Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
* * * * * * *								
183	1–1–09	2–1–09	4.00	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, Rate Set 183, as set forth below, is added to the table.

Appendix C to Part 4022—Lump Sum Interest Rates For Private-Sector Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
* * * * * * *								
183	1–1–09	2–1–09	4.00	4.00	4.00	4.00	7	8

Issued in Washington, DC, on this 16th day of December 2008.

Vincent K. Snowbarger,

Deputy Director for Operations, Pension Benefit Guaranty Corporation.

[FR Doc. E8–30419 Filed 12–22–08; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 219

[Docket ID: MMS–2007–OMM–0067]

RIN 1010–AD46

Allocation and Disbursement of Royalties, Rentals, and Bonuses—Oil and Gas, Offshore

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: The MMS is amending the regulations on distribution and disbursement of royalties, rentals, and bonuses to include the allocation and disbursement of revenues from certain leases on the Gulf of Mexico Outer Continental Shelf in accordance with the provisions of the Gulf of Mexico Energy Security Act of 2006. The regulations set forth the formula and methodology for calculating and allocating revenues to the States of Alabama, Louisiana, Mississippi, and Texas, their eligible political subdivisions, and the Land and Water Conservation Fund from the 181 Area in the Eastern Planning Area and 181 South Area in the Gulf of Mexico. The Secretary of the Interior will begin to disburse these revenues beginning on or before March 31, 2009.

DATES: *Effective Date:* This final rule becomes effective January 22, 2009.

FOR FURTHER INFORMATION CONTACT: Marshall Rose, Chief, Economics Division, Offshore Energy and Minerals Management at (703) 787–1538.

SUPPLEMENTARY INFORMATION: The MMS published a proposed rule on the allocation and disbursement of qualified offshore royalties, rentals, and bonuses in the **Federal Register** on Tuesday, May 27, 2008 (73 FR 30331), with a 60-day comment period. A single, 14-day extension (73 FR 43673) to the comment period was announced on July 28, 2008, and the comment period closed on August 11, 2008. The MMS received six comment letters. Of the comment letters received, three were from States, one each was received from a locality, a nonprofit foundation, and an individual citizen.

The comments submitted in large part requested clarification on the authorized uses of the Gulf of Mexico Energy Security Act of 2006 (GOMESA) revenue sharing funds, timing of disbursements, and fund restrictions upon transfer to the States and Coastal Political Subdivisions (CPSs). Separate letters were received from the States of Alabama, Louisiana, and Texas. All three States addressed the stated purposes of GOMESA revenue sharing funds and individual State needs for coastal restoration and protection. Alabama and Louisiana requested more specifics in the timing of disbursements and inquired about the second phase of revenue sharing authorized by GOMESA. Louisiana alone objected to the definition of qualified OCS revenues as defined in the proposed regulation. The City of Mobile, Alabama, and the National Maritime Museum of the Gulf of Mexico submitted comments related to the use of funds for coastal protection, conservation, and restoration, and the educational purposes of the National Maritime Museum, and an individual citizen provided comments on MMS accounting of royalty revenues and designation of this rule as ''not a major rule.''

This final rule is substantially the same as the proposed rule. In response to comments, MMS made four changes to the rule. One minor clarifying language change was also made. Thus, the final rule, like the proposed rule, provides the methodology and formula for the distribution of GOMESA revenues from the 181 Area in the Eastern Planning Area and the 181 South Area.

Background

President George W. Bush signed the Gulf of Mexico Energy Security Act of 2006 into law on December 20, 2006 (Pub. L. 109–432, 120 Stat. 2922; codified at 43 U.S.C. 1331 note (2007) (Gulf of Mexico Energy Security)), as part of H.R. 6111, the Tax Relief and Health Care Act of 2006, which also extended several energy tax programs

that encourage efficiency and conservation, as well as the production and use of renewable energy sources. With regard to the Gulf of Mexico (GOM) Outer Continental Shelf (OCS) provisions (Division C, Title 1, 120 Stat. 3000), GOMESA:

- Lifted the congressional moratorium on oil and gas leasing and development in a portion of the Central GOM and mandates lease sales in two areas of the GOM (the 181 Area and 181 South Area as defined by GOMESA) notwithstanding the omission of those two areas from any OCS leasing program under section 18 of the OCS Lands Act (43 U.S.C. 1344);
- Established a moratorium through June 30, 2022, in the vast majority of the Eastern Planning Area and a small portion of the Central Planning Area;
- Provided for the establishment of a process to exchange existing leases in the new moratorium areas for bonus or royalty credits that may only be used in the GOM; and
- Provided for the distribution of certain OCS revenues to the Gulf producing States of Alabama, Louisiana, Mississippi, and Texas, and to certain CPSs within those States.

This final rule sets forth how the Department of the Interior (DOI) will implement the GOMESA requirements related to the distribution of OCS revenues to the Gulf producing States and their CPSs.

Summary

For each of the fiscal years from 2007 through 2016, GOMESA directs the Secretary of the Treasury to deposit 50 percent of qualified OCS revenues—bonuses, rents, and royalties—from OCS oil and gas leases in areas designated as the 181 Area in the Eastern Planning Area and the 181 South Area into a special account in the U.S. Treasury. The GOMESA directs the Secretary of the Interior, for each of these fiscal years, to disburse 25 percent of the revenues in the special account to the Land and Water Conservation Fund (LWCF) and the remaining 75 percent to the States of Alabama, Louisiana, Mississippi, and Texas (collectively identified as the ‘‘Gulf producing States’’) and their eligible CPSs. The revenues are to be allocated among the Gulf producing States based on their inverse proportional distance from the leases in the 181 Area in the Eastern Planning Area and the 181 South Area and in accordance with regulations established by the Secretary of the Interior. The GOMESA also provides that in determining the individual Gulf producing States' share of the qualified OCS revenues, no State, irrespective of the amount established by the application of the inverse proportional distance formula, shall receive less than 10 percent of the revenues to be disbursed.

The GOMESA directs the Secretary of the Interior to disburse 20 percent of the funds allocated to each Gulf producing State, to political subdivisions within the State which are located in the State's coastal zone, and are within 200 nautical miles of the geographic center of any OCS leased tract. Revenues are allocated to the CPSs based on their population, miles of coastline, and their inverse proportional distance from designated leases in the 181 Area in the Eastern Planning Area.

