

**UNITED STATES DEPARTMENT OF THE INTERIOR  
MINERALS MANAGEMENT SERVICE  
GULF OF MEXICO OCS REGION**

NTL No. 98-15

Effective Date: August 10, 1998

NOTICE TO LESSEES AND OPERATORS OF FEDERAL OIL, GAS, AND SULPHUR  
LEASES IN THE OUTER CONTINENTAL SHELF, GULF OF MEXICO OCS REGION

**Time Allowed Between Lease Holding Operations (30 CFR 250.113)**

This Notice To Lessees and Operators (NTL) supersedes and updates NTL No. 96-09 and cited regulatory authorities and includes a statement regarding the Paperwork Reduction Act of 1995.

Pursuant to 30 CFR 250.113, Minerals Management Service (MMS) has extended the time allowed between lease holding operations to 180 days. However, questions may arise concerning what qualify as lease holding operations. This Regulation states that a drilling or well-reworking program must be part of a plan that has as its objective continuous production of the lease. Therefore, MMS will closely monitor well workover activities in the light of continuous production objectives. Additionally, short-term production may not qualify as a lease holding operation. Simply putting a lease on production for a short duration, unless it is part of a plan that results in continuous production, may not extend the lease term by 180 days. Operators should seek clarification of their plan on a case-by-case basis rather than assume that producing a minimum quantity will constitute lease holding activity.

Operators should direct any questions relating to the acceptability of lease holding operations to the appropriate District Office.

**Paperwork Reduction Act Statement**

The collection of information referred to in this NTL is intended to provide clarification, description, or interpretation of requirements contained in 30 CFR Part 250, Subpart A. The Office of Management and Budget (OMB) has approved the information collection requirements in these Regulations. The applicable OMB Control Number is 1010-0030. This NTL does not impose additional information collection requirements subject to the Paperwork Reduction Act of 1995.



Chris C. Oynes  
Regional Director

## **DEPARTMENT OF THE INTERIOR**

### **Minerals Management Service**

#### **30 CFR Part 250**

#### **RIN 1010-AC07**

Allow Lessees More Flexibility in Keeping Leases in Force Beyond Their Primary Term

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Final rule.

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**SUMMARY:** This final rule amends regulations that specify how Outer

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Continental Shelf (OCS) lessees can continue their leases beyond their primary term. Changes in industry exploration practices have increased the time necessary to collect and analyze data associated with operations. The changes increase from 90 to 180 days the time allowed between operations for a lease continued beyond its primary term.

**EFFECTIVE DATE:** November 29, 1996.

**FOR FURTHER INFORMATION CONTACT:**

Lawrence H. Ake or John Mirabella, Engineering and Standards Branch, telephone (703) 787-1600.

**SUPPLEMENTARY INFORMATION:**

I. Background and Purpose

On March 1, 1994, the Department of the Interior (DOI) published a notice in the Federal Register (59 FR 9718-9719), requesting comments and suggestions on DOI agency regulations. In its notice, DOI announced its intention to periodically review its regulations and asked the

public to participate in the review. Over 40 responses were received concerning MMS regulations from the public, industry, and Government.

Several letters suggested that MMS make changes to Subpart A of 30 CFR Part 250. These comments proposed allowing 180 days between drilling, well-reworking, or other operations in order to keep a lease in effect beyond its primary term.

Commenters told MMS that although many OCS operations can be ended and recommenced within the present 90-day time allowance, many require considerably more time. The comments went on to say that the search for oil and gas resources in the OCS has reached a mature phase. Most of the easily found resources have been produced. Industry is now focusing its efforts in deeper waters, on subsalt projects, and other areas of extremely complex geology. The changes these commenters proposed would allow more time for efficient and expedient production, drilling, and well-reworking operations.

MMS held a public meeting in New Orleans on June 12, 1995, to discuss this and other issues. Based on the comments heard at that meeting, as well as those previously received, a notice of proposed rulemaking (NPR) was prepared for public comment. On April 25, 1996, an NPR was published in the Federal Register (61 FR 18309) which proposed to increase from 90 to 180 days the time allowed between operations for a lease continued beyond its primary term.

