4310-T2

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

30 CFR Part 519

Office of Natural Resources Revenue

30 CFR Part 1219

[Docket ID: ONRR-2011-0024; DS63610000 DR2PS0000.CH7000 145D0102R2]

RIN 1012-AA11

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

AGENCY: Office of Natural Resources Revenue, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Natural Resources Revenue (ONRR) is amending the regulations on the distribution and disbursement of qualified revenues from certain leases on the Gulf of Mexico's Outer Continental Shelf, in accordance with the provisions of the Gulf of Mexico Energy Security Act of 2006. These proposed regulations set forth ONRR's formulas and methodologies for calculating and allocating revenues during the second phase of revenue sharing to the States of Alabama, Louisiana, Mississippi, and Texas; their eligible coastal political subdivisions; the Land and Water Conservation Fund; and the United States Treasury.

Additionally, in this proposed rule, the Department of the Interior moves the Gulf of Mexico Energy Security Act of 2006's Phase I regulations from the Bureau of Ocean Energy Management's (BOEM) title 30 of the *Code of Federal Regulations* (CFR) chapter V to ONRR's 30 CFR chapter XII, and proposes additional clarification and minor definition changes to the current revenue-sharing regulations.

DATES: Submit comments by [**INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**]. ONRR may not consider comments received after this date.

ADDRESSES: You may submit comments to ONRR by any of the following methods (please reference "1012-AA11" in your comments):

- Electronically, go to *www.regulations.gov*. In the entry titled "Enter Keyword or ID," enter "ONRR-2011-0024," then click "Search." Follow the instructions to submit public comments. ONRR will post all comments.
- Mail comments to Armand Southall, Regulatory Specialist, ONRR, P.O. Box 25165, MS 61030A, Denver, Colorado 80225-0165.
- Hand-carry comments, or use an overnight courier service, to the Office of Natural Resources Revenue, Building 85, Room A-614, Denver Federal Center, West 6th Ave. and Kipling St., Denver, Colorado 80225.

FOR FURTHER INFORMATION CONTACT: For questions, contact Karen Osborne, Supervisory Management & Program Analyst, Office of the Deputy Director, ONRR, at *karen.osborne@onrr.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The President signed the Gulf of Mexico Energy Security Act of 2006 (GOMESA or Act) into law on December 20, 2006 (Pub. L. No. 109-432, 120 Stat. 2922; 43 U.S.C. 1331 note), as part of H.R. 6111, The Tax Relief and Health Care Act of 2006. With regard to the Gulf of Mexico (GOM) Outer Continental Shelf (OCS) provisions (Division C, Title 1, 120 Stat. 3000), GOMESA:

- Provided for sharing leasing revenues with Gulf producing States, coastal political subdivisions (CPSs) within those States, and the Land and Water Conservation Fund (LWCF) for coastal protection, conservation, and restoration projects.
- Lifted the congressional moratorium on oil and gas leasing and development in a portion of the Eastern and Central GOM.
- Mandated lease sales for 8.3 million acres in the Eastern and Central GOM, including 5.8 million acres in the Central GOM previously held under Congressional moratoria.

- Barred oil and gas leasing within 125 miles of the Florida coastline in the Eastern Planning Area, all areas in the GOM east of the Military Mission Line (86º41' W. longitude), and within 100 miles of the Florida coastline in the Central Planning Area, until June 30, 2022.

- Established a process for companies to exchange with the Federal government certain existing leases in moratorium areas for bonus or royalty credits to use on other GOM leases.

This proposed rule sets forth how the Department of the Interior (DOI, hereafter "We") plans to implement the second phase of GOMESA revenue sharing in fiscal year 2017 and beyond. In addition, we propose several clarifications and conforming modifications to the GOMESA Phase I revenue-sharing regulations, currently found in part 519, subpart D, of 30 CFR chapter V. We propose these changes to differentiate between the two GOMESA revenue-sharing phases. We also propose moving BOEM's regulations in 30 CFR chapter V, part 519, subpart D, to ONRR's regulations at 30 CFR chapter XII.

We published a final rule (73 FR 78622, December 23, 2008) in the **Federal Register** on the allocation and disbursement of qualified revenues from two designated areas in the Gulf of Mexico, known as the 181 Area in the Eastern Planning Area and the 181 South Area. That final rule addresses such allocation and disbursement for each of fiscal years 2007 through 2016, to which we refer as "GOMESA Phase I" revenue sharing. You may find the 181 Area and the 181 South Area on the map available at *www.boem.gov/Oil-and-Gas-Energy-Program/Mapping-and-*

Data/Map-Gallery/Index.aspx. The majority of this proposed rule covers revenue sharing from the 181 Area, the 181 South Area, and the 2002–2007 Planning Area subject to GOMESA, for fiscal year 2017 and thereafter, to which we refer as "GOMESA Phase II" revenue sharing. To avoid confusion between the two GOMESA revenue-sharing phases, we are proposing a new subpart E for GOMESA Phase II. The differences between GOMESA Phase I and Phase II include the calculation methodology, revenue-sharing areas, and the imposition of a cap on shared revenues in Phase II. Moving the GOMESA Phase I regulations to 30 CFR chapter XII and modifying the definitions would not change the existing revenue-sharing methodology.

We have drawn on our experience gained during the first few years of GOMESA Phase I revenue sharing, along with comments and questions received, to refine the definitions. We have worked to eliminate any uncertainty, consistent with the Secretary's authority under GOMESA.

II. Explanation of Proposed Amendments

Before reading the explanatory information below, please turn to the proposed rule language, which immediately follows the List of Subjects for 30 CFR parts 519 and 1219 and the signature page in this proposed rule. DOI will codify this language in the CFR if we finalize this rule as written.

After you have read the proposed rule language, please return to the preamble discussion below. The preamble contains additional information about the proposed rule, such as why we define a term in a certain manner, why we choose a certain procedure, and how we interpret the laws that this rule implements. We welcome comments on our reading and interpretation of the Act.

We propose to remove and reserve part 519 including subpart D of chapter V and to recodify part 519, subpart D, as part 1219, subpart D. We also propose to modify several definitions used in the subpart D regulations to differentiate and to avoid confusion between the two GOMESA revenue-sharing subparts. None of the proposed changes affect the formula or methodology for the distribution of GOMESA Phase I qualified OCS revenues. We propose a new subpart at 30 CFR Part 1219, Subpart E—Oil and Gas, Offshore, GOMESA Phase II Revenue Sharing.

Finally, we rewrote all sections of 30 CFR part 1219, including subpart C (sections 1219.100 through 1219.105), in plain language to meet the criteria of Executive Orders 12866 and 12988, and the Presidential Memorandum of June 1, 1998, which require clean and consistent writing of Federal rules to enable the public to understand and follow them. We did not, however, make any substantive changes to subpart C; therefore, this Preamble presents no section-by-section analysis of sections 1219.100 through 1219.105.

A. Section-By-Section Analysis of 30 CFR Part 519—Distribution and Disbursement of Royalties, Rentals, and Bonuses, Subpart D—Oil and Gas, Offshore

The following is a derivation table for the recodified part 1219, subpart D, of chapter XII, deriving from part 519, subpart D, of chapter V, and a section-by-section explanation of the amended and new subpart D (omitting sections that require no further explanation):

DERIVATION TABLE FOR PART 1219

The requirements of section:	Derive from section:
Subpart A [Reserved]	
Subpart B [Reserved]	
Subpart C **No New Sections.** **Internal changes made to existing sections 1219.100 through 1219.105 only.**	
Subpart D	
1219.410..	…………………………………….519.410
1219.411..	…………………………………….519.411
1219.412..	………………………….519.412, 519.413
1219.413..	…………………………………….519.414
1219.414..	…………………………………….519.416
1219.415..	…………………………………….519.417
1219.416..	…………………………………….519.418

B. Section-By-Section Analysis of Proposed 30 CFR Part 1219—Distribution and Disbursement of Royalties, Rentals, and Bonuses, Subpart D—Oil and Gas, Offshore, GOMESA Phase I Revenue Sharing

ONRR proposes to revise the title of subpart D to add the phrase “GOMESA Phase I Revenue Sharing.” We are proposing the title revision to differentiate between the two phases of GOMESA revenue sharing in subparts D and E.

Subpart D, Oil and Gas, Offshore, GOMESA Phase I Revenue Sharing

1219.410 What does this subpart contain?

ONRR proposes to revise paragraph (b) to change the responsible agency named in paragraph (b) from BOEM to ONRR. In this section, we would add the following new sentences after the first sentence: "Leasing revenues disbursed under this subpart originate from leases issued on or after December 20, 2006, in the 181 Area in the Eastern Planning Area and the 181 South Area, subject to restrictions identified in GOMESA. We collectively refer to the revenue sharing from these areas for each of these fiscal years as GOMESA Phase I revenue sharing."