REVENUE DISTRIBUTION OF QUALIFIED OCS REVENUES UNDER GOMESA 2007–2016

Recipient of qualified OCS revenues	Percentage of qualified OCS revenues (percent)
U.S. Treasury (General Fund)	50
Land and Water Conservation Fund	12.5
Gulf Producing States	30
Gulf Producing State Coastal Political Subdivisions	7.5

For the following examples, results are rounded after each intermediate calculation for methodology demonstration purposes. Actual MMS calculations of shared revenue will be computed to full precision and only the final disbursement amount will be rounded. The following example shows the revenue sharing formula used to calculate each Gulf producing State's share of GOMESA qualified OCS revenues.

(1) For each Gulf producing State, we will calculate and total, over all applicable leased tracts, the mathematical inverses of the distances between the points on the State's coastline that are closest to the geographic centers of the applicable leased tracts and the geographic centers of the applicable leased tracts.

(2) For each Gulf producing State, we will divide the sum of each State's inverse distances, from all applicable leased tracts, by the sum of the inverse distances from all applicable leased tracts across all four Gulf producing States. We will multiply the result by the amount of qualified OCS revenues to be shared, as shown below. In the formulas, I_{AL}, I_{LA}, I_{MS}, and I_{TX} represent the sum of the inverses of the closest distances between Alabama, Louisiana, Mississippi, and Texas and all applicable leased tracts, respectively.

Alabama Share = $(I_{AL} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ Qualified OCS Revenues

Louisiana Share = $(I_{LA} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ Qualified OCS Revenues

Mississippi Share = $(I_{MS} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ Qualified OCS Revenues

Texas Share = $(I_{TX} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ Qualified OCS Revenues

The following simplified example, involving only two applicable leased tracts, illustrates the application of the steps above in calculating the revenue allocations for the Gulf producing States and also demonstrates how the inverse distance formulas work to reward those closest to the sources of revenue.

Suppose there are two applicable leased tracts (t_1 and t_2) and that the following table represents the closest distance from each Gulf producing State to the geographic centers of each applicable leased tract:

Gulf producing state	Applicable leased tracts				Sum of inverse distances
	t_1		t_2		
	Distance (nautical miles)	Inverse distance	Distance (nautical miles)	Inverse distance	
Alabama	50	0.0200	70	0.0143	0.0343
Louisiana	90	0.0111	80	0.0125	0.0236
Mississippi	70	0.0143	60	0.0167	0.0310
Texas	230	0.0043	210	0.0048	0.0091
All States	N/A	0.0497	N/A	0.0483	0.0980

Further, suppose that fiscal year qualified OCS revenues are $96 million, $12 million of which would go to the LWCF, and $36 million of which would be allocated to the Gulf producing States. Applying the formulas above, the $36 million would be allocated to the Gulf producing States as shown below.

Alabama Share = (0.0343 ÷ 0.0980) × $36 million = $12,600,000.00
Louisiana Share = (0.0236 ÷ 0.0980) × $36 million = $8,669,387.76
Mississippi Share = (0.0310 ÷ 0.0980) × $36 million = $11,387,755.10
Texas Share = (0.0091 ÷ 0.0980) × $36 million = $3,342,857.14

However, because Texas' share is less than $3.6 million or 10 percent of the allocation of $36 million, we would allocate a 10 percent share to Texas and recalculate the other Gulf producing States' shares omitting Texas and its 10 percent share from the calculation as shown below.

Alabama Share = (0.0343 ÷ (0.0980 − 0.0091)) × $32.4 million = $12,500,787.40
Louisiana Share = (0.0236 ÷ (0.0980 − 0.0091)) × $32.4 million = $8,601,124.86
Mississippi Share = (0.0310 ÷ (0.0980 − 0.0091)) × $32.4 million = $11,298,087.74
Total = $32,400,000
Texas Share = 10% × $36 million = $3,600,000

Adding the three States' shares to the Texas' 10 percent share sums to $36 million.

The MMS will distribute 20 percent of each Gulf producing State's allocable share to eligible coastal political subdivisions. Each State's CPS share is calculated by the following formula:

(1) Twenty-five percent shall be allocated to each CPS in the proportion that the coastal population of the CPS bears to the coastal population of all CPSs in the producing State;

(2) Twenty-five percent shall be allocated to each CPS in the proportion that the number of miles of coastline of the CPS bears to the number of miles of coastline of all CPSs in the producing State. For the State of Louisiana, proxy coastline lengths for CPSs without a coastline will be considered to be ⅓ the average length of the coastline of all political subdivisions within Louisiana having a coastline.

(3) Fifty percent shall be allocated in amounts that are inversely proportional to the respective distances between the points in each CPS that are closest to the geographic center of each leased tract.

The following is a continuation of the prior example, detailing the estimated allocations for the two State of Alabama eligible CPSs—Baldwin and Mobile counties. For this example, it is assumed that t_1 and t_2 are both in the 181 Area in the Eastern Planning Area. The revenue allocated to the Alabama CPSs is 20 percent of the $12,500,787 calculated above which is $2,500,157.

Twenty-five percent of the allocation, equal to $625,039, is based on the CPS's population proportion. The 2000 Census numbers are: Baldwin County—140,415; Mobile County—399,843, and the corresponding population proportions are 25.99 percent and 74.01 percent, respectively. Thus, $162,448 is allocated to Baldwin, and $462,591 is allocated to Mobile.

A second 25 percent of the allocation is based on the CPS's proportion of coastline length. The coastline lengths in nautical miles for Alabama's CPSs are: Baldwin—28.249; Mobile—22.045, and the corresponding proportions of coastline length are 56.17 percent and 43.83 percent, respectively. Thus, $351,084 is allocated to Baldwin, and $273,955 is allocated to Mobile.

