rejected at the discretion of the authorized officer.

* * * * *

PART 280—PROSPECTING FOR MINERALS OTHER THAN OIL, GAS, AND SULPHUR ON THE OUTER CONTINENTAL SHELF

10. The authority citation for part 280 is revised to read as follows:

Authority: 31 U.S.C. 9701, 43 U.S.C. 1334.

11. Section 280.12(a) is revised to read as follows:

§ 280.12 What must I include in my application or notification?

(a) *Permits.* You must submit to the Regional Director a signed original and three copies of the permit application form (Form MMS–134) at least 30 days before the startup date for activities in the permit area. If unusual circumstances prevent you from meeting this deadline, you must immediately contact the Regional Director to arrange an acceptable deadline. The form includes names of persons, type, location, purpose, and dates of activity, as well as environmental and other information. A nonrefundable service fee of $1,900 must be paid electronically through Pay.Gov at: *https://www.pay.gov/paygov/,* and you must include a copy of the Pay.Gov confirmation receipt page with your application.

* * * * *

PART 281—LEASING OF MINERALS OTHER THAN OIL, GAS, AND SULPHUR IN THE OUTER CONTINENTAL SHELF

12. The authority citation for part 281 is revised to read as follows:

Authority: 43 U.S.C. 1334.

13. Section 281.41(a)(2) is revised to read as follows:

§ 281.41 Requirements for filing for transfers.

(a) * * *

(2) An application for approval of any instrument required to be filed shall not be accepted unless a nonrefundable fee of $50 is paid electronically through Pay.Gov at: *https://www.pay.gov/paygov/* and a copy of the Pay.Gov confirmation receipt page is included with your application. For any document you are not required to file by these regulations but which you submit for record purposes, you must also pay electronically through Pay.Gov the service fee listed in § 256.63 (Non-required Document Filing Fee) per lease affected, and you must include a copy of the Pay.Gov confirmation receipt page with your document. Such documents may be rejected at the discretion of the authorized officer.

* * * * *

PART 290—APPEAL PROCEDURES

14. The authority citation for part 290 continues to read as follows:

Authority: 5 U.S.C. 301; 25 U.S.C. 396, 2107; 30 U.S.C. 189, 359, 1023, 1701 *et seq.*, 1751(a); 31 U.S.C. 3716, 9701; and 43 U.S.C. 1334.

15. Section 290.4(b) is revised to read as follows:

§ 290.4 How do I file an appeal?

* * * * *

(b) A nonrefundable processing fee of $150.00 paid with the Notice of Appeal.

(1) You must pay electronically through Pay.Gov at: *https://www.pay.gov/paygov/,* and you must include a copy of the Pay.Gov confirmation receipt page with your Notice of Appeal.

(2) You cannot extend the 60-day period for payment of the processing fee.

[FR Doc. 07–6173 Filed 12–20–07; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 203 and 260

RIN 1010–AD29

[Docket ID: MMS–2007–OMM–0074]

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

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend 30 CFR parts 260 and 203 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 (the Decision).* 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.

DATES: Submit comments by February 19, 2008. The MMS may not fully consider comments received after this date.

ADDRESSES: You may submit comments on the proposed rulemaking by any of the following methods. Please use the Regulation Identifier Number (RIN) 1010–AD29 as an identifier in your message. See also Public Availability of Comments under Procedural Matters.

- *Federal eRulemaking Portal: http://www.regulations.gov.* Select ''Minerals Management Service'' from the agency drop-down menu, then click ''submit.'' In the Docket ID column, select MMS–2007–OMM–0074 to submit public comments and to view supporting and related materials available for this rulemaking. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link. The MMS will post all comments.
- Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; Attention: Regulations and Standards Branch (RSB); 381 Elden Street, MS–4024; Herndon, Virginia 20170–4817. Please reference ''Royalty Relief for Deepwater OCS Oil and Gas Leases—Conforming Regulations to Court Decision, 1010–AD29'' in your comments and include your name and return address.

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

SUPPLEMENTARY INFORMATION:

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 was required to suspend royalties for certain volumes of production on all 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, 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), and informed 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 12–13, 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 three 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 on 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 respect the decision and revise the regulations to conform to this decision, resulting in this proposed rule.