## II. Discussion of the Rule

Under current MMS regulations (30 CFR 250.13 and 256.37(b)), if no production, drilling, or well-reworking activities occur on the lease during the last 90 days prior to lease expiration and no suspension of operations or production is in effect on the lease, the lease expires by law and lease term.

Current Sec. 250.13 gives lessees several methods to keep leases in effect beyond their primary term. The most common method is through production of resources and payment of a royalty. Continuous drilling or well-reworking activities without a break of more than 90 days will also keep a lease in effect beyond its primary term. Other methods for extending a lease include receiving a suspension of production (30 CFR 250.10); a suspension of operations (30 CFR 250.10); or participation in a unit which has another lease that is being held beyond its primary term by one of these operations (30 CFR 250.190 (e) and (f)).

With this rulemaking, MMS increases from 90 to 180 days the time allowed between production, drilling, or well-reworking operations for leases continued beyond their primary term. For example, under the current rule if a lessee ceases production, drilling or well-reworking operations on a lease 60 days before the lease expiration date, he must resume operations within 90 days (i.e., within 30 days after the

original lease expiration date). In this example, the new rule would allow the lessee 180 days (i.e., 120 days after the original lease expiration date) within which to resume operations.

Leases that have been continued past their primary term will remain in force as long as the break in operations is no longer than 180 days. This contrasts with 90 days provided by the current rule.

### III. Discussion of Comments

Comment: MMS received 21 letters commenting on the NPR. Seventeen of the letters received were supportive of the proposed rule. Many of these comments cited how the extra time allowed would allow for better analysis of geological, geophysical, and engineering data. Others noted that the additional time would provide relief when analyzing subsalt or deepwater prospects. Still others spoke of the beneficial effects the rule would have when confronting time-consuming projects, such as working out cost-sharing arrangements with other operators or analyzing 3D seismic data.

Four letters provided comments that were critical of some aspect of the proposed rule. Two of these commenters supported the need of lessees and operators for more flexibility to keep their leases in effect, but felt that the extension of time to 180 days should be handled on a case-by-case basis. These commenters were concerned that the proposed rule could unnecessarily tie up some untested OCS acreage and thus slow the discovery of additional resources. One commenter opposed any open-ended authority for the Regional Supervisor to extend time limits beyond those in the proposed rule. Still another noted that the rule provides no assurance that the additional time granted to lessees will result in additional operations on the lease.

Response: One of the primary missions of the MMS is ensuring the orderly and expeditious exploration and development of the OCS. With this rule, we attempt to strike a balance between encouraging diligent operations and allowing proper time for lessees to evaluate their exploratory and development options. We agree with the majority of commenters that this rule change recognizes a need of industry. This extra time is frequently needed for detailed analysis of geological, geophysical, or engineering data. It also provides operators an opportunity to better evaluate deep-water and subsalt drilling prospects. However, the rule specifically states that any drilling or well-reworking program must be part of a plan that has as its objective continuous production on the lease. MMS intends to closely monitor the actions of lessees to ensure that this objective is met. MMS also fully expects that the 180 day timeframe will provide sufficient time for all but extraordinary delays. MMS will closely scrutinize all requests for more than 180 days between operations on leases beyond their primary

term.

Comment: Another commenter suggested that a lease be extended for 180 days past the expiration date of the lease term if operations were conducted at any time during the last 180 days of the lease term. This commenter felt that this change would simplify the rule and help to avoid any misunderstanding of the time remaining on the lease.

Response: This comment was not accepted. MMS feels that the rule should be applied consistently, whether the lease is just passing its primary term or has previously been extended through continuous operations.

Comment: One of the comments was more editorial in nature. This comment pointed out that the wording in Sec. 250.13(a)(2) of the NPR was ambiguous. The commenter also stressed that by changing to a ``plain

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English" format, MMS may sacrifice clarity.