Finally, 50 percent of the allocation, equal to $1,250,079, is based on the proportion of summed inverse distances between the CPSs and the applicable leased tracts. The distance measures and inverse distance calculations for the CPSs are conceptually identical to those employed above in assessing the State shares. Let us assume the following distances and resulting inverse distance calculations for the two CPSs:

Alabama eligible CPS	Applicable leased tracts				Sum of inverse distances
	t_1		t_2		
	Distance (nautical miles)	Inverse distance	Distance (nautical miles)	Inverse distance	
Baldwin	50	0.0200	70	0.0143	0.0343
Mobile	54	0.0185	74	0.0135	0.0320
All CPS		0.0385		0.0278	0.0663

According to the table above, the proportions of the summed inverse distances for each CPS are: Baldwin County—51.73 percent; Mobile County—48.27 percent, so the allocation amounts are $646,666 and $603,413, respectively. The total allocation for each CPS, based on the three components, is shown below:

Alabama county	Population allocation	Coastline allocation	Inverse distance allocation	Total allocation
Baldwin	$162,448	$351,084	$646,666	$1,160,198
Mobile	462,591	273,955	603,413	1,339,959

In this hypothetical example, the county of Baldwin would receive $1,160,198 (46.41 percent) and the county of Mobile $1,339,959 (53.59 percent) of the $2,500,157 Alabama CPS share.

The GOMESA requires that each Gulf producing State and CPS use all amounts received for one or more of the following purposes:

- Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses.
- Mitigation of damage to fish, wildlife, or natural resources.
- Implementation of a Federally approved marine, coastal, or

comprehensive conservation management plan.

- Mitigation of the impact of OCS activities through the funding of onshore infrastructure projects.
- Planning assistance and administrative costs not to exceed 3 percent of the amounts received.

The GOMESA establishes a separate revenue sharing provision to be implemented for fiscal year 2017 and thereafter. This rule covers revenue sharing provisions for the 181 Area in the Eastern Planning Area and 181 South Area, which are the only revenues shared through 2016. While revenue sharing from these two areas will continue to be shared indefinitely according to GOMESA, the second phase of GOMESA revenue sharing adds qualified OCS revenue from GOM leases issued after December 20, 2006, in the 181 Call Area and 2002–2007 GOM Planning Areas subject to withdrawal or moratoria restrictions and revenue caps identified in the act. The second phase of GOMESA revenue sharing will be addressed in a subsequent rulemaking.

Comments Leading to Rule Modifications

The States of Alabama and Louisiana requested that MMS clarify the timing and nature of GOMESA revenue disbursements to the Gulf producing States and eligible CPSs so that recipients can effectively plan projects and be certain of the date they will receive funds. Further, both States requested that funds be disbursed as early in the fiscal year as possible. The MMS has revised § 219.418 of the rule to affirm that MMS intends to disburse revenues on or before March 31st of the year following the fiscal year of qualified OCS revenues. The MMS requires several months to complete end-of-year audit procedures and validate the allocations of the inverse distance formulas. While issues could potentially arise making it difficult to meet the March 31st date for disbursement of all applicable revenues to all recipients, if MMS cannot meet this date, revenue recipients would be alerted. Revenues will be disbursed by electronic funds transfer (EFT) to each State and CPS. The EFT is a standard practice of the Federal Government, and EFT disbursement procedures are not included in the regulation. The MMS has contacted each State and CPS to obtain recipient electronic fund transfer and account information.

The State of Louisiana requested the regulation identify a single bureau point of contact for GOMESA revenue sharing questions. The MMS has designated the Chief, Financial Management, Minerals Revenue Management, as the lead contact on GOMESA revenue sharing issues. Contact information is found in § 219.410.

The State of Louisiana commented that the exclusion in the proposed regulation of rental revenues or user fees credited to MMS appropriated funds through the annual Congressional appropriations process from revenue sharing is contrary to the requirements of GOMESA. The definition of qualified OCS revenues in the § 219.411 definition has been modified in response to Louisiana's comment.

As discussed in the preamble of the proposed rule, appropriations language has been included annually since 1993 which provides MMS rental revenues above the $3.00/acre rate in effect on August 5, 1993, up to an annual cap, to fund current operations. The GOMESA revenue sharing formula created an unforeseen dual claim on rental revenues. To avoid any ambiguity, the regulation has been changed from the proposed rule to recognize that in the absence of a specific exclusion of qualified OCS revenues from leases in statute or appropriations language, GOMESA lease revenues are shared first with States/CPSs and the LWCF by the revenue sharing formula in this regulation and the remainder would be available for other uses as identified by statute or appropriations law. An exception would occur if Congress adopts explicit appropriations or statutory language which restricts or eliminates the sharing of certain GOMESA revenues from this revenue sharing program, or changes the definition of GOMESA qualified OCS revenues to recognize a different treatment of revenues. In those cases the circumscribed revenues would not be shared under the GOMESA revenue sharing program.

The State of Louisiana also objected to the exclusion of user fees from qualified OCS revenues. Unlike bonuses, rentals, and royalties, user fees (also called cost recovery fees) are not revenue ''from leases.'' User fees are payments made by operators or lessees for provisions of special services such as transfer of record title and review of exploration or development plans. They are collected by MMS based on the direct cost of providing a service to the lessees, and are not considered receipts directly emerging from a lease's revenues themselves. A civil penalty payment, which was excluded in the GOMESA, is similar to a user fee payment. A *civil penalty* is a payment for a violation of regulations and a *user fee* is payment for a service. While civil penalties and user fees may be paid for an action or authorization that happens on a lease, they are not revenues resulting from the lease itself. The revenues from a lease (bonuses, rentals, and royalties) reflect the value of the lessor's (i.e., the Federal Government's) property interest in the leased minerals. Since GOMESA revenue sharing is intended to share revenues resulting from the oil and gas property interest, user fees are not from leases, and thus, excluded from qualified OCS revenues for GOMESA revenue sharing.

The MMS has provided a separate line in the § 219.411 definition to recognize that user fees are not from leases and not shared under the GOMESA revenue sharing formula.

Comments were received from Alabama, Louisiana, and the State of Texas General Land Office related to authorized uses of the GOMESA revenue sharing funds. In summary, each Gulf producing State receiving GOMESA funds has different coastal conservation needs, and subsequently will utilize GOMESA funds to accomplish diverse goals via a variety of projects and activities. Therefore, Gulf producing States and CPSs have requested broad discretion to interpret the GOMESA legislation in a manner that accomplishes each State's coastal conservation and protection needs, such as hurricane protection measures and specific educational uses.

