

IMPORTANT NOTICE

BOEM Final Rule RIN 1010–AD06 30 CFR Parts 550, 556, 559 and 560 Leasing of Sulfur or Oil and Gas in the Outer Continental Shelf

Potential bidders, lessees, and operators of OCS leases should note the following information with respect to new and revised regulations contained in BOEM’s final rule concerning Title 30 CFR parts 550, 556, 559 and 560. The information provided below is for notification purposes only and is not an exhaustive list of additions or changes and should not be relied upon as a substitute for the regulations. Should you have any questions or need further information, please contact one of the BOEM representatives listed below.

1) Qualifications

The final rule includes qualification requirements for additional types of entities, e.g. limited liability companies and trusts; states that any evidence submitted to qualify must be “acceptable to BOEM” and requires qualified entities to maintain and regularly update BOEM qualification records as to who has the authority to bind the organization whenever that information changes.

2) Notice of Mergers, Name Changes, and Changes to Business Form

The final rule requires qualified entities to notify BOEM of any mergers, name changes or changes to business form as soon as practicable but in no case later than one year after the earlier of the effective date or the date of filing the change or action with the Secretary of State or other authorized official in the State of original registry.

3) Lease Execution Deadline

The final rule states that a successful bidder must execute all copies of the lease, pay the first year’s rental and the balance of the bonus bid (and provide a bond, if needed), and return the lease to BOEM within 11 business days after receipt.

4) Assignments by a Record Title Holder

The final rule provides that a record title owner, subject to BOEM approval, may assign a whole or a partial record title interest in an entire lease, or in any aliquot(s) thereof and may sever all, or a portion of, its operating rights. Within any given aliquot, the record title owner may sublease operating rights for up to a maximum of two depth divisions, which may result in a maximum of three different depth intervals. But, if the one, or two, depth divisions to which operating rights are subleased do not include the entire depth of the lease, whatever depth division(s) has not been subleased remains part of the lessee/sublessor’s record title

interest. The depth intervals for which operating rights are subleased must be defined by a beginning and ending depth and the ending of one depth level must abut the beginning of the next depth level, with no gap in between.

5) Lease Segregation

The final rule retains the provision that rental, royalty and minimum royalty provisions apply separately to each segregated portion, but adds that any remaining royalty suspension volume is allocated by BOEM, on a basis that is equitable under the circumstances, but cannot exceed in aggregate the total remaining amount.

6) Assignments by an Operating Rights Owner

The final rule provides that an operating rights owner, subject to BOEM approval, may assign all or part of its operating rights interests and that each instrument that transfers an interest must describe, by officially designated aliquot parts and depth levels, the interest proposed to be transferred.

7) Effective Date of a Transfer or Assignment

The final rule provides that a transfer is effective on the first day of the month after BOEM approves it (not on the first day of the month after it is filed as provided in the previous regulations at 30 CFR § 556.62), unless the parties request an earlier effective date and BOEM approves that earlier date.

8) Transfer/Assignment Rules, Recordation and Service Fees

The final rule contains the following provisions concerning transfers, assignments, recordation and associated service fees.

- a. Record Title
 - i. You may not transfer record title interest in more than one lease using the same instrument.
 - ii. You may not transfer different types of lease interests (i.e. record title and operating rights) in a lease using the same instrument.
 - iii. You may transfer a record title interest in one lease to multiple parties using the same instrument, but a separate service fee applies to the transfer of an interest to each party.
- b. Operating Rights
 - i. You may not assign operating rights interests in more than one lease using the same instrument.
 - ii. You may assign an operating rights interest in one lease to multiple parties using the same instrument, but a separate service fee applies to the transfer of an interest to each party.

c. Economic Interests

- i. Instead of listing three specific types of interests (carried working interests, overriding royalty interests, or payments out of production), the final rule states that you may create, transfer, or assign “economic interests” (as defined in 30 CFR § 556.105) without BOEM approval.
- ii. For record purposes, you must send BOEM a copy of each instrument creating or transferring economic interests within 90 days after the last party executes the transfer instrument.
- iii. For each lease affected by the instrument filed, you must pay the service fee listed in 30 CFR § 556.106.

9) Legal Documents Submitted for Record Keeping Purposes Only (“Non-requireds”)

The final rule provides that, for record keeping purposes, you may voluntarily submit legal documents to BOEM for other transactions (other than transfers of economic interests) that do not require BOEM approval. If you submit such documents for record purposes, you must pay the service fee for each lease affected.

10) Corporate Seal

The final rule retains the requirement to use a corporate seal when corporations file qualification documents (30 CFR § 556.402), execute bonds (30 CFR § 556.902 and Forms BOEM-2028, 2028A and 2030), and execute oil and gas leases (Form BOEM-2005). Under the final rule, entities may avoid the use of the corporate seal for electronic or non-electronic filing of documents, where it was otherwise required, by a one-time filing of a document containing the entity’s corporate seal, signed by an authorized party, and stating that the entity’s electronic or non-electronic filings will be legally binding. If the State or territory of incorporation does not issue or require corporate seals, the document need not contain a corporate seal, but must still contain the signature of an authorized person, a statement that the State in which the entity is incorporated does not issue or require corporate seals, and a statement that submissions made by the entity will be legally binding. BOEM does not require a standard form to be used to comply with the provisions above.

11) Bonding

The final rule does not include substantive changes to the bonding regulations, which will be the subject of a separate new proposed rulemaking.

12) Service Fees

The final rule clarifies that a separate service fee is due for each transfer of an interest in one lease to multiple parties using the same instrument (§ 556.709 and § 556.804) and provides that service fees apply equally to any document or information submitted electronically pursuant to part 560, subpart E. (§ 556.106(f)). The final rule updates the service fee table as follows:

Service Fee Table (§ 556.106)

Service—processing of the following:	Fee amount	30 CFR citation
(1) Assignment of record title interest in Federal oil and gas lease(s) for BOEM approval.	\$198	§ 556.701(a)
(2) Sublease or Assignment of operating rights interest in Federal oil and gas lease(s) for BOEM approval.	\$198	§ 556.801(a)
(3) Required document filing for record purpose, but not for BOEM approval (i.e., documents that create, transfer or assign “economic interests”)	\$29	§ 556.715(a) § 556.808(a)
(4) Non-required document filing for record purposes (i.e., other legal documents for transactions that do not require BOEM approval)	\$29	§ 556.715(b) § 556.808(b)

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