

granted. If there is a substantial deviation of the pipeline route as granted in the right-of-way, the report shall include a discussion of the reasons for such deviation.

(c) The lessee or right-of-way holder shall report to the Regional Supervisor any pipeline taken out of service. If the period of time in which the pipeline is out of service is greater than 60 days, written confirmation is also required.

(d) The lessee or right-of-way holder shall report to the Regional Supervisor when any required pipeline safety equipment is taken out of service for more than 12 hours. The Regional Supervisor shall be notified when the equipment is returned to service.

(e) The lessee or right-of-way holder shall notify the Regional Supervisor prior to the repair of any pipeline or as soon as practicable. A detailed report of the repair of a pipeline or pipeline component shall be submitted to the Regional Supervisor within 30 days after completion of the repairs. The report shall include the following:

- (1) Description of repairs,
- (2) Results of pressure test, and
- (3) Date returned to service.

(f) The Regional Supervisor may require that DOI pipeline failures be analyzed and that samples of a failed section be examined in a laboratory to assist in determining the cause of the failure. A comprehensive written report of the information obtained shall be submitted by the lessee to the Regional Supervisor as soon as available.

(g) If the effects of scouring, soft bottoms, or other environmental factors are observed to be detrimentally affecting a pipeline, a plan of corrective action shall be submitted to the Regional Supervisor for approval within 30 days of the observation. A report of the remedial action taken shall be submitted to the Regional Supervisor by the lessee or right-of-way holder within 30 days after completion.

(h) The results and conclusions of measurements of pipe-to-electrolyte potential measurements taken annually on DOI pipelines in accordance with §250.1005(b) of this part shall be submitted to the Regional Supervisor

by the lessee before March of each year.

[53 FR 10690, Apr. 1, 1988. Redesignated and amended at 63 FR 29479, 29486, May 29, 1998]

**§250.1009 General requirements for a pipeline right-of-way grant.**

(a)(1) In addition to applicable requirements of §§250.1000 through 250.1008 and other regulations of this part, regulations of the Department of Transportation, Department of the Army, and the Federal Energy Regulatory Commission (FERC), when a pipeline qualifies as a right-of-way pipeline, the pipeline shall not be installed until a right-of-way has been requested and granted in accordance with this subpart. The right-of-way grant is issued pursuant to 43 U.S.C. 1334(e) and may be acquired and held only by citizens and nationals of the United States; aliens lawfully admitted for permanent residence in the United States as defined in 8 U.S.C. 1101(a)(20); private, public, or municipal corporations organized under the laws of the United States or territory thereof, the District of Columbia, or of any State; or associations of such citizens, nationals, resident aliens, or private, public, or municipal corporations, States, or political subdivisions of States.

(2) A right-of-way shall include the site on which the pipeline and associated structures are to be situated, shall not exceed 200 feet in width unless safety and environmental factors during construction and operation of the associated right-of-way pipeline require a greater width, and shall be limited to the area reasonably necessary for pumping stations or other accessory structures.

(b)(1) When you apply for, or are the holder of, a right-of-way, you must:

(i) Provide and maintain a \$300,000 bond (in addition to the bond coverage required in part 256) that guarantees compliance with all the terms and conditions of the rights-of-way you hold in an OCS area; and

(ii) Provide additional security if the Regional Director determines that a bond in excess of \$300,000 is needed.

(2) For the purpose of this paragraph, there are three areas:

(i) The areas offshore the Gulf of Mexico and Atlantic Coast;

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(ii) The area offshore the Pacific Coast States of California, Oregon, Washington, and Hawaii; and

(iii) The area offshore the Coast of Alaska.

(3) If, as the result of a default, the surety on a right-of-way grant bond makes payment to the Government of any indebtedness under a grant secured by the bond, the face amount of such bond and the surety's liability shall be reduced by the amount of such payment.

(4) After a default, a new bond in the amount of \$300,000 shall be posted within 6 months or such shorter period as the Regional Supervisor may direct. Failure to post a new bond shall be grounds for forfeiture of all grants covered by the defaulted bond.

(c) An applicant, by accepting a right-of-way grant, agrees to comply with the following requirements:

(1) The right-of-way holder shall comply with applicable laws and regulations and the terms of the grant.

(2) For the first calendar year, or fraction thereof, and annually thereafter, the right-of-way holder shall pay MMS, in advance, an annual rental of \$15 for each statute mile, or fraction thereof, traversed by the right-of-way and \$75 for each area to be used as a site for an accessory to the right-of-way pipeline including, but not limited to, a platform. Payments may be on an annual basis, for a 5-year period, or for multiples of 5 years.

(3) The granting of the right-of-way shall be subject to the express condition that the rights granted shall not prevent or interfere in any way with the management, administration, or the granting of other rights by the United States, either prior or subsequent to the granting of the right-of-way. Moreover, the holder agrees to allow the occupancy and use by the United States, its lessees, or other right-of-way holders, of any part of the right-of-way grant not actually occupied or necessarily incident to its use for any necessary operations involved in the management, administration, or the enjoyment of such other granted rights.