In this regard, it is important to note that GOMESA does not provide the Secretary of the Interior a compliance responsibility or enforcement mechanism similar to the plan review and approval authority included in the OCSLA Coastal Impact Assistance Program (CIAP). Accordingly, while the recipients of the GOMESA revenue sharing funds are legally obligated under GOMESA to expend the funds received only on the authorized uses enumerated in the Act, the MMS's role in this program is to calculate shares and transfer the applicable funds to the States and CPSs in a manner similar to the approach it follows in disbursing revenue sharing funds to the States under the offshore 8(g) program or the onshore oil and gas revenue sharing program. That is, once the funds are transferred, MMS no longer has Federal oversight. However, since the GOMESA enumerates the authorized uses for shared revenues, GOMESA's authorized uses have been added to the § 219.410 subpart introduction. The regulations do not include Interior compliance or enforcement activities since none were assigned by the GOMESA.

Comments Not Leading to Rule Modifications

The State of Louisiana requested that States and their CPSs be allowed to designate a trustee to receive their annual GOMESA revenue allocations. Louisiana further states that assigning funds to a trustee would provide States and their CPSs a ''capability to maximize their ability to further the purposes of GOMESA by leveraging their payment streams into long-term financing instruments.''

The regulation remains silent on the designation of a funds trustee. The GOMESA specifically enumerates the four Gulf producing States, CPSs, and the LWCF as the recipients of GOMESA revenue sharing funds. It is MMS's standard practice to disburse revenue sharing funds to the Government entity to which the revenues are shared. Therefore, MMS intends to distribute GOMESA revenues to the designated State or CPS account in the name of State or CPS and not directly to a trustee. A State or CPS is then free to adopt spending procedures involving trustees.

A Texas General Land Office comment requested clarification on how GOMESA's revenue sharing 200-mile limit from the center of a leased tract will affect certain Texas coastal counties. Some Texas CPSs are beyond 200 miles from the center of an applicable leased tract in the 181 Area in the Eastern Planning Area.

There are several points in the GOMESA that contribute to the understanding of the revenue allocations to Texas CPSs from the revenue sharing provisions under this rule. First, no State shall receive less than 10 percent of the revenues. Because Texas is the farthest distance from the revenue sharing areas of any Gulf producing State, the inverse distance calculation will provide less revenue to Texas than the other Gulf producing States, so Texas is the State most likely to be affected by the minimum distribution requirement. Second, the CPSs receive 20 percent of the revenues allocated to the States, so the statute provides a share of Texas revenues to the CPSs. Third, and key to understanding the implications on Texas CPSs of the revenue sharing provisions under this rule, there is the difference between an *applicable leased tract* and any *leased tract.*

The MMS defines both *applicable leased tract* and *leased tract* in the regulation. The term *applicable leased tract* appears twice in section 105 of the GOMESA at paragraphs (b)(1)(A) and (2)(A)(i), and this term clearly refers to tracts in the 181 and 181 South Area only. In section 102, paragraph (10)(B), an eligible CPS is defined as one in which any part is ''not more than 200 miles from the geographic center of any leased tract,'' not just those in the 181 and 181 South Area. In addition, this is how the 2007–2010 Coastal Impact Assistance Program defined leased tract. If the GOMESA authors wanted to limit eligible CPSs only to those within 200 miles of an applicable leased tract, this was the place to do it; yet, they did not provide that constraint. Thus, since all Texas CPSs are within 200 miles of a leased tract in the GOM, all will share in the revenue sharing provisions of this rule.

The States of Alabama and Louisiana requested that MMS specify in the regulations that a State can use GOMESA funds to match Federal grant programs that are consistent with GOMESA's authorized uses. As noted in Louisiana's comments, the GOMESA is silent on the use of GOMESA funds for cost sharing or matching requirements with other Federal grant programs and various other forms of Federal assistance. Thus, consistent with a Federal grant program's application of funds for GOMESA authorized uses, it appears that GOMESA funds may be used to meet a certain Federal program's recipient matching requirement depending on whether or not that specific Federal program's statutory language or guidelines specifically excludes Federal funds from being used by the recipient as matching funds.

The State of Alabama Department of Conservation and Natural Resources, inquired about the timing of when MMS will publish the rule for GOMESA revenue sharing to be implemented for fiscal year 2017 and thereafter. The State of Louisiana commented that this rule should not be restricted to the 2007–2016 period, but should include the additional GOMESA revenue sharing provisions that will begin in 2017 from leases issued after December 20, 2006, in the 2002–2007 GOM planning areas. We intend to publish the rulemaking for the second phase of GOMESA revenue sharing within the next 2 years. This will provide time for MMS to incorporate any lessons learned during the first phase of GOMESA revenue sharing and to include similar revenue sharing provisions if authorized in future legislation, while avoiding the need to extend the publication date of this rule.

In addition to the request that this rulemaking include the second phase of GOMESA revenue sharing, Louisiana asserted that GOMESA required rulemaking to ensue within 1 year of its passage and that MMS has not met this requirement. We note that this interpretation of GOMESA by Louisiana is incorrect. The requirement that rulemaking be promulgated not later than 1 year after the passage of the GOMESA only applies to Section 104 of the Act. The regulations required by GOMESA section 104(c)(4) only address the issuance of credits for the relinquishment of select leases offshore of Florida. Section 105 of the GOMESA addresses the revenue sharing provisions in this rule, and it includes no deadline for promulgation of rulemaking.

The State of Louisiana raises several points related to the definition of qualified OCS revenues found in § 219.411, including the exclusion of rental revenues allocated to MMS through the annual appropriations process, user fees, royalty-in-kind oil delivered to the Strategic Petroleum Reserve and not sold, and alternative energy/use revenues. The intent and requirement of GOMESA is that we promulgate regulations that describe in specific detail the distribution of GOMESA qualified OCS revenues. This rulemaking defines qualified OCS revenues to properly account for situations, revenue sources, and claims on OCS revenues not clearly identified in GOMESA. Our conclusion on the proper treatment of rental revenues and user fees is found in the preceding section which covers modifications made to the proposed rule.

The State of Louisiana requested that this regulation provide revenue shares to the Gulf producing States based on royalties from GOMESA qualified leases taken by the Secretary in-kind, delivered to the Strategic Petroleum Reserve (SPR), and later drawn down. Louisiana also requested that the proposed rule be revised to require MMS to sell all royalty-in-kind (RIK) oil it receives from GOMESA leases, which will raise the State revenue shares, but will mean that none of that oil could be delivered to the SPR.