1219.411 What definitions apply to this subpart?

In this section, we propose to clarify several definitions in order to improve users' understanding and to differentiate between similar terms proposed in this rule for subpart E. The proposed revisions would affect the following definitions:

The definition of *181 Area* would delete the first reference to the "Minerals Management Service" and update the second reference to the "Minerals Management Service," to the "Bureau of Ocean Energy Management."

Applicable leased tract would change to "*Applicable leased tract (Phase I)*." This change would differentiate between the terms "*Applicable leased tract (Phase I)*" in subpart D and "*Applicable leased tract (Phase II)*," found in subpart E of this part. Additionally, we propose adding the phrase "and issued on or after December 20, 2006," to the definition to further clarify that an applicable leased tract must have been leased on or after GOMESA's effective date. There are currently several active leases in the 181 Area in the Eastern Planning Area that we issued before 2006. Without the change, it may not be clear to those reading the regulation that we would not consider these leases to be applicable leased tracts for the purpose of the proportional inverse distance calculations.

Qualified OCS revenues would change to "*Qualified OCS revenues (Phase I)*." This change would differentiate between the terms "*Qualified OCS revenues (Phase I)*" in subpart D and "*Qualified OCS revenues (Phase II)*," found in subpart E of this part.

1219.412 How will ONRR divide the qualified OCS revenues?

We would move the language referring to the Coastal Political Subdivisions' (CPS's) share of shared revenues currently found in §519.413 to §1219.412. This would provide consistency between subparts D and E. The remainder of the section would not change.

1219.413 How will ONRR determine each Gulf producing State's share of the qualified OCS revenues (Phase I) from leases in the 181 Area in the Eastern Planning Area and the 181 South Area?

ONRR proposes moving the text at §519.414 to §1219.413, and revising §1219.413 to meet the criteria of Executive Orders 12866 and 12988, and the Presidential Memorandum of June 1, 1998, which require that Federal rules be written in plain language.

1219.414 How will ONRR allocate the qualified OCS revenues (Phase I) to coastal political subdivisions within the Gulf producing States?

ONRR proposes moving the text at §519.416 to §1219.414, and revising §1219.414 to meet the criteria of Executive Orders 12866 and 12988, and the Presidential Memorandum of June 1, 1998, which require us to write all rules in plain language.

1219.415 How will ONRR allocate qualified OCS revenues (Phase I) to 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?

ONRR proposes moving the current language at §519.417 to §1219.415. The current language at §519.417 explains how if, during any fiscal year, there are no applicable leased tracts in the 181 Area of the Eastern Gulf of Mexico Planning Area, qualified OCS revenue (Phase I) will be allocated to CPSs. There is no substantive difference between the current language in §519.417 and the proposed language for §1219.415, but ONRR has revised the language of §1219.415 to meet the criteria of Executive Orders 12866 and 12988, and the Presidential Memorandum of June 1, 1998, which require that Federal rules be written in plain language.

ONRR also proposes deleting the current language at §519.415, which concerns the use of bonus and royalty credits issued under GOMESA §104(c). Section 519.415 states that, if such credits are used to pay bonuses or royalties on leases in the 181 Area located in the Eastern Planning Area and the 181 South Area, there will be a corresponding reduction in qualified OCS revenues (Phase I) available for distribution. This provision is no longer necessary for two reasons: (1) all record title interest owners interested in obtaining bonus or royalty credit had to submit a request for such a credit on or before October 14, 2010, under 30 CFR 556.92(a), and (2) all such credits that were issued have already been applied to bonus or royalty obligations. Therefore, no more credits will be issued in the future, and all credits issued in the past have been used, so they can no longer affect the amount of qualified OCS revenues (Phase I) available for distribution. Hence, ONRR proposes to delete as obsolete the current language at §519.415.

1219.416 When will ONRR disburse funds to Gulf producing States and eligible coastal political subdivisions?

ONRR proposes moving the text from §519.418 to §1219.416, and revising §1219.416 to meet the criteria of Executive Orders 12866 and 12988, and the Presidential Memorandum of June 1, 1998, which require us to write all rules in Plain Language.

C. Section-By-Section Analysis of Proposed 30 CFR Part 1219, Subpart E, Oil and Gas Offshore, GOMESA Phase II Revenue Sharing

Background

For each of the fiscal years 2017 and thereafter, GOMESA directs the Secretary of the Interior to deposit 50 percent of qualified OCS revenues (Phase II) received on or after October 1, 2016, from OCS oil and gas leases in the 181 Area, the 181 South Area, and the 2002–2007 Planning Area, into a special account in the U.S. Treasury. From that account, we would distribute 25 percent of the qualified revenues to the Land and Water Conservation Fund (LWCF) and distribute the remaining 75 percent to the States of Alabama, Louisiana, Mississippi, and Texas (collectively identified as the "Gulf producing States") and their eligible CPSs. Under GOMESA Phase II, we share the revenues from leases issued on or after December 20, 2006, in the 181 Area, the 181 South Area, and the 2002–2007 Planning Area. You may find the definition of these Phase II revenue-sharing areas in Section 102 of GOMESA, and you may also locate them on the map and supporting documentation available at *www.boem.gov/Oil-and-Gas-Energy-Program/Mapping-and-Data/Map-Gallery/Index.aspx.*

We would allocate the GOMESA Phase II qualified OCS revenues among the Gulf producing States based upon proportional inverse distance calculations from applicable leased tracts (Phase II) in the 181 Area and the 181 South Area, and historical lease sites in the 2002–2007 Planning Area, in accordance with GOMESA. In determining the individual Gulf producing States' share of the GOMESA Phase II qualified OCS revenues, GOMESA provides that no State would receive less than 10 percent of the revenues that we would disburse to the Gulf producing States, regardless of the amount established by the application of the proportional inverse distance formula. Additionally, the shared revenues from certain GOMESA Phase II areas are subject to a cap of $500 million for each of fiscal years 2016 through 2055. The result of this inverse distance calculation is that States closest to the most applicable leased tracts (Phase II) and historical lease sites will receive the greatest share of revenues.

The CPSs located in the State's coastal zone, and within 200 nautical miles of the geographic center of any OCS leased tract, would receive 20 percent of the qualified OCS revenues (Phase II) allocated to the State. We would allocate revenues to the CPSs based upon their in-State relative population, coastline length, and proportional inverse distance from applicable leased tracts (Phase II) in the 181 Area, and historical lease sites in the 2002–2007 Planning Area.

There are a few substantive differences between GOMESA Phase I and Phase II revenue sharing. First, the GOM acreage and resulting qualified revenues would be greater in GOMESA Phase II because Phase II acreage consists of the entire 181 Area, the 181 South Area, and the 2002-2007 Planning Area, whereas Phase I acreage consists of only the 181 Area in the Eastern Planning Area and the 181 South Area. Second, GOMESA Phase II would require that the proportional inverse distance calculations be from both applicable leased tracts in the 181 Area and the 181 South Area, and historical lease sites in the 2002–2007 Planning Area, rather than from only applicable leased tracts. Additionally, under GOMESA Phase II we must update the group of historical lease sites in the 2002–2007 Planning Area once every five years. The result of the five-year periods between updates is that each Gulf producing State's subset of inverse distances to historic lease sites would remain static for five years following each update. Third, GOMESA Phase I ends with the disbursement of fiscal year 2016 qualified OCS revenues. GOMESA Phase II begins with the disbursement of fiscal year 2017 qualified OCS revenues. Fourth, for Phase II, GOMESA directs a $500 million annual cap on the majority of shared revenues, which equates to a $375 million annual cap among the four Gulf producing States and their eligible CPSs, and a $125 million annual cap to the LWCF for each of fiscal years 2016 through 2055. The remaining differences are minor, and we discuss them later in the preamble of this rule.

Revenues Shared Under GOMESA Phase II

Qualified OCS revenues under GOMESA Phase II are revenues from leases issued after the passage of GOMESA (December 20, 2006) in the 181 Area, the 181 South Area, and the 2002–2007 Planning Area, as delineated by GOMESA. Section 102(9)(A)(ii) of GOMESA defines qualified OCS revenues as (fiscal year 2017 and each fiscal year thereafter) all rentals, royalties, bonus bids, and other sums due and payable to the United States received on or after October 1, 2016, from leases entered into on or after the date of enactment of this Act for the 181 Area, the 181 South Area, and 2002–2007 planning area.

Exclusions to qualified OCS revenues under GOMESA Phase II are described in the preamble discussion for the definition of "*Qualified OCS revenues (Phase II")*" in §1219.511.

