes MMS cannot condition royalty relief on market prices for oil and gas. It is likely that virtually all of the future production associated with this forgone royalty cost would have occurred even without the royalty relief offered in the DWRRA. The decisions to develop at least some of the fields responsible for this production occurred under incentive terms in effect before the *Santa Fe Snyder* judgment. Moreover, higher oil and gas market prices alone likely would have provided ample incentive for Gulf of Mexico deepwater exploration and development.

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

c. Will 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.

Unfunded Mandates Reform Act

This final rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule will 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.

Takings Implication Assessment (E.O. 12630)

Under the criteria in E.O. 12630, this final rule does not have significant takings implications. The 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 final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This rule will 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 rule will not affect that role. A Federalism Assessment is not required.

Civil Justice Reform (E.O. 12988)

This final rule complies with the requirements of E.O. 12988. Specifically, this 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 final rule and determined that it has no potential effects on federally recognized Indian tribes. There are no Indian or tribal lands in the OCS.

Paperwork Reduction Act

The revisions do not contain any information collection subject to the Paperwork Reduction Act (PRA) and do not require a submission to OMB for review and approval under section 3507(d) of the PRA. The one remaining requirement in Part 260 (§ 260.124(a)(l)) is exempt from the PRA under 5 CFR 1320.4(a)(2), (c).

An information letter was sent to all lessees of deep water leases on August 8, 2005, and DOI informed the lessees that it would apply the court's decision. It was neither necessary nor appropriate for the Department to collect information used only for purposes of applying the regulatory provisions that the court held invalid.

The rule also refers to but does not change information collection requirements for 30 CFR 203 that are already approved under OMB Control Number 1010–0071 (expiration 12/31/09).

National Environmental Policy Act

This 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 and 516 Departmental Manual 15. This rule meets the criteria set forth in 516 Departmental Manual 2 (Appendix 1.10) for a Departmental ''Categorical Exclusion'' in that this rule is ''* * * of an administrative, financial, legal, technical, or procedural nature and whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis * * *.'' This rule also meets the criteria set forth in 516 Departmental Manual 15.4(C)(1) for a MMS ''Categorical Exclusion'' in that its impacts are limited to administration, economic or technological effects. Further, the MMS has analyzed this rule to determine if it meets any of the extraordinary circumstances that would require an environmental assessment or an environmental impact statement as set forth in 516 Departmental Manual 2.3, and Appendix 2. The MMS concluded that this rule does not meet any of the criteria for extraordinary circumstances as set forth in 516 Departmental Manual 2 (Appendix 2).

Data Quality Act

In developing this 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 rule is not a significant energy action under the definition in E.O. 13211. A Statement of Energy Effects is not required.

List of Subjects

30 CFR Part 203

Continental shelf, Government contracts, Indians—lands, Mineral royalties, Oil and gas exploration, Public lands—mineral resources.

30 CFR Part 260

Continental shelf, Government contracts, Mineral royalties, Oil and gas exploration, Public lands—mineral resources, Reporting and recordkeeping requirements.

Dated: July 18, 2008.

C. Stephen Allred,

Assistant Secretary, Land and Minerals Management.

■ For the reasons stated in the preamble, the Minerals Management Service (MMS) amends 30 CFR parts 203 and 260 as follows:

PART 203—RELIEF OR REDUCTION IN ROYALTY RATES

■ 1. The authority citation for part 203 continues to read as follows:

Authority: 25 U.S.C. 396; 25 U.S.C. 2107; 30 U.S.C. 189, 241; 30 U.S.C. 359; 30 U.S.C. 1023; 30 U.S.C. 175; 31 U.S.C. 9701; 43 U.S.C. 1334.

■ 2. Revise § 203.69(c) to read as follows:

§ 203.69 If my application is approved, what royalty relief will I receive?

* * * * *

(c) If your application includes pre-Act leases in different categories of water depth, we apply the minimum royalty suspension volume for the deepest such lease then assigned to the field. We base the water depth and makeup of a field on the water-depth delineations in the ''Lease Terms and Economic Conditions'' map and the ''Fields Directory'' documents and updates in effect at the time your application is deemed complete. These publications are available from the MMS Gulf of Mexico Regional Office.

* * * * *

■ 3. Amend § 203.71 as set forth below:

■ A. Revise paragraphs (a)(1), (3), and (5).

■ B. Remove paragraph (b).

■ C. Redesignate paragraphs (c) and (d) as paragraphs (b) and (c).

§ 203.71 How does MMS allocate a field's suspension volume between my lease and other leases on my field?

* * * * *

(a) * * *

If . . .	Then . . .	And . . .
(1) We assign an eligible lease to your authorized field after we approve relief.	We will not change your authorized field's royalty suspension volume determined under § 203.69.	Production from the assigned eligible lease(s) counts toward the royalty suspension volume for the authorized field, but the eligible lease will not share any remaining royalty suspension volume for the authorized field after the eligible lease has produced the volume applicable under § 260.114 of this chapter.
* *	* *	* * *
(3) We assign another lease that you operate to your field while we are evaluating your application.	In our evaluation of your authorized field, we will take into account the value of any royalty relief the added lease already has under § 260.114 or its lease document. If we find your authorized field still needs additional royalty suspension volume, that volume will be at least the combined royalty suspension volume to which all added leases on the field are entitled, or the minimum suspension volume of the authorized field, whichever is greater.	(i) You toll the time period for evaluation until you modify your application to be consistent with the newly constituted field; (ii) We have an additional 60 days to review the new information; and (iii) The assigned pre-Act lease or royalty suspension lease shares the royalty suspension we grant to the newly constituted field. An eligible lease does not share the royalty suspension we grant to the new field. If you do not agree to toll, we will have to reject your application due to incomplete information. Production from an assigned eligible lease counts toward the royalty suspension volume that we grant under § 203.69 for your authorized field, but you will not owe royalty on production from the eligible lease until it has produced the volume applicable under § 260.114 of this chapter.
* *	* *	* * *
(5) We reassign a well on a pre-Act, eligible, or royalty suspension lease from field A to field B.	The past production from the well counts toward the royalty suspension volume that we grant under § 203.69 to field B.	For any field based relief, the past production for that well will not count toward any royalty suspension volume that we grant under § 203.69 to field A. Moreover, past production from that well will count toward the royalty suspension volume applicable for the lease under § 260.114 if the well is on an eligible lease or under § 260.124 if the well is on a royalty suspension lease.