The MMS policies related to RIK oil are designed to optimize benefits to the Nation as a whole. The GOMESA is clear that RIK oil not sold and, by implication, transferred or used for trades to stock the Department of Energy's SPR is excluded from qualified OCS revenue. Accordingly, MMS has no authority to selectively exclude oil from GOMESA leases or to compensate Louisiana with proceeds from a subsequent sale of oil from the SPR that originated as RIK oil following a draw down order from the President.

The SPR is managed as a National strategic asset by the Department of

Energy. The DOI has no authority over the SPR. Thus, the rule will continue to exclude RIK royalties for oil or gas taken in-kind and not sold.

The State of Louisiana requests that § 219.415 in the proposed rule be revised to not reduce the revenues shared with States and CPSs if bonus or royalty credits are used on GOMESA leases. Section 219.415 states that use of bonus or royalty credits on a GOMESA lease will reduce qualified OCS revenues available for distribution.

Section 104(c) of GOMESA authorizes the Secretary of the Interior to issue a bonus or royalty credit for use only in the GOM for the exchange of certain leases located offshore of the State of Florida. Thus, there is a possibility that some of the credits could be used on GOMESA revenue sharing leases. However, given the thousands of other leases to which the credits may be applied, and the incentives for credit holders to use them quickly, by far the bulk of the credits are likely to be used to pay bonus and royalty obligations on leases that are not subject to GOMESA revenue sharing provisions.

Moreover, the regulations for bonus or royalty credits authorized under GOMESA are found in the final rule titled *Bonus or Royalty Credits for Relinquishing Certain Leases Offshore*, RIN 1010–AD44, published September 12, 2008 (FR 73 52917). This rule deals with this same issue. Unlike the case with revenue from 8(g) leases, GOMESA does not exclude these credits from being applied to bonus or royalty obligations for leases subject to GOMESA revenue sharing provisions. To the extent this occurs, the U.S. would receive less qualified OCS revenues on GOMESA leases than if the bidders or lessees had paid in cash. It necessarily follows that any distribution of royalty or bonus payments to a State or CPS based on lower qualified revenues should result in a corresponding reduction from what it would have been had the entire payment been made in cash on the eligible leases.

However, the MMS projects the effect of bonus or royalty credits from section 104(c) of GOMESA on revenue sharing to be very limited. Since GOMESA distribution requirements apply only to revenues derived from new leases issued in the portion of the 181 Area located in the Eastern Planning Area and to the 181 South Area, production, and hence royalty, from such leases likely will not occur anytime soon. Additionally, these credits must be claimed by October 2010 and there are thousands of other leases where the credits, amounting to $60.4 million, could be promptly applied. We have not complied with Louisiana's request and have not changed the regulation because we see little chance that the credits will affect State allocations and too much complexity is required to exclude such a remote possibility.

The State of Louisiana proposes that revenues derived from alternative uses of the OCS in the 181 Area in the Eastern Planning Area and 181 South Area should also be shared according to the GOMESA revenue sharing formula. The State comments further that this rule inappropriately limits revenue sharing to oil and gas activity while GOMESA was not intended to be so constrained.

In this rule *applicable leased tract* and *leased tract* are defined as oil and gas leases. It is revenue from these oil and gas leases that qualifies as OCS revenues to be shared under this rule. While section 105 of GOMESA does not specifically limit revenue sharing to oil and gas leases, the two revenue sharing areas covered by this rule (181 Area in the Eastern Planning Area and 181 South Area) are opened to oil and gas leasing in Section 103 of GOMESA. Additionally, when the 181 Area in the Eastern Planning Area and 181 South Area are defined in section 102 of the GOMESA, these areas are delineated for oil and gas leasing, not simply for revenue sharing geographic boundaries as the commenter proposes. Accordingly, it is clearly the intent of Congress that the revenue sharing provisions of GOMESA apply only to oil and gas leases.

It is noteworthy that the revenue sharing provisions of the Energy Policy Act of 2005 (EPAct) already provide a separate and different revenue sharing formula for revenue generated from alternative energy leases authorized in Section 388. Louisiana acknowledges its familiarity with the provisions of EPAct under which 27 percent of the revenues from alternative energy projects within the 8(g) zone would be shared with applicable States. If Congress wished to share revenues from alternative energy leases outside of the 8(g) area defined in 43 U.S.C. 1337(p)(2) of the OCS Lands Act, it could have included those provisions in section 388 of EPAct, or made that arrangement explicit in GOMESA. In fact, Congress chose to do neither.

A letter from a private citizen critiqued assumptions in the proposed rule related to the categorization of this rule as not major, since it does not meet the $100 million annual threshold. We point out, however, that the MMS states in the proposed rule, and again in this final rule, that this is not a major rule under Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2)) since it will not have an annual effect on the economy of $100 million or more or meet the other major rule criteria. The commenter further requests that MMS reconsider the expected revenues to be shared under this program considering current price projections and the designation of this rule as not a major rule. Cited are the $340 million in high bids for leases sold in Sale 181 in 2001. However, the GOMESA revenue sharing methodology and formula covered by this rule only involve two areas in the Central and Eastern GOM. The first area, known as *181 Area in the Eastern Planning Area*, is a subset of the *Sale 181 Call Area*, and does not include the *Final Sale 181 Area*. So revenues from the Sale 181 Area and reoffering leases expiring from the Sale 181 Area will not be shared revenues under this rule. A map of the area can be found at: *http://www.gomr.mms.gov/homepg/lsesale/224/egom224.html*. The 181 South Area, which will also share revenues under this rule, is not actually in the Sale 181 Call Area, but south of the 181 Call Area. A map of the area can be found at: *http://www.gomr.mms.gov/homepg/lsesale/208/cgom208.html*. For both of these revenue sharing areas, using June 2008 estimates for oil and gas prices and expected production volumes, MMS does not expect the 50 percent of GOMESA revenues shared with the States, CPSs and LWCF to exceed $100 million annually through 2016. Beyond 2016, revenues received from the leases issued in the two Sale 181 areas will mostly depend on the quantity of production, and in-turn, the royalties earned from production in these areas. Because exploration has not started in these areas, royalty revenue streams are considered too speculative to affect the classification of this rule.