Excluded Acreage

Selected acreage in the De Soto Canyon Protraction Area does not fall within the 181 Area, the 181 South Area, or the 2002-2007 Planning Area, as defined by GOMESA. You can locate the 21 blocks in the De Soto Canyon Protraction area bordering the Eastern Planning Area and not covered under GOMESA on the "Call for Information and Nominations Map, Central Planning Area Lease Sale 213," available at *www.boem.gov/Oil-and-Gas-Energy-Program/Leasing/Regional-Leasing/Gulf-of-Mexico-Region/Lease-Sales/213/index.aspx*.

GOMESA Phase II Revenue Distribution of Qualified OCS Revenues and the $500 Million Annual Cap

As explained below in our discussion of proposed §1219.512, the GOMESA revenue-sharing distribution among recipient categories does not change from that in Phase I unless the GOMESA Phase II annual $500 million cap is exceeded. The following table shows a summary of mandated Phase II revenue shares:

GOMESA Recipients of Qualified OCS Revenues:	Percentage of Qualified OCS Revenues:

U.S. Treasury (General Fund)	50%
Land and Water Conservation Fund	12.5%
Gulf Producing States	30%
Gulf Producing State CPSs	7.5%

Section 105(f)(1) of GOMESA states that the total amount of qualified outer Continental Shelf revenues made available under subsection (a)(2) shall not exceed $500,000,000 for each of fiscal years 2016 through 2055.

The language imposing the $500 million cap in section 105(f)(1) refers to “fiscal years 2016 through 2055,” while GOMESA sections 102(9)(A)(ii) and 105(b)(2)(A) each define the Phase II revenue-sharing period as being “fiscal year 2017 and each fiscal year thereafter...” We reasonably consider the reference to fiscal year 2016 obsolete since the Act, in sections 102(9)(A)(ii) and 105(b)(2)(A), is explicit that GOMESA Phase II does not share any revenues before fiscal year 2017.

Section 105(f)(2) of GOMESA excludes, through 2055, from this annual cap of $500 million, the “receipts from that fiscal year from any area in the 181 Area in the Eastern Planning Area and the 181 South Area.” These are the areas from which States began receiving shares from the qualified OCS revenues under GOMESA Phase I. Thus, the cap applies only to GOMESA Phase II qualified OCS revenues from the 181 Area in the Central Planning Area and the 2002–2007 Planning Area.

Allocation Methodology for Shared Revenues under GOMESA Phase II

Under both phases of GOMESA, the United States mandates sharing revenues only from leases issued after December 20, 2006, with the Gulf producing States. Further, the conceptual methodology for allocating each State's percentage share under GOMESA Phase II would be the same as it is for Phase I. Critical details in the methodology differ, however. To determine the percentage of State shares, Phase I relies on proportional inverse distances only from applicable leased tracts in the 181 Area in the Eastern Planning Area and the 181 South Area. In contrast, Phase II would rely on proportional inverse distances from applicable leased tracts in the 181 Area and the 181 South Area, and historical lease sites in the 2002-2007 Planning Area, to compute the States' percentage shares. All revenues shared under Phase II, with the exception of revenues from leases in the 181 Area in the Eastern Planning Area and the 181 South Area, would be subject to the $500 million-per-year cap, while there is no cap on the revenue shares in Phase I.

Based upon the current group of historical lease sites in the 2002-2007 Planning Area and applicable lease tracts in the 181 Area and 181 South Area, the following table shows a summary of the estimated GOMESA Phase II percentage shares among the four Gulf producing States as of May 2012:

Gulf Producing State	**Estimated Share Based on Historical Lease Sites and Applicable Leased Tracts (Phase II)***
Alabama	13%
Louisiana	47%
Mississippi	14%

Texas	26%
TOTAL:	**100**%

******NOTE:* *The actual percentage distributions would be different than shown in the table because of (1) new historical lease sites that would be added between May 1, 2012, and December 31, 2015; (2) applicable leased tracts (Phase II) that would be added between May 1, 2012, and September 30, 2018; (3) and applicable leased tracts (Phase II) that would be removed if they are relinquished, expire, or terminate between May 1, 2012, and September 30, 2018.*

DOI's Role in GOMESA Revenue Sharing

GOMESA does not provide the Secretary of the Interior with a compliance responsibility or enforcement mechanism similar to the plan review and approval authority included in the Outer Continental Shelf Lands Act (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, our primary role in this program is to calculate shares and transfer the applicable funds to the States and CPSs. This approach is similar to what we follow when disbursing revenue-sharing funds to the States under section 8(g) of the OCSLA or the onshore oil and gas revenues under the Mineral Leasing Act (30 U.S.C. 191). Beginning with fiscal year 2011, the amounts of GOMESA and other Department of the Interior mineral revenues shared with States and localities are available in the Catalog of Federal Domestic Assistance (CFDA), in compliance with OMB Circular A-89.

Structure of the Subpart E

This proposed rule for subpart E, in many ways, mirrors subpart D, which includes the GOMESA Phase I revenue-sharing regulations. While many of the Phase I and Phase II definitions, formulas, and methodologies are the same between subpart D and the proposed subpart E, the differences are significant enough that ONRR proposes a new subpart. The primary ways in which GOMESA Phase II differs from Phase I are 1) the leasing areas from which qualified OCS revenues originate; 2) the cap on certain Phase II shared revenues that GOMESA imposes; and 3) the use of proportional inverse distance calculations in Phase II from both applicable leased tracts (Phase II) and historical lease sites to distribute the revenue that States share. The following section-by-section analysis describes the specific definitions, methodologies, and calculations proposed.

SUBPART E—Oil and Gas, Offshore, GOMESA Phase II Revenue Sharing

1219.510 What does this subpart contain?

This section would describe the general purpose of the subpart and enumerate the five authorized uses for revenue-sharing funds. We also would provide ONRR contact information for GOMESA-related questions. This introduction is similar to the subpart D introduction.

1219.511 What definitions apply to this subpart?

This section would provide the definition of terms used throughout subpart E. Some of the definitions used in this subpart are definitions that legislation (GOMESA or OCSLA) established or definitions that we included in subpart D (GOMESA Phase I). We would differentiate and modify several of the definitions in the subpart E regulations to make them unique to the GOMESA Phase II revenue sharing, when necessary. Discussed below are the definitions that we propose to add or to expand in order to clarify their meaning. In some cases, we explain why we did not include definitions used in the GOMESA Phase I regulations in Phase II, in order to provide interested parties with further clarification and explanation of the differences between the two revenue-sharing phases.

181 Area—The inclusion of the 181 Area in Phase II revenue sharing comes directly from section 102 of GOMESA, and the 181 Area is defined at 30 CFR part 1219, subpart D. GOMESA's delineation of the 181 Area is important to both GOMESA Phase I and Phase II revenue sharing and is occasionally the source of confusion. It is important to note that GOMESA's definition of the "*181 Area*" **excludes** the acreage actually offered in the OCS Lease Sale 181, held on December 5, 2001.

"181 Area in the Central Planning Area" would be comprised of the area of overlap of the two geographic areas defined at §1219.411 as the "181 Area" and the "Central Planning Area."

2002–2007 Planning Area—We would define the "*2002–2007 Planning Area*" using language directly from section 102 of GOMESA.

The planning area boundaries that GOMESA uses to delineate the 2002–2007 Planning Area are the "former" planning area boundaries from the 2002–2007 Five-Year Program. These boundaries are displayed on Map 7, page 49 of the "Proposed Final Outer Continental Shelf Leasing Program 2002-2007," dated April 2002. Note that the planning area boundaries in BOEM's subsequent Five-Year Programs differ from the boundaries in the 2002-2007 Five-Year Program.

The Central Planning Area-Eastern Planning Area boundary used in the 2002–2007 Five-Year Program is an important delineation because of the Presidential withdrawal and Congressional moratoria restrictions that GOMESA references. Besides the withdrawal and moratoria exclusions, the remaining key exclusions are the 181 Area and 181 South Area.

Within GOMESA sections 102(6)(B)(i) and (ii), which contribute to the definition of the 2002–2007 Planning Area, there are several important references to the 1998 Presidential Withdrawal and the Congressional Moratoria through the Interior Appropriations Acts. These "exclusions" to the 2002–2007 Planning Area remove acreage from revenue sharing and from historical lease site inverse distance calculations.

GOMESA section 102(6)(B)(i) excludes from the 2002–2007 Planning Area all acreage under Congressional Moratoria in the 2006 Interior Appropriations Act as in effect on August 2, 2005. See sections 104 through 106 of the 2006 Appropriations Act for details.

The relevant effect of section 104 of the Appropriations Act on GOMESA Phase II revenue sharing is that it excludes the area due north of the Florida Keys. Section 105 of the Appropriations Act covers the same acreage referenced in section 104, plus the remaining Eastern Planning Area acreage, except for the 181 Area, as defined in the 1997–2002 Five-Year Program. Section 106 applies to the Atlantic OCS Region and has no applicability to GOM OCS acreage.