(4) If the right-of-way holder discovers any archaeological resource while conducting operations within the

right-of-way, the right-of-way holder shall immediately halt operations within the area of the discovery and report the discovery to the Regional Director. If investigations determine that the resource is significant, the Regional Director will inform the lessee how to protect it.

(5) The Regional Supervisor shall be kept informed at all times of the right-of-way holder's address and, if a corporation, the address of its principal place of business and the name and address of the officer or agent authorized to be served with process.

(6) The right-of-way holder shall pay the United States or its lessees or right-of-way holders, as the case may be, the full value of all damages to the property of the United States or its said lessees or right-of-way holders and shall indemnify the United States against any and all liability for damages to life, person, or property arising from the occupation and use of the area covered by the right-of-way grant.

(7)(i) The holder of a right-of-way oil or gas pipeline shall transport or purchase oil or natural gas produced from submerged lands in the vicinity of the pipeline without discrimination and in such proportionate amounts as the FERC may, after a full hearing with due notice thereof to the interested parties, determine to be reasonable, taking into account, among other things, conservation and the prevention of waste.

(ii) Unless otherwise exempted by FERC pursuant to 43 U.S.C. 1334(f)(2), the holder shall—

(A) Provide open and nondiscriminatory access to a right-of-way pipeline to both owner and nonowner shippers, and

(B) Comply with the provisions of 43 U.S.C. 1334(f)(1)(B) under which FERC may order an expansion of the throughput capacity of a right-of-way pipeline which is approved after September 18, 1978, and which is not located in the Gulf of Mexico or the Santa Barbara Channel.

(8) The area covered by a right-of-way and all improvements thereon shall be kept open at all reasonable times for inspection by the Minerals Management Service (MMS). The

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right-of-way holder shall make available all records relative to the design, construction, operation, maintenance and repair, and investigations on or with regard to such area.

(9) Upon relinquishment, forfeiture, or cancellation of a right-of-way grant, the right-of-way holder shall remove all platforms, structures, domes over valves, pipes, taps, and valves along the right-of-way. All of these improvements shall be removed by the holder within 1 year of the effective date of the relinquishment, forfeiture, or cancellation unless this requirement is waived in writing by the Regional Supervisor. All such improvements not removed within the time provided herein shall become the property of the United States but that shall not relieve the holder of liability for the cost of their removal or for restoration of the site. Furthermore, the holder is responsible for accidents or damages which might occur as a result of failure to timely remove improvements and equipment and restore a site. An application for relinquishment of a right-of-way grant shall be filed in accordance with § 250.1014 of this part.

(d) Failure to comply with the Act, regulations, or any conditions of the right-of-way grant prescribed by the Regional Supervisor shall be grounds for forfeiture of the grant in an appropriate judicial proceeding instituted by the United States in any U.S. District Court having jurisdiction in accordance with the provisions of 43 U.S.C. 1349.

(e) Any right-of-way granted under the provisions of this subpart remains in effect as long as the associated pipeline is properly maintained and used for the purpose for which the grant was made, unless otherwise expressly stated in the grant. Temporary cessation or suspension of pipeline operations shall not cause the grant to expire. However, if the purpose of the grant ceases to exist or use of the associated pipeline is permanently discontinued

for any reason, the grant shall be deemed to have expired.

[53 FR 10690, Apr. 1, 1988, as amended at 54 FR 50617, Dec. 8, 1989; 55 FR 47753, Nov. 15, 1990; 59 FR 53094, Oct. 21, 1994; 62 FR 27955, May 22, 1997. Redesignated and amended at 63 FR 29479, 29486, May 29, 1998; 63 FR 34597, June 25, 1998; 64 FR 9065, Feb. 24, 1999]

### § 250.1010 Applications for a pipeline right-of-way grant.

(a) You must submit an original and three copies of an application for a new or modified pipeline right-of-way grant to the Regional Supervisor. The application must address those items required by § 250.1007 (a) or (b) of this subpart, as applicable. It must also state the primary purpose for which you will use the right-of-way grant. If the right-of-way has been used before the application is made, the application must state the date such use began, by whom, and the date the applicant obtained control of the improvement. When you file your application, you must pay the rental required under § 250.1009(c)(2) of this subpart and a non-refundable filing fee of \$2,350 for a pipeline right-of-way grant to install a new pipeline or a non-refundable filing fee of \$300 for a pipeline right-of-way grant to convert an existing lease term pipeline into a right-of-way pipeline. MMS periodically will amend the filing fee based on its experience with the costs for administering pipeline right-of-way applications. If the costs change by a percentage of not more than the percentage change in the CPI "U" since the last change to the filing fee, MMS will amend the application fee by the percentage of the change in costs without notice and opportunity for comment. If costs increase by a percentage more than the percentage change in the CPI "U" since the last change to the filing fee, MMS will provide notice and an opportunity to comment before it changes the filing fee. An application to modify an approved right-of-way grant shall be accompanied by the additional rental required under § 250.1009(c)(2), if applicable. A separate application shall be filed for each right-of-way.