The commenter also questions the effect of royalty collection adjustments on revenue shared under this rule ''since more than $2.5 billion in additional mineral revenues have been collected through compliance activities since 1982, this indicates that MMS may not be capable of doing a full accounting of royalties.'' To the contrary, the collection of these substantial revenues indicates that MMS is quite effective in auditing royalty payments initiated by its many lessees. Moreover, MMS does not expect these adjustments for the applicable leased tracts to be substantial in any 1 year and will, in any event, tend to balance out over time as both positive and negative adjustments are made from one fiscal year to the next.

Finally, like other Federal energy revenue sharing programs with the States (e.g., Mineral Leasing Act, Section 8(g) of the OCS Lands Act), GOMESA revenue sharing is based on the revenue received each year, including any compliance collections reflecting prior year adjustments. Compliance activities are conducted to ensure the Federal Government receives all the money it is entitled. Moreover, all GOMESA collections of qualified OCS revenues, including compliance collections, will be shared with States, CPSs, and the LWCF.

Other Changes to the Rule

The definition for *applicable leased tract* has been revised. The proposed rule included OCS Lands Act section 6 leases in the definition of an applicable oil and gas leased tract for GOMESA revenue sharing. Since section 6 of the OCS Lands Act applies to leases issued by States prior to the passage of the OCS Lands Act, and GOMESA revenue sharing provisions apply to applicable leased tracts issued after the passage of GOMESA, this previous inclusion was incorrect.

Procedural Matters

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

This 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 rule will not have an annual effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The GOMESA directs the Secretary of the Interior to disburse a portion of qualified OCS revenues to the Gulf producing States, CPSs, and the LWCF. This rule describes the formula and methodology MMS will use to allocate the revenues among the Gulf producing States and the CPSs. The transfer of revenues from the Federal Government to State and local governments does not impose additional costs on any sector of the U.S. economy, and will not have any appreciable effect on the National economy. Internal estimates in June 2008, made for official budget projections, indicate that the annual transfers will total less than the $100 million annual threshold because of the relatively small OCS area whose bonus, rental, and royalty payments are subject to revenue sharing.

(2) This rule will not create any serious inconsistency or otherwise interfere with an action taken or planned by another agency. No other agency is affected by the disbursements mandated by GOMESA.

(3) This 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 rule does not raise novel legal or policy issues. This rule will merely provide formulas and methods to implement an Act of Congress. Previously, section 8(g) of the OCS Lands Act and section 384 of the Energy Policy Act of 2005 have provided for the distribution of a portion of OCS revenues to coastal States and local governments with distributions under the latter statute using essentially the same formulas and methods in this rule.

Regulatory Flexibility Act

The Department of the Interior certifies that this 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.*).

The provisions of this rule specify how qualified OCS revenues will be allocated to certain States and eligible CPSs. The rule will have no effect on the amount of royalties, rents, or bonuses owed by lessees, operators, or payers regardless of size and, consequently, will not have a significant economic effect on offshore lessees and operators, including those classified as small businesses. Small entities may benefit from expenditures funded by these shared revenues, but it is not possible to estimate that effect since under the statute, States and political subdivisions will decide how such revenues are spent.

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. Allegations of discrimination/retaliation filed with the Small Business Administration will be investigated for appropriate action.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2)). This rule:

a. Will not have an annual effect on the economy of $100 million or more. The provisions of this rule specify how qualified OCS revenues will be allocated to States and CPSs. The rule will have no effect on the amount of royalties, rents, or bonuses owed by lessees, operators, or payers regardless of size and, consequently, will not have a significant adverse economic effect on offshore lessees and operators, including those classified as small businesses. The Gulf producing States and CPS recipients of the revenues will likely fund contracts that will benefit the local economies, small entities, and the environment. These effects are projected to be less than $100 million annually.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, 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. The effects, if any, of distributing revenues to the States and CPSs are projected to be beneficial.

Unfunded Mandates Reform Act

This 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 final 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 because the rule is not a mandate. It merely provides the formulas and methods to implement an allocation of revenue to certain States and eligible CPSs, as directed by Congress. Further, the statute allows 3 percent of funds allocated to Gulf producing States and CPSs to be used for planning and administrative activities.

Takings Implication Assessment (E.O. 12630)

Under the criteria in E.O. 12630, this 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 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, though it may fund activities that mitigate local challenges attributed to OCS exploration and development. 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 final rule and determined that it has no substantial effects on federally recognized Indian tribes. There are no Indian or tribal lands in the OCS.

Paperwork Reduction Act

There are no information collection requirements subject to the Paperwork Reduction Act (PRA) and this rulemaking does not require a submission to OMB for review and approval under section 3507(d) of the PRA.

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 final rule under the criteria of the National Environmental Policy Act and 516 Departmental Manual 15. This final rule meets the criteria set forth in 516 Departmental Manual 2 (Appendix 1.10) for a Departmental ''Categorical Exclusion'' in that this final 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 final 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 final 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 final 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 in 30 CFR Part 219

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

Dated: December 9, 2008.

Foster L. Wade,

Deputy Assistant Secretary—Land and Minerals Management.

■ For the reasons stated in the preamble, the Minerals Management Service (MMS) amends 30 CFR part 219 as follows:

PART 219—DISTRIBUTION AND DISBURSEMENT OF ROYALTIES, RENTALS, AND BONUSES

■ 1. The authority citation for part 219 is revised to read as follows:

Authority: Section 104, Pub. L. 97–451, 96 Stat. 2451 (30 U.S.C. 1714), Pub. L. 109–432, Div C, Title I, 120 Stat. 3000.

■ 2. Amend part 219 by adding new Subpart D—Oil and Gas, Offshore, to read as follows:

Subpart D—Oil and Gas, Offshore

Sec.
219.410 What does this subpart contain?
219.411 What definitions apply to this subpart?
219.412 How will the qualified OCS revenues be divided?
219.413 How will the coastal political subdivisions of Gulf producing States share in the qualified OCS revenues?
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219.418 When will funds be disbursed to Gulf producing States and eligible coastal political subdivisions?