Regulatory Change

This proposed rule would revise 30 CFR part 260, which pertains to OCS leasing, and 30 CFR part 203, which pertains to royalty relief, 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. These proposed revisions conform our regulations to the court ruling and are non-discretionary. The revisions to the regulations in part 260 would 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 would remove paragraphs on procedures for notification, determination of RSVs, and having more than one RSV on a lease because they would no longer be required. Section 260.114(b) would also be revised to change the reference to ''fields'' to a reference to ''each eligible lease.'' Section 260.124 would be 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 royalty suspension volume 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 would be eliminated, because provisions for allocation of royalty suspension volumes among multiple leases on a field would no longer be needed.

Changes in 30 CFR part 203 would delete references to ''eligible leases'' in § 203.69 and would change the sharing rule in § 203.71 for purposes of consistency. It would remove the eligible leases from the section that discusses how to allocate RSVs on a field. Those 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), would get the full RSVs stated in the lease instrument. Further, as with an RS lease, production from an eligible lease would count 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.

Retroactive Effect

As explained above, the need for the change in this proposed rule arises from the Fifth Circuit's decision. The effect of the Fifth Circuit's decision was to declare void the relevant 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 decision thus has 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 proposed 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. It is therefore permissible to 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); *Beverly Hospital* v. *Bowen,* 872 F.2d 483, 485–486 (DC Cir. 1989). Therefore, this proposed rule will be effective immediately upon being published as a final rule with retroactive effect to April 24, 1996.

Procedural Matters

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

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

This proposed rule is not a significant rule as determined by the Office of Management and Budget (OMB) and is not subject to review under E.O. 12866.

(1) This proposed rule would conform the regulations with the Fifth Circuit's decision. It would have an annual effect on the economy of $100 million or more.

The Fifth Circuit's decision means that more production on many section 304 leases will be subject to royalty relief than under current regulations, resulting in larger fiscal costs to the federal government. The magnitudes of these fiscal losses (on past and future royalty collections) would vary significantly depending upon whether the federal government ultimately prevails (low case) or does not prevail (high case) in pending 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.

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 barrels of oil equivalent (BOE) in the low case to 27 million BOE in the high case. The total royalty losses 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 range of fiscal losses becomes $17–192 million at 3 percent and $20–189 million at 7 percent (the lower bound figures increase 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 to the lessees).

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 leases on the field in excess of the single royalty suspension volume cited in the Act (for the applicable water depth), up to an amount equal to that suspension volume times the number of leases included in the field. 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 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 at 3 and 7 percent yields ranges of royalty losses of $2.5–7.5 billion at 3 percent and $1.9–5.2 billion at 7 percent.

Thus, almost all of the fiscal costs of the Fifth Circuit Court's ruling in *Santa Fe Snyder* can be attributed to the expansion of 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, are estimated to be between $3.1 and $10.3 billion (expressed in current year dollars).

(2) This proposed rule would 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 proposed rule would not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This proposed rule would not raise novel legal or policy issues.

Regulatory Flexibility Act

The Department of the Interior certifies that this proposed rule would 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 proposed 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 replacing 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.

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

a. Would 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 losses on all DWRRA leases, and assumes MMS cannot condition royalty relief on market prices for oil and gas. Note that it is likely that all of the future production associated with this added royalty cost would have occurred even without the royalty relief offered in the Act. 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, oil and gas prices have been and are expected to be much higher than anticipated by the Act's authors.

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

c. Would 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 proposed rule would not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The proposed rule would 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 proposed rule does not have significant takings implications. The proposed 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 proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This proposed rule would 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 proposed rule would not affect that role. A Federalism Assessment is not required.

Civil Justice Reform (E.O. 12988)

This 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 proposed 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

This rulemaking does not contain any information collection subject to the PRA, and does not require a submittal 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.

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 6, Appendix 10.4C(1). The MMS completed a Categorical Exclusion Review for this action and concluded that ''the rulemaking does not represent an exception to the established criteria for categorical exclusion; therefore, preparation of an environmental analysis or environmental impact statement will not be required.''

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).

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.

Clarity of This Regulation

We are required by E.O. 12866, E.O. 12988, and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

List of Subjects

30 CFR Part 203

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

30 CFR Part 260

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

Dated: August 3, 2007.

C. Stephen Allred,

Assistant Secretary—Land and Minerals Management.