GOMESA, section 102(6)(B)(ii), excludes from the 2002–2007 Planning Area “an area withdrawn from leasing under the ‘Memorandum on Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition,’ from 34 Weekly Comp. Pres. Doc. 1111, dated June 12, 1998.” The June 12, 1998, Presidential Memorandum on Withdrawal that President Clinton signed describes the withdrawn areas by referring to Pub. L. 105-83 and the Marine Protection, Research, and Sanctuaries Act of 1972, 33 U.S.C. 1401-1445 (Marine Sanctuaries Act). The key references are to sections 108-111 of Pub. L. 105–83, which are the Fiscal Year 1998 Interior Appropriations Act, and the Marine Sanctuaries Act.

The referenced areas from the fiscal year 1998 Interior Appropriations Act are largely duplicative of those included in the later 2006 Interior Appropriations Act language. Sections 109 and 111 contain no references to the GOM, so they are not applicable to the delineation of the 2002–2007 Planning Area in the GOM. Please note that “Sale 181” as referenced in section

110 of Pub. L. 105-83 and section 105 of Pub. L. 109-54 is different from the "181 Area" that GOMESA defines. GOMESA includes the acreage actually offered for leasing in Sale 181, held on December 5, 2001, in the "2002–2007 Planning Area," not the "181 Area." The only result of the moratoria reference to the Marine Sanctuaries Act is the exclusion of the Flower Garden Banks acreage from the definition of the 2002–2007 Planning Area.

"*Applicable leased tract (Phase II)*" would mean a tract that is subject to a lease under section 8 of the OCSLA for the purpose of drilling for, developing, and producing oil or natural gas resources, issued on or after December 20, 2006, and located fully or partially in either the 181 Area or the 181 South Area. As mentioned in the preamble section on proposed revisions to 30 CFR 1219, subpart D, the term "*Applicable leased tract*" would add "(Phase I)" to its title to differentiate between the applicable leased tracts in each phase of GOMESA revenue sharing.

"*Central Planning Area,*" "*Coastal political subdivision,*" "*Coastline,*" "*Distance, Eastern Planning Area,*" and "*Gulf producing State*"—are defined the same as in 30 CFR 1219.411.

Historical lease site—The term "*Historical lease site*" would mean any tract leased after October 1, 1982, under section 8 of the OCSLA for the purpose of drilling for, developing, and producing oil or natural gas resources in the 2002–2007 Planning Area. We would count a tract meeting these requirements even if it is not currently covered by an active lease.

Because GOMESA's intent is to allocate leasing revenues to States based upon the distance from historical lease sites to the various States, we would interpret a historical lease site as a single site, and count it one time, regardless of how many times lessors have leased it since October 1, 1982. The other interpretation, counting a tract more than once if lessors have leased it multiple times, over-weights tracts that repeatedly turn over with little development and/or production activity. Further, the interpretation also under-weights tracts that lessors have leased only once and that have continuously been in production.

GOMESA section 105(b)(2)(C)(i) provides the Secretary of the Interior with the option of including, as "Historical lease sites," leases entered into earlier than October 1, 1982. Most GOM OCS tracts in the 2002–2007 Planning Area have been leased since October 1, 1982. There are only a few shallow-water tracts leased before this measurement date—all distributed along the Gulf coast. Adding these few historical lease sites would have a negligible effect on inverse-distance weighting; therefore, they have not been added.

GOMESA section 105(b)(2)(C) states that "the historical lease sites in the 2002-2007 planning area shall include all leases entered into...during the period beginning on October 1, 1982...and ending on December 31, 2015." Section 105(b)(2)(C)(ii) adds that "Effective January 1, 2022, and every 5 years thereafter, the ending date described in clause (i) shall be extended for an additional 5 calendar years." Regulations at 30 CFR 1219.515 sets forth the process by which ONRR will update the group of historical lease sites.

Leased tract—The term "*Leased tract*" is the same as in 30 CFR 1219.411.

Qualified OCS revenues (Phase II)—The term "*Qualified OCS revenues (Phase II)*" would mean, in the case of fiscal year 2017 and each fiscal year thereafter, all rentals, royalties, bonus bids, and other sums that the United States receives from certain leases that lessees enter(ed) into on or after December 20, 2006. These leases are located in the 181 Area, the 181 South Area or the 2002–2007 Planning Area.

The term "*Qualified OCS revenues (Phase II)*" would not include:

- Revenues from the forfeiture of a bond or other surety instrument securing obligations other than royalties.
- Civil penalties.
- Royalties "taken by the Secretary in-kind and not sold." (Pub. L. 109–432, Dec 20, 2006)
- Revenues generated from leases subject to section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)).
- User fees.

- Lease revenues explicitly excluded from GOMESA revenue sharing by statute or appropriations law.

The term *"Qualified OCS revenues (Phase II)"* consists wholly of the two subsets defined as *"Qualified OCS revenues (Phase II-capped)"* and *"Qualified OCS revenues (Phase II-uncapped)"*.

The proposed definition "*Qualified OCS revenues (Phase II)*" includes several variations from the GOMESA definition and is consistent with the regulations published for GOMESA Phase I revenue sharing. First, the GOMESA definition refers to "leases entered into on or after the date of enactment of this Act." The definition proposed for this rule states the actual GOMESA enactment date.

Second, in GOMESA section 102(9)(A)(i), we interpret the phrase "due and payable to" to mean "received by." The GOMESA definition "*Qualified OCS revenues*" refers to "…all rentals, royalties, bonus bids, and other sums due and payable to the United States…," which could imply that the revenues to allocate to the Gulf producing States, CPSs, and the LWCF for a given fiscal year would be the amounts that the lessees owe for the payment of royalties in that fiscal year, whether or not we actually received the payments during that fiscal year. This interpretation, however, is not consistent with our system of collecting, disbursing, and accounting for royalty revenues.

Royalties on oil and gas produced in one month are due and payable by the end of the following month; for example, royalties on oil and gas produced in October must be paid by the end of November. We do not calculate royalty amounts owed and bill the payors; rather, we accept the amounts payors report and pay, subject to subsequent audit and other verification procedures.

Royalty payors frequently make adjustments to previous months' royalty payments as final data becomes available on sales volumes, prices, and the amount of allowable transportation or processing deductions. The adjustments may result in payors paying additional royalties or, if they overpaid previous royalties, claiming a credit against their current royalty obligation. These adjustments may not occur until several months after the payment was originally due. As a result, they may adjust payments made in one fiscal year in a subsequent fiscal year.

The value of these adjustments, for those leases subject to the GOMESA revenue-sharing provisions, will tend to balance-out over time as payors make both positive and negative adjustments from one fiscal year to the next. As the permanent indefinite appropriation requires, all qualified rentals, royalties, bonus bids, and other sums received within a fiscal year and subsequently transferred to the appropriate receipt account establishes the amount of revenues due and payable for that fiscal year.

Third, to maintain consistency with other laws that appropriate OCS lease revenues and fees associated with actions on OCS leases, this proposed definition of "*Qualified OCS revenues (Phase II)*" (section (2)(v) and (2)(vi)) excludes any leasing revenues and fees that Congress may authorize DOI to retain in appropriations legislation or that it otherwise precludes from GOMESA revenue sharing.

Beginning in Fiscal Year 2009, the Appropriations Acts for the Department of the Interior have contained language that excludes certain rental receipts, which Congress has appropriated to fund certain Departmental operations, from GOMESA qualified OCS revenues. Appropriations legislation for Fiscal Year 2012 made that exclusion permanent.

Additionally, we collect fee payments for special services based on the cost of providing those services. We collect these fees under the authority of the Independent Office Appropriations Act consistent with the Office of Management and Budget's Circular A-25. We do not derive these fees from the lease. For these reasons, Congress designates such fees to be retained by the Department as part of our appropriation, and they do not qualify as qualified OCS revenues under GOMESA.

Fourth, the definition of "*Qualified OCS revenues (Phase II)*" excludes revenues described under GOMESA section 102(9)(A)(i), which defines qualified OCS revenues for the period 2007 through 2016 (Phase I) for the 181 Area in the Eastern Planning Area and the 181 South Area.

The regulations for Phase I of GOMESA revenue sharing found in 30 CFR part 1219, subpart D, cover the allocations of qualified OCS revenues for these areas during this time period.

Fifth, GOMESA excludes from the definition of "*Qualified OCS revenues*" those Federal revenues obtained from the "forfeiture of a bond or other surety securing obligations other than royalties, civil penalties, or royalties taken by the Secretary in-kind and not sold."