Subpart D—Oil and Gas, Offshore

§ 219.410 What does this subpart contain?

(a) The Gulf of Mexico Energy Security Act of 2006 (GOMESA) directs the Secretary of the Interior to disburse a portion of the rentals, royalties, bonus, and other sums derived from certain Outer Continental Shelf (OCS) leases in the Gulf of Mexico (GOM) to the States of Alabama, Louisiana, Mississippi, and Texas (collectively identified as the Gulf producing States); to eligible coastal political subdivisions within those States; and to the Land and Water Conservation Fund. Shared GOMESA revenues are reserved for the following purposes:

(1) Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses.

(2) Mitigation of damage to fish, wildlife, or natural resources.

(3) Implementation of a federally-approved marine, coastal, or comprehensive conservation management plan.

(4) Mitigation of the impact of OCS activities through the funding of onshore infrastructure projects.

(5) Planning assistance and administrative costs not-to-exceed 3 percent of the amounts received.

(b) This subpart sets forth the formula and methodology MMS will use to determine the amount of revenues to be disbursed and the amount to be allocated to each Gulf producing State and each eligible coastal political subdivision. For questions related to the revenue sharing provisions in this subpart, please contact: Chief, Financial Management, Minerals Revenue Management; P.O. Box 25165; Denver Federal Center, Building 85; MS–350B1; Denver, CO 80225–0165, or at (303) 231–3429.

§ 219.411 What definitions apply to this subpart?

Terms in this subpart have the following meaning:

181 Area means the area identified in map 15, page 58, of the Proposed Final Outer Continental Shelf Oil and Gas

Leasing Program for 1997–2002, dated August 1996, of the Minerals Management Service, available in the Office of the Director of the Minerals Management Service, excluding the area offered in OCS Lease Sale 181, held on December 5, 2001.

181 Area in the Eastern Planning Area is comprised of the area of overlap of the two geographic areas defined as the ''181 Area'' and the ''Eastern Planning Area.''

181 South Area means any area—

(1) Located—

(i) South of the 181 Area;

(ii) West of the Military Mission Line; and

(iii) In the Central Planning Area;

(2) Excluded from the Proposed Final Outer Continental Shelf Oil and Gas Leasing Program for 1997–2002, dated August 1996, of the Minerals Management Service; and

(3) Included in the areas considered for oil and gas leasing, as identified in map 8, page 37, of the document entitled, *Draft Proposed Program Outer Continental Shelf Oil and Gas Leasing Program 2007–2012*, dated February 2006.

Applicable Leased Tract means a tract that is subject to a lease under section 8 of the Outer Continental Shelf Lands Act for the purpose of drilling for, developing, and producing oil or natural gas resources, and is located fully or partially in either the 181 Area in the Eastern Planning Area, or in the 181 South Area.

Central Planning Area means the Central Gulf of Mexico Planning Area of the Outer Continental Shelf, as designated in the document entitled, *Draft Proposed Program Outer Continental Shelf Oil and Gas Leasing Program 2007–2012*, dated February 2006.

Coastal political subdivision means a political subdivision of a Gulf producing State any part of which political subdivision is—

(1) Within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the Gulf producing State as of December 20, 2006; and

(2) Not more than 200 nautical miles from the geographic center of any leased tract.

Coastline means the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters. This is the same definition used in section 2 of the Submerged Lands Act (43 U.S.C. 1301).

Distance means the minimum great circle distance.

Eastern Planning Area means the Eastern Gulf of Mexico Planning Area of the Outer Continental Shelf, as designated in the document entitled, *Draft Proposed Program Outer Continental Shelf Oil and Gas Leasing Program 2007–2012*, dated February 2006.

Gulf producing State means each of the States of Alabama, Louisiana, Mississippi, and Texas.

Leased Tract means any tract that is subject to a lease under section 6 or 8 of the Outer Continental Shelf Lands Act for the purpose of drilling for, developing, and producing oil or natural gas resources.

Military Mission Line means the north-south line at 86°41′ W. longitude.

Qualified OCS Revenues mean—

(1) The term qualified OCS revenues means, in the case of each of fiscal years 2007 through 2016, all rentals, royalties, bonus bids, and other sums received by the U.S. from leases entered into on or after December 20, 2006, located:

(i) In the 181 Area in the Eastern Planning Area; and

(ii) In the 181 South Area.

(iii) For applicable leased tracts intersected by the planning area administrative boundary line (e.g., separating the GOM Central Planning Area from the Eastern Planning Area), only the percent of revenues equivalent to the percent of surface acreage in the 181 Area in the Eastern Planning Area will be considered qualified OCS revenues.

(2) Exclusions to the term qualified OCS revenues include:

(i) Revenues from the forfeiture of a bond or other surety securing obligations other than royalties;

(ii) Civil penalties;

(iii) Royalties taken by the Secretary in-kind and not sold;

(iv) User fees; and

(v) Lease revenues explicitly circumscribed from GOMESA revenue sharing by statute or appropriations law.

§ 219.412 How will the qualified OCS revenues be divided?

For each of the fiscal years 2007 through 2016, 50 percent of the qualified OCS revenues will be placed in a special U.S. Treasury account from which 75 percent of the revenues will be disbursed to the Gulf producing States, and 25 percent will be disbursed to the Land and Water Conservation Fund. Each Gulf producing State will receive at least 10 percent of the qualified OCS revenues available for allocation to the Gulf producing States each fiscal year.

REVENUE DISTRIBUTION OF QUALIFIED OCS REVENUES UNDER GOMESA

Recipient of qualified OCS revenues	Percentage of qualified OCS revenues (percent)
U.S. Treasury (General Fund)	50
Land and Water Conservation Fund	12.5
Gulf Producing States	30
Gulf Producing State Coastal Political Subdivisions	7.5

§ 219.413 How will the coastal political subdivisions of Gulf producing States share in the qualified OCS revenues?

Of the revenues allocated to a Gulf producing State, 20 percent will be distributed to the coastal political subdivisions within that State.

§ 219.414 How will MMS determine each Gulf producing State's share of the qualified OCS revenues?

(a) The MMS will determine the geographic centers of each applicable leased tract and, using the great circle distance method, will determine the closest distance from the geographic centers of each applicable leased tract to each Gulf producing State's coastline.

