

## § 281.29

by the lessee prior to the commencement of production, during the 1st through 15th year in the life of the lease. No royalty shall be due in any year of the specified 5-year period that occurs during the 1st through 10th years in the life of the lease, and a royalty of one-half the amount specified in the lease shall be due in any year of the specified 5-year period that occurs in the 11th through 15th year in the life of the lease. The lessee shall pay the amount specified in the lease rental for any royalty free year. The minimum royalty specified in the lease shall apply during any year of reduced royalty.

### § 281.29 Royalty valuation.

The method of valuing the product from a leasehold shall be in accordance with regulations of this chapter and procedures prescribed in the leasing notice and subsequently issued lease.

### § 281.30 Minimum royalty.

Unless otherwise specified in the leasing notice, each lease issued pursuant to the regulations in this part shall require the payment of a specified minimum annual royalty beginning with the year in which OCS minerals are produced (sold, transferred, used, or otherwise disposed of) from the leasehold except that the annual rentals shall apply during any year that royalty free production is in effect pursuant to § 281.28(b). Minimum royalty payments shall be offset by royalty paid on production during the lease year. Minimum royalty payments are due at the beginning of the lease year and payable by the end of the month following the end of the lease year for which they are due.

### § 281.31 Overriding royalties.

(a) Subject to the approval of the Secretary, an overriding royalty interest may be created by an assignment pursuant to section 8(e) of the Act. The Secretary may deny approval of an assignment which creates an overriding royalty on a lease whenever that denial is determined to be in the interest of conservation, necessary to prevent premature abandonment of a producing mine, or to make possible the mining of economically marginal or low-grade

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ore deposits. In any case, the total of applicable overriding royalties may not exceed 2.5 percent or one-half the base royalty due the Federal Government, whichever is less.

(b) No transfer or agreement may be made which creates an overriding royalty interest unless the owner of that interest files an agreement in writing that such interest is subject to the limitations provided in § 281.30 of this part, paragraph (a) of this section, and § 281.32 of this part.

### § 281.32 Waiver, suspension, or reduction of rental, minimum royalty or production royalty.

(a) The Secretary may waive, suspend, or reduce the rental, minimum royalty, and/or production royalty prescribed in a lease for a specified time period when the Secretary determines that it is in the national interest, it will result in the conservation of natural resources of the OCS, it will promote development, or the mine cannot be successfully operated under existing conditions.

(b) An application for waiver, suspension, or reduction of rental, minimum royalty, or production royalty under paragraph (a) of this section shall be filed in duplicate with the Director. The application shall contain the serial number(s) of the lease(s), the name of the lessee(s) of record, and the operator(s) if applicable. The application shall either:

(1)(i) Show the location and extent of all mining operations and a tabulated statement of the minerals mined and subject to royalty for each of the last 12 months immediately prior to filing the application:

(ii) Contain a detailed statement of expenses and costs of operating the lease, the income from the sale of any lease products, and the amount of all overriding royalties and payments out of production paid to others than the United States; and

(iii) All facts showing whether or not the mine(s) can be successfully operated under the royalty fixed in the lease; or

(2) If no production has occurred from the lease, show that the lease cannot be successfully operated under

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the rental, royalty, and other conditions specified in the lease.

(c) The applicant for a waiver, suspension, or reduction under this section shall file documentation that the lessee and the royalty holders agree to a reduction of all other royalties from the lease so that the aggregate of all other royalties does not exceed one-half the amount of the reduced royalties that would be paid to the United States.

### § 281.33 Bonds and bonding requirements.

(a) When the leasing notice specifies that payment of a portion of the bonus bid can be deferred, the lessee shall be required to submit a surety or personal bond to guarantee payment of a deferred portion of the bid. Upon the payment of the full amount of the cash bonus bid, the lessee's bond will be released.

(b) All bonds to guarantee payment of the deferred portion of the high cash bonus bid furnished by the lessee must be in a form or on a form approved by the Associate Director for Offshore Minerals Management. A single copy of the required form is to be executed by the principal or, in the case of surety bonds, by both the principal and an acceptable surety.

(1) Only those surety bonds issued by qualified surety companies approved by the Department of the Treasury shall be accepted. (See Department of the Treasury Circular No. 570 and any supplemental or replacement circulars.)

(2) Personal bonds shall be accompanied by a cashier's check, certified check, or negotiable U.S. Treasury bonds of an equal value to the amount specified in the bond. Negotiable Treasury bonds shall be accompanied by a proper conveyance of full authority to the Director to sell such securities in case of default in the performance of the terms and conditions of the lease.

(c) Prior to the commencement of any activity on a lease(s), the lessee shall submit a surety or personal bond as described in § 282.40 of this title. Prior to the approval of a Delineation, Testing, or Mining Plan, the bond amount shall be adjusted, if appro-

priate, to cover the operations and activities described in the proposed plan.

[54 FR 2049, Jan. 18, 1989, as amended at 62 FR 27960, May 22, 1997]

## Subpart D—Assignments and Lease Extensions

### § 281.40 Assignment of leases or interests therein.

(a) Subject to the approval of the Secretary, a lease may be assigned, in whole or in part, pursuant to section 8(e) of the Act to anyone qualified to hold a lease.

(b) Any approved assignment shall be deemed to be effective on the first day of the lease month following the date that it is submitted to the Director for approval unless by written request the parties request that the effective date be the first of the month in which the Director approves the assignment.

(c) The assignor shall be liable for all obligations under the lease occurring prior to the effective date of an assignment.

(d) The assignee shall be liable for all obligations under the lease occurring on or after the effective date of an assignment and shall comply with all terms and conditions of the lease and applicable regulations issued under the Act.

### § 281.41 Requirements for filing for transfers.

(a)(1) All instruments of transfer of a lease or of an interest therein including subleases and assignments of record interest shall be filed in triplicate for approval within 90 days from the date of final execution. They shall include a statement over the transferee's own signature with respect to citizenship and qualifications similar to that required of a lessee and shall contain all of the terms and conditions agreed upon by the parties thereto.

(2) An application for approval of any instrument required to be filed shall not be accepted unless accompanied by a nonrefundable fee of \$50. Any document not required to be filed by these regulations but submitted for record purposes shall be accompanied by a