Lastly, GOMESA specifically excludes revenues "generated from leases subject to section 8(g) of the Outer Continental Shelf Lands Act." (Pub. L. 109–432, Dec 20, 2006). We interpret this last exclusion to mean that, if a lease is subject to OCSLA 8(g), it is not subject to GOMESA because revenues from leases under section 8(g) are already shared with coastal States. Section 8(g)(2) of the OCSLA (43 U.S.C. 1337(g)(2)) provides that coastal States receive 27 percent of revenues generated from the leasing of lands within 3 miles of the seaward boundary of the coastal State. It is important to note that some 8(g) leases lie only partially within the 8(g) area. So only the portion of revenues associated with the acreage within the 8(g) area is shared with the States. However, GOMESA excludes sharing of any revenues from these leases, even if a portion of the lease lies seaward of the 8(g) area.

We believe these elements of the definitions are consistent with the intent of the GOMESA provisions and other applicable laws.

"Qualified OCS revenues (Phase II–capped)" would mean, in the case of fiscal year 2017 and each fiscal year thereafter, the subset of qualified OCS revenues (Phase II) due and payable to the United States from leases that lessees enter(ed) into on or after December 20, 2006, located:

- In the 181 Area in the Central Planning Area.
- In the 2002–2007 Planning Area.

"Qualified OCS revenues (Phase II–uncapped)" would mean, in the case of fiscal year 2017 and each fiscal year thereafter, the subset of qualified OCS revenues (Phase II) due and payable to the United States from leases that lessees enter(ed) into on or after December 20, 2006, located:

- In the 181 Area in the Eastern Planning Area.
- In the 181 South Area.

Disposition of Qualified OCS Revenues to Gulf Producing States

1219.512 How will ONRR divide the qualified OCS revenues (Phase II)?

GOMESA section 105(a)(2) requires that "50 percent of qualified [OCS] revenues [would be deposited] in a special account in the Treasury from which the Secretary shall disburse—75 percent to the Gulf producing States [(of which 20 percent would subsequently be allocated to local eligible CPSs)]...25 percent to provide financial assistance to States in accordance with section 6 of the [LWCF]." Each Gulf producing State will receive at least 10 percent of the qualified OCS revenues (Phase II) available for allocation to the Gulf producing States each fiscal year.

The following table shows the revenue shares from the qualified OCS revenues (Phase II–uncapped) only:

REVENUE DISTRIBUTION OF QUALIFIED OCS REVENUES (PHASE II–UNCAPPED) UNDER GOMESA PHASE II

Recipient of Qualified OCS Revenues:	Percentage of Qualified OCS Revenues:
U.S. Treasury (General Fund)	50%
Land and Water Conservation Fund	12.5%
Gulf Producing States	30%
Gulf Producing State CPSs	7.5%

All of the revenues from the two areas noted in the definition of qualified OCS revenues (Phase II-uncapped) will be distributed as shown in the table above. But GOMESA section 105(f)(1) limits the total amount of qualified OCS revenues (Phase II–capped) made available to the Gulf producing States, CPSs and the LWCF to $500,000,000 for each of the fiscal years 2017 through 2055. In each fiscal year, ONRR will first apply the cap and deposit all qualified OCS revenues (Phase II-capped) above $500,000,000 in the U.S. Treasury (General Fund). ONRR will then deposit the remaining qualified OCS revenues (Phase II-capped), up to $500,000,000, in a special account in the U.S. Treasury. ONRR will disburse the money in that account in the same portions noted above for qualified OCS revenues (Phase II-uncapped).

As an illustrative example, suppose that fiscal year qualifying OCS revenues (Phase II-capped) are $1.5 billion. Fifty percent of $1.5 billion is $750 million, which exceeds the $500 million cap. In this example we would deposit $500 million in a special account in the Treasury, $125 million of which would go to the LWCF, and $375 million of which would be shared among the Gulf producing States and their CPSs. We would deposit the remaining $1 billion in the U.S. Treasury (General Fund). Thus, the percentage of total qualified OCS revenues (Phase II-capped) that would go to the LWCF is 8.3% ($125 million), the Gulf producing States and their CPSs would share 25% ($375 million), and the U.S. Treasury (General Fund) would receive 66.7% of the revenues ($1 billion). As the amount of total qualified OCS revenues (Phase II-capped) increases, the mathematical proportion of the total that the LWCF, Gulf producing States, and CPSs share decreases due to the application of the cap. Thus, we cannot illustrate the distribution percentages in a table, since they will vary depending on the total revenues received in a particular year.

1219.513 How will ONRR determine each Gulf producing State's share of the qualified OCS revenues (Phase II) from leases in the 181 Area, the 181 South Area, and the 2002–2007 Planning Area?

The GOMESA Phase II revenue-sharing provisions direct that we allocate qualified OCS revenues (Phase II) to each Gulf producing State in amounts that are inversely proportional to the respective distances between (a) the point on the coastline of each Gulf producing State that is closest to the geographic center of the applicable leased tract (Phase II) or historical lease site and (b) the geographic center of the tract or site. To implement these provisions, we must make three key sets of determinations:

- The points that are the geographic centers of each applicable leased tract (Phase II) and historical lease site;

- The point on the coastline of each Gulf producing State that is closest to the geographic center of each applicable leased tract (Phase II) and historical lease site; and

- The distance between the two points for each applicable leased tract (Phase II) and historical lease site.

As mentioned earlier, GOMESA Phase II uses the inverse distances from both the applicable leased tracts (Phase II) in the 181 Area and the 181 South Area, and historical lease sites in the 2002–2007 Planning Area. For inverse distance calculations and the allocation of revenues to Gulf producing States, we will treat both the applicable leased tracts (Phase II) and the historical lease sites in the same manner.

The methodology to calculate the distances between the Gulf producing States and the geographic center of the applicable leased tracts (Phase II) and historical lease sites for GOMESA Phase II is the same as the GOMESA Phase I methodology. The formula we would use to calculate the Gulf producing States' shares of qualified OCS revenues (Phase II) derives from their cumulative proportional inverse distances from the applicable leased tracts (Phase II) and historical lease sites.

In determining the individual Gulf producing States' shares of the qualified OCS revenues (Phase II), GOMESA provides that no State, regardless of the amount established by applying the proportional inverse distance formula, would receive less than 10 percent of the disbursable revenues.

Distance Calculation Procedures

The following information describes how we propose to calculate the distances between the Gulf producing States and the applicable leased tracts (Phase II) and historical lease sites that we would use in the proportional inverse distance calculations to allocate the qualified OCS revenues (Phase II).

Determining applicable leased tract and historical lease site center points—We would identify all applicable leased tracts (Phase II) in the 181 Area and the 181 South Area, updated each year, and we would identify all historical lease sites in the 2002–2007 Planning Area, updated once every five years. We would calculate the geographic center of each tract, which is the location that provides a balancing point in two-dimensional space. See 73 FR 30331, 30334 (May 27, 2008) for additional details.

Determining measurement points on State coastlines—According to the Submerged Lands Act (43 U.S.C. 1301), the term "*coastline*" means the line of ordinary low water along that portion of the coast that is in direct contact with the open sea and the line marking the seaward limit of inland waters. The definition of "*coastline*" is in 30 CFR 1219.411. For the purpose of both international and domestic law, we call the boundary line dividing the land from the ocean the "baseline." We determined the baseline according to principles described in the 1958 United Nations Convention on the Territorial Sea and the Contiguous Zone and the 1982 United Nations

Convention on the Law of the Sea (LOS Convention), and it is normally the low water line along the coast, as marked on officially recognized charts.

In the United States, we have further refined the definition based on Federal court decisions. The United States baseline is the mean lower low water line along the coast, as shown on official United States nautical charts. The baseline is the set of points and connected lines representing the mean lower low water line in direct contact with the open sea and marking the seaward limit of inland waters. The baseline is drawn across river mouths, bay openings, and along the outer points of complex coastlines. The normal baseline from which the international maritime zones are charted is usually synonymous with the coastline as defined by the Submerged Lands Act. However, differences exist in certain circumstances, such as where a United States Supreme Court Supplemental Decree has fixed the Submerged Lands Act baseline or boundary.

We would use the latitudinal and longitudinal data for the Submerged Lands Act, 43 U.S.C. 1301, baseline points in conjunction with the tract or site center point data to identify the positions on the States' coastlines that are closest to the geographic center of the applicable leased tracts and historical lease sites. We would base all coordinates used in these calculations and depicted on Official Protraction Diagrams, Leasing Maps, and Supplemental Official OCS Block Diagrams on the North American Datum of 1927.

Measuring distances from States to applicable leased tracts (Phase II) and historical lease sites—Using the data identifying the geographic centers of the tracts and the above described points on each of the four States' coastlines, we would find the nearest coastline points for each State to each applicable leased tract (Phase II) and historical lease site. We would do this by measuring the distances between all States' coastline points and each geographic tract or site center, and then determining the pairs of points with the shortest distance for each State/tract pair.