For the reasons stated in the preamble, the Minerals Management Service (MMS) proposes to amend 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, *et seq.*; 25 U.S.C. 396a, *et seq.*; 25 U.S.C. 2101, *et seq.*; 30 U.S.C. 181, *et seq.*; 30 U.S.C. 351, *et seq.*; 30 U.S.C. 1001, *et seq.*; 30 U.S.C. 1701, *et seq.*; 31 U.S.C. 9701, *et seq.*; 43 U.S.C. 1301, *et seq.*; 43 U.S.C. 1331, *et seq.*; and 43 U.S.C. 1801, *et seq.*

2. Section 203.69(c) is revised 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 GOM Regional Office.

* * * * *

3. Section 203.71 is amended 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).

The revisions read as follows:

§ 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 new 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 new 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 to another field	The past production from the well counts toward the royalty suspension volume that we grant under § 203.69 to the authorized field to which we assigned the well	The past production for that well will not count toward any royalty suspension volume that we grant under § 203.69 to the authorized field from which we reassigned it. But, if the well is on an eligible lease or royalty suspension lease, production from that well will count toward the volume applicable under § 260.114 or § 260.124 of this chapter.

* * * * *

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. Section 260.3 is revised to read as follows:

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

The information collected under 30 CFR 260 is exempt from the Paperwork Reduction Act of 1995 under 5 CFR 1320.4(a)(2), (c).

6. Section 260.113 is revised 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. Section 260.114 is revised 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 for each eligible lease in the final Notice of OCS Lease Sale. 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 (MMBOE)
(1) 200 to less than 400 meters	17.5
(2) 400 to less than 800 meters	52.5
(3) 800 meters or more	87.5

8. Section 260.117 is removed.

9. The title of § 260.124 and the introductory language of paragraph (b) are revised 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:

* * * * *

[FR Doc. 07–6161 Filed 12–20–07; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 071121736–7619–01]

RIN 0648–AR78

Magnuson-Stevens Act Provisions; Experimental Permitting Process, Exempted Fishing Permits, and Scientific Research Activity

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes new and revised definitions for certain regulatory terms, and procedural and technical changes to the regulations addressing scientific research activities, exempted fishing, and exempted educational activities under the Magnuson-Stevens Fishery Conservation and Management Act. This action is necessary to provide better administration of these activities and to revise the regulations consistent with the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (MSRA). NMFS intends to clarify the regulations, ensure necessary information to complete required analyses is requested and made available, and provide for expedited review of permit applications where possible.

DATES: Comments must be received by March 20, 2008.

ADDRESSES: You may submit comments, identified by RIN 0648–AR78, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov*
- Fax: 301–713–1193, Attn: Jason Blackburn
- Mail: Alan Risenhoover, Director, Office of Sustainable Fisheries, 1315 East-West Highway, SSMC3, Silver Spring, MD 20910, Attn: EFP Comments

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Send comments on collection-of-information requirements to the same address and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 (Attn: NOAA Desk Officer), or email to *David__Rostker@omb.eop.gov*, or fax to (202) 395–7285.

Copies of the categorical exclusion (CE) prepared for this action are available from NMFS at the above address or by calling the Office of Sustainable Fisheries, NMFS, at 301–713–2341.

FOR FURTHER INFORMATION CONTACT: Jason Blackburn at 301–713–2341, or by e-mail at *jason.blackburn@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background and Need for Action

On May 28, 1996, NMFS established procedures pertaining to scientific research, exempted fishing, and exempted educational activities (61 FR 26435). These procedures were established to provide minimum standards for dealing with scientific research, exempted fishing and exempted educational activities under the Magnuson-Stevens Act. These standards clarified the requirements for those managing and enforcing the fishery regulations, and for the public. These regulations were subsequently codified in 50 CFR part 600 (61 FR 32538, June 24, 1996). Shortly thereafter, the Magnuson-Stevens Act was amended by the Sustainable Fisheries Act, which included important provisions dealing with essential fish habitat (EFH), rebuilding of overfished fisheries, and the requirement to minimize bycatch and bycatch mortality to the extent practicable. These new requirements resulted in an increased interest in fisheries research.

On January 12, 2007, the MSRA was enacted. Section 204 of the MSRA added a new Cooperative Research and Management Program section (Section 318) to the MSA. Section 318(d) of the revised MSA requires that the Secretary, through NMFS, ''promulgate regulations that create an expedited, uniform, and regionally-based process to promote issuance, where practicable, of experimental fishing permits.''

A major reason for the expansion in fisheries research has been the need to minimize bycatch and the mortality of bycatch as required under National Standard 9 of the Magnuson-Stevens Act. Much of this effort has been concentrated on studies investigating fish behavior and the development and testing of new gear technology and fishing techniques to minimize bycatch and promote the efficient harvest of target species.

Over the years, many questions have arisen regarding the differences between a scientific research activity and fishing and how NMFS interprets each type of activity under the implementing regulations. The existing regulations