Response: The cited wording has been changed. MMS will attempt to write all of its rules as clearly as possible.

Executive Order (E.O.) 12866

This is a significant rule under E.O. 12866 and has been reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

The DOI determined that this rule will not have a significant effect on a substantial number of small entities. In general, the entities that engage in offshore activities are not considered small due to the technical and financial resources and experience necessary to safely conduct such activities. Small entities are more likely to operate onshore or in State waters--areas not covered by this regulation. When small entities work in the OCS, they are more likely to be contractors than operators. For example, a company that collects geologic and geophysical data might be a small entity. While these contractors must follow the rules governing OCS operations, we are not changing the rules that govern the actual operations on a lease. We are only modifying the rules governing the extension of a lease beyond the primary term. The rule could have a secondary effect. By extending the time available to the lessee, more leases may be active and this could result in an increase in opportunities for small entities to collect data or perform other services. The added time could also work to benefit smaller companies who may have slower computers and could

benefit from a longer time period for review of data.

#### Paperwork Reduction Act

This rule has been examined under the Paperwork Reduction Act of 1995 and has been found to contain no reporting and information collection requirements.

#### Takings Implication Assessment

The DOI determined that this rule does not represent a governmental action capable of interference with constitutionally protected property rights. Thus, DOI does not need to prepare a Takings Implication Assessment pursuant to E.O. 12630, Government Action prepare a Takings Implication Assessment pursuant to E.O. 12630, Government Action and Interference with Constitutionally Protected Property Rights.

#### Executive Order (E.O.) 12988

The DOI has certified to OMB that the rule meets the applicable reform standards provided in Sections 3(a) and 3(b)(2) of E.O. 12988.

#### Unfunded Mandate Reform Act of 1995

The DOI has determined and certifies according to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 et seq., that this rule will not impose a cost of \$100 million or more in any given year on local, tribal, State governments, or the private sector.

#### National Environmental Policy Act

The DOI determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment; therefore, an Environmental Impact Statement is not required.

#### List of Subjects in 30 CFR Part 250

Continental shelf, Environmental impact statement, Environmental protection, Government contracts, Incorporation by reference, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Public lands--mineral resources, Public lands--rights-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Dated: October 2, 1996.  
Sylvia V. Baca,  
Deputy Assistant Secretary, Land and Minerals Management.

For the reasons set forth in the preamble, Minerals Management Service (MMS) amends 30 CFR Part 250 as follows:

## PART 250--OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

1. The authority citation for part 250 continues to read as follows:

Authority: 43 U.S.C. 1334.

2. Section 150.13 is revised to read as follows:

### Sec. 250.13 How Does Production, Drilling, or Well-reworking Affect Your Lease Term?

(a) Your lease expires at the end of its primary term unless you are producing or conducting drilling or well-reworking operations on your lease. See Sec. 256.37(b) of this title. Also, any drilling or well-reworking program must be part of a plan that has as its objective continuous production on the lease. For purposes of this section, the term "operations" means production, drilling, or well-reworking.

(b) If you stop conducting operations during the last 180 days of the primary lease term, your lease will remain in effect beyond the primary term only if you:

(1) Resume operations on the lease no later than 180 days after the operations ended; or

(2) Ask MMS for a suspension of operations or production under 30 CFR 150.10 before the 180th day after you stop operations, and thereafter receive the Regional Supervisor's approval; or

(3) Receive a directed suspension of operations or production from the Regional Supervisor under 30 CFR 250.10 before the 180th day after you stop operations.

(c) If you stop conducting operations on a lease that has continued beyond its primary term, then your lease will expire unless you comply with either paragraph (b)(1), (b)(2), or (b)(3) of this section.

(d) You may ask the Regional Supervisor to allow you more than 180 days to resume operations on a lease continued beyond its primary term when operating conditions warrant. The request must be writing and explain the operating conditions that warrant a longer period. In

allowing additional time, the Regional Supervisor must determine that the longer period is in the national interest and that it conserves resources, prevents waste, or protects correlative rights.

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