We used the "great circle distance" to establish the distances between the States' coastlines and the applicable leased tracts for GOMESA Phase I and propose to do the same for GOMESA Phase II. The great circle distance is the shortest distance between any two points on the surface of the Earth measured along a path on the surface of the Earth. Between any two points on a sphere that are not directly opposite each other, there is a unique great circle. The two points separate the great circle into two arcs. The length of the shorter arc is the great circle distance between the points.

Calculating Gulf Producing State Revenue Allocations

We propose calculating each Gulf producing State's share of the qualified OCS revenues (Phase II) using the following procedure. For the examples presented, we round results after each intermediate calculation to facilitate the methodology demonstration. In actual practice, we would compute actual calculations of shared revenue with full precision and round only the final disbursement amount to the nearest cent. The revenue-sharing formula that we would use to calculate each Gulf producing State's share of GOMESA Phase II qualified OCS revenues is:

(1) For each Gulf producing State, we propose calculating and totaling, over all applicable leased tracts (Phase II) and historical lease sites, 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 (Phase II) and historical lease sites, and the geographic centers of the applicable leased tracts (Phase II) and historical lease sites.

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

Alabama Share = ($I_{AL} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})$) x qualified OCS revenues (Phase II)

Louisiana Share = ($I_{LA} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})$) x qualified OCS revenues (Phase II)

Mississippi Share = ($I_{MS} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})$) x qualified OCS revenues (Phase II)

Texas Share = ($I_{TX} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})$) x qualified OCS revenues (Phase II)

The following simplified example, involving only two 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 that there are two tracts (t_1 and t_2) and the following table shows the shortest distance from each Gulf producing State to the tracts' geographic centers:

Gulf Producing	Applicable Leased Tracts and Historical Lease Sites	Sum of Inverse

State	t_1		t_2		Distances
	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	**440**	**0.0497**	**420**	**0.0483**	**0.0980**

Further, suppose that fiscal year qualified OCS revenues (Phase II) are $96 million, $12 million of which would go to the LWCF, and $36 million of which would be shared among the Gulf producing States and their CPSs. Since $48 million ($36 million + $12 million) is below the $500 million annual cap, the cap is not relevant in this simplified example. Applying the formulas above, we would allocate $36 million to the Gulf producing States, as shown below.

Alabama Share = (0.0343 ÷ 0.0980) x $36 million = $12,600,000.00

Louisiana Share = (0.0236 ÷ 0.0980) x $36 million = $8,669,387.76

Mississippi Share = (0.0310 ÷ 0.0980) x $36 million = $11,387,755.10

Texas Share = (0.0091 ÷ 0.0980) x $36 million = $3,342,857.14

However, because Texas's 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.

Texas Share = 10 percent x $36 million = $3,600,000.00

Alabama Share = (0.0343 ÷ (0.0980 – 0.0091)) x $32.4 million = $12,500,787.40

Louisiana Share = (0.0236 ÷ (0.0980 – 0.0091)) x $32.4 million = $8,601,124.86

Mississippi Share = (0.0310 ÷ (0.0980 – 0.0091)) x $32.4 million = $11,298,087.74

Adding the three States' shares to Texas's 10-percent share equals $36,000,000.

This example did not reach the GOMESA $500 million Phase II annual cap. If the Phase II qualified OCS revenues (Phase II) exceed the cap, we would proportionally reduce all recipients' allocations accordingly.

1219.514 How will ONRR allocate the qualified OCS revenues (Phase II) to coastal political subdivisions within the Gulf producing States?

We would distribute 20 percent of each Gulf producing State's allocable share directly to eligible CPSs. The following table shows the CPSs eligible for GOMESA funds:

CPSs Eligible for a Share of Qualified OCS Revenues under GOMESA

Alabama Counties	Louisiana Parishes	Mississippi Counties	Texas Counties

Baldwin Mobile	Assumption Calcasieu Cameron Iberia Jefferson Lafourche Livingston Orleans Plaquemines St. Bernard	St. Charles St. James St. John the Baptist St. Martin St. Mary St. Tammany Tangipahoa Terrebonne Vermillion	Hancock Harrison Jackson	Arkansas Brazoria Calhoun Cameron Chambers Galveston Harris Jackson Jefferson	Kenedy Kleberg Matagorda Nueces Orange Refugio San Patricio Victoria Willacy

In the allocation of revenues among the States' CPSs, GOMESA refers to the CIAP provisions in the Energy Policy Act of 2005 that amend section 31 of the OCSLA (43 U.S.C. 1356a). Specifically, GOMESA section 105(b)(3)(B) states that the funds "shall be allocated to each CPS in accordance with subparagraphs (B), (C), and (E) of section 31(b)(4) of the OCSLA (43 U.S.C. 1356a(b)(4)). To determine the population shares, we would make our allocations using the latest official U.S. Census Bureau population data. The "coastline" definition for CPSs is used in section 2 of the Submerged Lands Act (43 U.S.C. 1301) and is the same line established for use in CIAP by section 384 of the Energy Policy Act of 2005, codified at 43 U.S.C 1356a.

GOMESA requires us to use applicable leased tracts (Phase II) and historical lease sites for the inverse proportional distance calculations in GOMESA Phase II. Additionally, no part of the 181 Area or the 2002–2007 Planning Area was subject to the January 1, 2005, leasing moratorium, referenced above in "(E) Exclusion of certain leased tracts." However, the 181 South Area was under a moratorium as of January 1, 2005, and no lease has ever produced in this area, thus ONRR cannot include those tracts in the calculations for CPSs in accordance with 43 U.S.C. 1356a(b)(4) referenced above. Therefore, in calculating the inverse proportional distances for States, we will use applicable leased tracts in the 181 Area and the 181 South Area, and historical lease sites in the 2002-2007 Planning Area. However, we would use only applicable leased tracts in the 181 Area, and historical leases sites in the 2002-2007 Planning Area, to calculate each CPS's revenue share.

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, t_1 and t_2 could be either applicable leased tracts in the 181 Area or could be historical lease sites in the 2002–2007 Planning Area. The revenue allocated to the Alabama CPSs is 20 percent of the $12,500,787.40 calculated in the earlier example, equal to $2,500,157.48.

We base 25 percent of the allocation on the CPS's population proportion. The 2010 Census population numbers are: Baldwin County—182,265 and Mobile County—412,992. The corresponding population proportions are 30.62 percent and 69.38 percent, respectively.

We base a second 25 percent of the allocation on the CPS's proportion of coastline length. The coastline lengths, in nautical miles, for Alabama's CPSs are: Baldwin—28.249 and Mobile—22.045. The corresponding proportions of coastline length are 56.17 percent and 43.83 percent, respectively.

Finally, we base the 50 percent allocation on the proportion of summed inverse distances between the CPSs, and the applicable leased tracts (Phase II) and historical lease sites in the 2002-2007 Planning Area. 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 that the following distances and resulting inverse distance calculations for the two CPSs are as follows:

Alabama Eligible CPS	**Applicable Leased Tracts or Historical Lease Sites**				**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 CPSs		**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 and Mobile County—48.27 percent. The table below shows the total allocation for each CPS, based on the three components:

Alabama CPS	**Population Allocation (25%)**	**Coastline Allocation (25%)**	**Inverse Distance Allocation (50%)**	**Total % Allocation**
Baldwin	.25 * .3062 = .07655	.25 * .5617 = .140425	.50 * .5173 = .25865	47.5625%

Mobile	.25 * .6938 = .17345	.25 * .4383 = .109575	.50 * .4827 = .24135	52.4375%

In this hypothetical example, Baldwin County would receive $1,189,137.40 (47.5625 percent) and Mobile County would receive $1,311,020.08 (52.4375 percent) of the $2,500,157.48 Alabama CPSs' share.

1219.515 How will ONRR update the group of "historical lease sites" and "applicable leased tracts (Phase II)" used for determining the allocation of shared revenues?

GOMESA section 105(b)(2)(C)(ii) requires 5-year updates for historical lease sites. The schedule for historical lease site updates would follow the requirements of GOMESA section 105(b)(2)(C). On December 31, 2015, we would freeze the group of historical lease sites and use it in determining the percentage of revenue shares due from Fiscal Years 2017 through 2021. Beginning January 1, 2022, and every fifth year thereafter, we would extend the ending date for determining the group of qualified historical lease sites by an additional five calendar years. Every five years, we would add any new historical lease sites to the existing group. We would use the group as one subset of distances in determining the percentage revenue shares for the next five fiscal years, for example, we would use the December 31, 2020, update in the revenue-sharing calculations for Fiscal Years 2022 through 2026.