(b) Based on these distances, we will calculate the qualified OCS revenues to be disbursed to each Gulf producing State using the following procedure:

(1) For each Gulf producing State, we will calculate and total, over all applicable leased tracts, the mathematical inverses of the distances between the points on the State's coastline that are closest to the geographic centers of the applicable leased tracts and the geographic centers of the applicable leased tracts. For applicable leased tracts intersected by the planning area administrative boundary line, the geographic center used for the inverse distance determination will be the geographic center of the entire lease as if it were not intersected.

(2) For each Gulf producing State, we will divide the sum of each State's inverse distances, from all applicable leased tracts, by the sum of the inverse distances from all applicable leased tracts across all four Gulf producing States. We will multiply the result by the amount of qualified OCS revenues to be shared as shown below. In the formulas, I_{AL}, I_{LA}, I_{MS}, and I_{TX} represent the sum of the inverses of the closest distances between Alabama, Louisiana, Mississippi, and Texas and all applicable leased tracts, respectively.

Alabama Share = $(I_{AL} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ Qualified OCS Revenues
Louisiana Share = $(I_{LA} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ Qualified OCS Revenues
Mississippi Share = $(I_{MS} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ Qualified OCS Revenues
Texas Share = $(I_{TX} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ Qualified OCS Revenues

(3) If in any fiscal year, this calculation results in less than a 10 percent allocation of the qualified OCS revenues to any Gulf producing State, we will recalculate the distribution. We will allocate 10 percent of the qualified OCS revenues to the State and recalculate the other States' shares of the remaining qualified OCS revenues omitting the State receiving the 10 percent minimum share and its 10 percent share from the calculation.

§ 219.415 How will bonus and royalty credits affect revenues allocated to Gulf producing States?

If bonus and royalty credits issued under Section 104(c) of the Gulf of Mexico Energy Security Act are used to pay bonuses or royalties on leases in the 181 Area located in the Eastern Planning Area and the 181 South Area, then there will be a corresponding reduction in qualified OCS revenues available for distribution.

§ 219.416 How will the qualified OCS revenues be allocated to coastal political subdivisions within the Gulf producing States?

The MMS will disburse funds to the coastal political subdivisions in accordance with the following criteria:

(a) Twenty-five percent of the qualified OCS revenues will be allocated to a Gulf producing State's coastal political subdivisions in the proportion that each coastal political subdivision's population bears to the population of all coastal political subdivisions in the producing State;

(b) Twenty-five percent of the qualified OCS revenues will be allocated to a Gulf producing State's coastal political subdivisions in the proportion that each coastal political subdivision's miles of coastline bears to the number of miles of coastline of all coastal political subdivisions in the producing State. Except that, for the State of Louisiana, proxy coastline lengths for coastal political subdivisions without a coastline will be considered to be ⅓ the average length of the coastline of all political subdivisions within Louisiana having a coastline.

(c) Fifty percent of the revenues will be allocated to a Gulf producing State's coastal political subdivisions in amounts that are inversely proportional to the respective distances between the geographic center of each applicable leased tract and the point in each coastal political subdivision that is closest to the geographic center of each applicable leased tract. Except that, an applicable leased tract will be excluded from this calculation if any portion of the tract is located in a geographic area that was subject to a leasing moratorium on January 1, 2005, unless that tract was in production on that date.

§ 219.417 How will MMS disburse qualified OCS revenues to the coastal political subdivisions if, during any fiscal year, there are no applicable leased tracts in the 181 Area in the Eastern Gulf of Mexico Planning Area?

If, during any fiscal year, there are no applicable leased tracts in the 181 Area in the Eastern Gulf of Mexico Planning Area, MMS will disburse funds to the coastal political subdivisions in accordance with the following criteria:

(a) Fifty percent of the revenues will be allocated to a Gulf producing State's coastal political subdivisions in the proportion that each coastal political subdivision's population bears to the population of all coastal political subdivisions in the State; and

(b) Fifty percent of the revenues will be allocated to a Gulf producing State's coastal political subdivisions in the proportion that each coastal political subdivision's miles of coastline bears to the number of miles of coastline of all coastal political subdivisions in the State. Except that, for the State of Louisiana, proxy coastline lengths for coastal political subdivisions without a coastline will be considered to be ⅓ the average length of the coastline of all political subdivisions within Louisiana having a coastline.

§ 219.418 When will funds be disbursed to Gulf producing States and eligible coastal political subdivisions?

(a) The MMS will disburse allocated funds in the fiscal year after MMS collects the qualified OCS revenues. For example, MMS will disburse funds in fiscal year 2010 from the qualified OCS revenues collected during fiscal year 2009.

(b) We intend to disburse funds on or before March 31st of the year following the fiscal year of qualified OCS revenues.

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BILLING CODE 4310–MR–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Parts 594, 595 and 597

Global Terrorism Sanctions Regulations; Terrorism Sanctions Regulations; Foreign Terrorist Organizations Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control of the U.S. Department of the Treasury (''OFAC'') is amending the Global Terrorism Sanctions Regulations and the Terrorism Sanctions Regulations to expand the scope of authorizations in each of those programs for the provision of certain legal services. Similarly, OFAC is amending the Foreign Terrorist Organizations Sanctions Regulations to expand the scope of a statement of licensing policy concerning payment for certain legal services.

DATES: *Effective Date:* December 23, 2008.

FOR FURTHER INFORMATION CONTACT: Assistant Director for Licensing, tel.: 202–622–2480, Assistant Director for Policy, tel.: 202–622–4855, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202–622–2410, Office of the General Counsel, Department of the Treasury, Washington, DC 20220 (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning the Office of Foreign Assets Control (''OFAC'') are available from OFAC's Web site (*http://www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on demand service, tel.: 202–622–0077.

Background

OFAC administers three sanctions programs with respect to terrorists and terrorist organizations. The Terrorism Sanctions Regulations, 31 CFR part 595 (''TSR''), implement Executive Order 12947 of January 23, 1995, in which the President declared a national emergency with respect to ''grave acts of violence committed by foreign terrorists that disrupt the Middle East peace process * * * . '' The Global Terrorism Sanctions Regulations, 31 CFR part 594 (''GTSR''), implement Executive Order 13224 of September 23, 2001, in which the President declared an emergency