* * * * *

PART 260—OUTER CONTINENTAL SHELF OIL AND GAS LEASING

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

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

■ 5. Revise § 260.3 to read as follows:

§ 260.3 What is MMS's authority to collect information?

(a) The Paperwork Reduction Act of 1995 (PRA) requires us to inform you that we 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. The information collection under 30 CFR part 260 is either exempt from the PRA (5 CFR 1320.4(a)(2), (c)) or refers to requirements covered under 30 CFR parts 203 and 256.

(b) You may send comments regarding any aspect of the collection of information under this part to the Information Collection Clearance Officer, Minerals Management Service, Mail Stop 5438, 1849 C Street, NW., Washington, DC 20240.

■ 6. Revise § 260.113 to read as follows:

§ 260.113 When does an eligible lease qualify for a royalty suspension volume?

(a) Your eligible lease will receive a royalty suspension volume as specified in the Act. The bidding system in § 260.110(g) applies.

(b) Your eligible lease may receive a royalty suspension volume only if your entire lease is west of 87 degrees, 30 minutes West longitude.

■ 7. Revise § 260.114 to read as follows:

§ 260.114 How does MMS assign and monitor royalty suspension volumes for eligible leases?

(a) We have specified the water depth category for each eligible lease in the final Notice of OCS Lease Sale Package. The Final Notice of Sale is published in the **Federal Register** and the complete Final Notice of OCS Lease Sale Package is available on the MMS Web site. Our determination of water depth for each lease became final when we issued the lease.

(b) We have specified in the Notice of OCS Lease Sale the royalty suspension volume applicable to each water depth. The following table shows the royalty suspension volumes for each eligible lease in million barrels of oil equivalent (MMBOE):

Water depth	Minimum royalty suspension volume
(1) 200 to less than 400 meters.	17.5 MMBOE.
(2) 400 to less than 800 meters.	52.5 MMBOE.
(3) 800 meters or more	87.5 MMBOE.

■ 8. Remove § 260.117.

■ 9. Revise the heading of § 260.124 and the introductory text of paragraph (b) to read as follows:

§ 260.124 How will royalty suspension apply if MMS assigns a lease issued in a sale held after November 2000 to a field that has a pre-Act lease?

* * * * *

(b) If we establish a royalty suspension volume for a field as a result of an approved application for royalty relief submitted for a pre-Act lease under part 203 of this chapter, then:

* * * * *

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2008–0822]

RIN 1625–AA09

Drawbridge Operation Regulation; Okeechobee Waterway, Mile 126.3, Olga, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary rule.

SUMMARY: The Coast Guard is changing the operating regulations governing the Wilson Pigott Bridge, Okeechobee Waterway mile 126.3, Olga, Lee County, Florida. This action is necessary for worker safety and will assist in expediting the repairs to this bridge. During the period of this rule, the bridge will open a single-leaf on signal; a double-leaf opening is available with a three-hour advance notice to the bridge tender.

DATES: This rule is effective from 6 a.m. on October 7, 2008, to 6 p.m. on February 28, 2009.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2008–0822 and are available online at *http://www.regulations.gov*. This material is also available for inspection or copying at two locations: The Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays and the Commander (dpb), Seventh Coast Guard District, 909 S.E. 1st Avenue, Room 432, Miami, Florida 33131–3028 between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Mr. Michael Lieberum, Seventh Coast Guard District, Bridge Administration Branch, telephone number 305–415–6744. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because publishing an NPRM was impracticable and contrary to the public interest as the rule was needed to provide for worker safety and will assist in expediting the repairs of the bridge.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective in less than 30 days after publication in the **Federal Register**. Publishing an NPRM was impracticable and contrary to the public interest, because the rule was needed to provide for worker safety and will assist in expediting the repairs of the bridge.

Background and Purpose

33 CFR 117.317 requires that the Wilson Pigott Bridge, mile 126.3 at Olga, shall open on signal; except that, from 10 p.m. to 6 a.m. the draw shall open on signal if at least three hours notice is given.

Due to the repairs of the Wilson Pigott Bridge, Okeechobee Waterway mile 126.3 at Olga, Lee County, Florida, Coastal Marine Construction, Inc. representing the owner of the bridge, has requested that the Coast Guard change the current operation of the Wilson Pigott Bridge. This resulting regulation is necessary for workers safety and will assist in expediting repairs to the Wilson Pigott Bridge. During the duration of this temporary rule, the bridge will be required to open only a single-leaf on signal, rather than a double-leaf. A double-leaf opening will be available, however, with a three-hour notice to the bridge tender. In addition, sometime between September 5, 2008, and February 29, 2009, the bridge will be closed to navigation for an eight-hour period; the exact times and date of the bridge closure will be published in the Local Notice to Mariners and Broadcast Notice to Mariners. In cases of emergency, the