The group of applicable leased tracts (Phase II) changes as leases are relinquished, expire, or terminate. Similar to GOMESA Phase I, for the purposes of GOMESA Phase II revenue-sharing, the distance to an applicable leased tract (Phase II) would be included if that tract was actively leased at any point within the fiscal year associated with the revenue sharing. We would use this group of distances as the second subset of distances in determining the percentage revenue shares.

In summary, the group of historical lease sites can only grow over time, while the group of applicable leased tracts (Phase II) would likely fluctuate up and down depending on leasing interest in the 181 Area and the 181 South Area.

1219.516 When will ONRR disburse funds to Gulf producing States and eligible coastal political subdivisions?

Under section 105(c) of GOMESA, we must make funds available during the fiscal year immediately following the fiscal year that the United States received the funds. We received comments during the GOMESA Phase I revenue-sharing rulemaking requesting that we disburse funds as early as possible in the fiscal year following the year in which the revenues were earned. We also received inquiries about the possibility of monthly disbursements to States and CPSs in the same manner that we disburse section 8(g) revenues. Because of GOMESA section 105(c), we do not have the flexibility to disburse monthly. We intend to disburse revenues within the first half of the fiscal year following the year that we collect qualified OCS revenues.

We welcome comments on our reading and interpretation of the Act.

III. PROCEDURAL MATTERS

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

This proposed rule would not have an annual effect of $100 million or more on the economy because the appropriated revenues are simply transfer payments to States, coastal political subdivisions (CPSs), and the LWCF. This proposed rule only describes the formula and methodology we would use to allocate the GOMESA Phase I and Phase II revenues among the Gulf producing States and the CPSs. It would 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. In the context of a cost-benefit analysis, the payments to States and CPSs do not represent real resource costs and, thus, they fall under the definition of "transfer payments." From a cost-benefit perspective, these payments do not enter into the Net Benefits Calculation.

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 proposed rule is the result of a permanent appropriation in GOMESA of oil and gas leasing revenues to the States of Alabama, Louisiana, Mississippi, Texas, their CPSs, and the LWCF. The law requires the sharing of qualified OCS leasing revenues, and this is not subject to the Department of the Interior's discretion. The transfer of revenues from the Federal Government to State and local governments would not impose additional costs on any sector of the United States economy and would not have an appreciable effect on the national economy.

GOMESA section 105(e)(1) states that the revenues are to "be made available, without further appropriation..." and GOMESA section 105(f)(1) states that all revenues distributed under this proposed rule "shall not exceed $500,000,000 for each of fiscal years 2016 through 2055." We expect that GOMESA Phase II (30 CFR part 1219, subpart E) shared revenues are likely to meet the annual statutory cap of $500 million beginning in Fiscal Year 2017, which is the first year of sharing qualified OCS revenues under this proposed rule. Since these are transfer payments shifted from Federal to State and local governments, the net effect of this rulemaking on the national economy would be "no measureable economic effect." Therefore, the annual net effect would not exceed the threshold of "a significant economic effect" of $100 million. The revenues shared annually under the GOMESA Phase I (30 CFR part 1219, subpart D) regulations are significantly less than $100 million. It is speculative to project future revenues in this area because it had not been available for leasing prior to the passing of GOMESA.

This proposed rule would not create any serious inconsistency or otherwise interfere with another agency's actions or plans. GOMESA's mandated disbursements affect no other agency.

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. If Congress did not appropriate the shared revenues to the States and the LWCF, the revenues would enter the U.S. Treasury General Fund to appropriate as part of another Federal program. Whether appropriated for coastal restoration, conservation, or protection in the United States GOM, for national defense, or for other Federal programs, the difference in economic effect or impact on the national economy is likely to be minimal. Therefore, according to the standard set under E.O. 12866, this proposed rule would not have an annual economic effect of more than $100 million.

While GOMESA payments do not introduce an economic effect on the national economy, there is a distributional effect in how the United States population shares the benefits. The GOMESA statute specifies that the shared revenues be provided to the four Gulf producing States and their CPSs. There are no regulatory alternatives consistent with the statute that allows us to consider a different distribution.

This proposed rule would not raise novel legal or policy issues. It merely provides formulas and methods to implement an Act of Congress. There are no alternative actions available to the Secretary of the Interior for the GOMESA-required sharing of qualified OCS revenues.

Regulatory Flexibility Act

DOI 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 specifies the formulas and methodologies for distributing shared revenues that DOI collects to the qualified Gulf producing States, their CPSs, and the LWCF. This proposed rule would have no effect on the amount of royalties, rents, or bonuses that lessees, operators, or payors owe, regardless of size and, consequently, would not have a significant economic effect on offshore lessees or operators, including those classified as small businesses. Small entities may be the beneficiary of contracts that GOMESA revenues fund and that Gulf producing States or CPSs manage for coastal protection, conservation, or restoration services, but that is solely at the local government entity's discretion rather than the Federal Government's discretion. It is not possible to estimate the effects on small entities since, under the statute, States and CPSs would ultimately be the entities disbursing the shared revenues for one or more of the five GOMESA-authorized uses.

Small Business Regulatory Enforcement Fairness Act

This proposed rule would not be a major rule under 5 U.S.C. 801 *et seq*., the Small Business Regulatory Enforcement Fairness Act, for the reasons outlined in the following paragraphs.

This proposed rule would not have an annual effect on the economy of $100 million or more. The provisions of this proposed rule specify how we would allocate qualified OCS revenues to States and CPSs during the second phase of GOMESA revenue sharing. The proposed rule would have no effect on the amount of royalties, rents, or bonuses that lessees, operators, or payors owe, regardless of size and, consequently, would not have a significant adverse economic effect on offshore lessees or operators, including those classified as small businesses. The Gulf producing States and CPS recipients of the revenues would likely fund contracts that would benefit the local economies, small entities, and the environment. We project these annual effects to be less than $100 million.

This proposed rule would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, local government agencies, or geographic regions.

This proposed rule would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises. We project the effects, if any, of distributing revenues to the States and CPSs to be beneficial.

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. We are not required to provide a statement containing the information that the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) requires because the proposal is not a mandate. This proposed rule merely provides the formulas and methods to implement an allocation of revenue to certain States and eligible CPSs, as Congress directed.

Takings Implication Assessment (E.O. 12630)

Under the criteria in section 2 of E.O. 12630, this proposed rule would not have significant takings implications. This proposed rule would not be a governmental action capable of interference with constitutionally protected property rights. This proposed rule does not require a Takings Implication Assessment.

Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this proposed rule would not have federalism implications to warrant the preparation of a Federalism summary impact statement. 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. However, the underlying statute funds State and local government activities that mitigate challenges attributed to OCS exploration and development. This proposed rule does not require a Federalism summary impact statement.

Civil Justice Reform (E.O. 12988)

This proposed rule would comply with the requirements of E.O. 12988, for the reasons outlined in the following paragraphs.

This proposed rule would meet the criteria of section 3(a), which requires that we review all regulations to eliminate errors and ambiguity and write them to minimize litigation.

This proposed rule would meet the criteria of section 3(b)(2), which requires that we write all regulations in clear language with clear legal standards.

Consultation with Indian Tribes (E.O. 13175)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and tribal sovereignty. Under the Department's consultation policy and the criteria in E.O. 13175, we have evaluated this proposed rule and determined that it would have no substantial direct effects on federally recognized Indian Tribes.

Paperwork Reduction Act

This proposed rule would not contain any information collection requirements and does not require a submission under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

National Environmental Policy Act

This proposed rule would not constitute a major Federal action, and it would not significantly affect the quality of the human environment. The procedural changes resulting from these amendments have no consequences with respect to the physical environment. We are not required to provide a detailed statement under the National Environmental Policy Act of 1969 (NEPA) because this rule qualifies for categorical exclusion under 43 CFR 46.210(i), which excludes "(i) Policies, directives, regulations, and guidelines: that are of an administrative, financial, legal, technical, or procedural nature." We have also determined that this proposed rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

Data Quality Act

In developing this proposed rule, we would not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106-554), also known as the Information Quality Act. The Department of the Interior has issued guidance regarding the quality of information that it relies on for regulatory decisions. This guidance is available on DOI's Web site at *www.doi.gov/ocio/information_management/iq.cfm*.

Effects on the Energy Supply (E.O. 13211)

This proposed rule would not be a significant energy action under the definition in E.O. 13211, and, therefore, would not require a Statement of Energy Effects.

Clarity of this Regulation

Executive Orders 12866 (section 1(b)(2)), 12988 (section 3(b)(1)(B)), and, 13563 (section 1(a)), and the Presidential Memorandum of June 1, 1998, require that Federal rules be written in plain language. This means that each rule that we publish must: (a) have logical organization; (b) use the active voice to address readers directly; (c) use common, everyday words, and clear language rather than jargon; (d) use short sections and sentences; and (e) use lists and tables wherever possible.

If you feel that we have not met these requirements, send your comments to *Armand.Southall@onrr.gov*. 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 think we wrote unclearly, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Public Availability of Comments

We will post all comments, including names and addresses of respondents, at *www.regulations.*gov. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that we may make your entire comment—including your personal identifying information—publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public view, we cannot guarantee that we will be able to do so.

List of Subjects

30 CFR Part 519

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

30 CFR Part 1219

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

March 11, 2014
Dated

Rhea Suh
Assistant Secretary for
Policy, Management and Budget

March 27, 2014
Dated

Tommy Beaudreau
Principal Deputy Assistant Secretary for
Land and Minerals

For the reasons discussed in the preamble, under the authority provided by the Reorganization Plan No. 3 of 1950 (64 Stat. 1262) and Secretarial Order Nos. 3299, 3302, and 3306, the Department of the Interior proposes to amend part 519 of title 30 CFR chapter V and part 1219 of 30 CFR chapter XII as follows:

Chapter V—Bureau of Ocean Energy Management, Department of the Interior

Subchapter A—Minerals Revenue Management

PART 519 [REMOVED AND RESERVED]

1. Remove and reserve part 519, consisting of subparts A through D (§§519.410 through 519.418).

Chapter XII—Office of Natural Resources Revenue, Department of the Interior

Subchapter A—Natural Resources Revenue

2. Revise part 1219 to read as follows:

PART 1219—DISTRIBUTION AND DISBURSEMENT OF ROYALTIES, RENTALS, AND BONUSES

Subpart A—General Provisions [Reserved]

Subpart B—Oil and Gas, General [Reserved]

Subpart C—Oil and Gas, Onshore

Sec.
1219.100 What is ONRR's timing of payment to the States?
1219.101 What receipts are subject to an interest charge?
1219.102 What is ONRR's method of payment to the States?
1219.103 How will ONRR manage payments to Indian accounts?
1219.104 What are Explanation of Payments to the States and Indian Tribes?
1219.105 What definitions apply to this subpart?

Subpart D—Oil and Gas, Offshore, GOMESA Phase I Revenue Sharing

Subpart E—Oil and Gas, Offshore, GOMESA Phase II Revenue Sharing

AUTHORITY: Pub. L. 109-432, Div C, Title I, 120 Stat. 3000 (43 U.S.C. 1331 note) as amended; 43 U.S.C. 1301 *et seq*.; 1331 *et seq*.

Subpart A—General Provisions [Reserved]

Subpart B—Oil and Gas, General [Reserved]

Subpart C—Oil and Gas, Onshore

§1219.100 What is ONRR's timing of payment to the States?

ONRR will pay a State's share of mineral leasing revenues to the State not later than the last business day of the month in which the U.S. Treasury issues a warrant authorizing the disbursement, except for any portion of such revenues which is under challenge and placed in a suspense account pending resolution of a dispute.

§1219.101 What receipts are subject to an interest charge?

(a) Subject to the availability of appropriations, the Office of Natural Resources Revenue (ONRR) will pay the State its proportionate share of any interest charge for royalty and related monies that are placed in a suspense account pending resolution of any matters that may disallow distribution and disbursement. Such monies not disbursed by the last business day of the month following receipt by ONRR will accrue interest until paid.

(b) Upon resolution of any matters that may disallow distribution and disbursement, ONRR will disburse the suspended monies found due in paragraph (a) of this section, plus interest, to the State, under the provisions of §1219.100.

(c) ONRR will apply paragraph (a) of this section to revenues that ONRR cannot disburse to the State because the payor/lessee provided to ONRR incorrect, inadequate, or incomplete information, which prevented ONRR from identifying the proper recipient of the payment.

§1219.102 What is ONRR's method of payment to the States?

ONRR will disburse monies to a State either by Treasury check or by Electronic Funds Transfer (EFT). If a State prefers to receive its payment by EFT, it should request this payment method in writing and send the request to the Program Manager, Financial Management, Office of Natural Resources Revenue, P.O. Box 25165, Denver, Colorado 80225-0165.

§1219.103 How will ONRR manage payments to Indian accounts?

ONRR will transfer mineral revenues received from Indian leases to the appropriate Indian accounts that the Bureau of Indian Affairs (BIA) manages for allotted and tribal revenues. These accounts are specifically designated Treasury accounts. ONRR will transfer these revenues to the Indian accounts at the earliest practicable date after such funds are received, but in no case later than the last business day of the month in which ONRR receives these revenues.

§1219.104 What are Explanation of Payments to the States and Indian Tribes?

(a) ONRR will describe the payments to States and BIA, on behalf of Indian Tribes or Indian allottees, discussed in this part in ONRR-prepared Explanation of Payment reports. ONRR will prepare these reports at the lease level and will include a description of the type of payment made, the period covered by the payment, the source of the payment, sales amounts upon which the payment is based, the royalty rate, and the unit value. If any State or Indian Tribe needs additional information pertaining to mineral revenue payments, the State or Tribe may request this information from ONRR.

(b) ONRR will provide these reports to:

(1) States not later than the 10th day of the month following the month in which ONRR disburses the State's share of royalties and related monies; and

(2) BIA, on behalf of Tribes and Indian allottees, not later than the 10th day of the month following the month in which ONRR disburses the funds.

(c) ONRR will not include in these reports revenues that we cannot distribute to States, Tribes, or Indian allottees because the payor/lessee provided incorrect, inadequate, or incomplete information about the proper recipient of the payment, until the payor/lessee has submitted to ONRR the missing information.

§1219.105 What definitions apply to this subpart?

Terms that ONRR uses in this subpart shall have the same meaning as in 30 U.S.C. 1702.

Subpart D—Oil and Gas, Offshore, GOMESA Phase I Revenue Sharing

§1219.410 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 bids, 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; and

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

(b) This subpart sets forth the formula and methodology ONRR will use to determine the amount of revenues allocated and disbursed to each Gulf producing State and each eligible coastal political subdivision (CPS) for each of fiscal years 2007 through 2016. Leasing revenues disbursed under this subpart originate from leases issued on or after December 20, 2006, in the 181 Area in the Eastern Planning Area and the 181 South Area subject to restrictions identified in GOMESA. We collectively refer to the revenue sharing from these areas for these fiscal years as GOMESA Phase I revenue sharing. For questions related to the revenue-sharing provisions in this subpart, please contact: Program Manager, Financial Management, Office of Natural Resources Revenue, P.O. Box 25165, Denver Federal Center, Building 85, Denver, CO 80225-0165, or at (303) 231-3217.

§1219.411 What definitions apply to this subpart?

For purposes of this subpart:

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, available in the Office of the Director of the Bureau of Ocean Energy Management, 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 Bureau of Ocean Energy Management; and

(3) Included in the areas considered for oil and gas leasing, as identified in map 8, page 84, of the document entitled, “Revised Outer Continental Shelf Oil and Gas Leasing Program 2007-2012,” approved December 2010.

Applicable leased tract (Phase I) means a tract that is subject to a lease under section 8 of the Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. 1337, for the purpose of drilling for, developing, and producing oil or natural gas resources, issued on or after December 20, 2006, and 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, “Revised Outer Continental Shelf Oil and Gas Leasing Program 2007-2012,” approved December 2010.

Coastal political subdivision means a political subdivision of a Gulf producing State, any part of which 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, "Revised Outer Continental Shelf Oil and Gas Leasing Program 2007-2012," approved December 2010.

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 (Phase I) means—

(1) In the case of each of the fiscal years 2007 through 2016, all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases issued on or after December 20, 2006, located:

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

(ii) In the 181 South Area.

(2) 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 *(Phase I)*.

(3) Exclusions from the term qualified OCS revenues *(Phase I)* are:

(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 excluded from GOMESA revenue sharing by statute or appropriations law.

§1219.412 How will ONRR divide the qualified OCS revenues (Phase I)?

For each of the fiscal years 2007 through 2016, the Secretary of the Treasury will deposit 50 percent of the qualified OCS revenues (Phase I) into a special U.S. Treasury account, from which ONRR will disburse 75 percent to the Gulf producing States and 25 percent to the Land and Water Conservation Fund (LWCF). Of the revenues disbursed to a Gulf producing State, we will disburse 20 percent directly to the CPSs within that State. Each Gulf producing State will receive at least 10 percent of the qualified OCS revenues (Phase I) available for allocation to the Gulf producing States each fiscal year. The following table summarizes the resulting revenue shares (adding to 100 percent):

REVENUE DISTRIBUTION OF QUALIFIED OCS REVENUES UNDER GOMESA PHASE I

Recipient of Qualified OCS Revenues	Percentage of Qualified OCS Revenues
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%

§1219.413 How will ONRR determine each Gulf producing State's share of the qualified OCS revenues (Phase I) from leases in the 181 Area in the Eastern Planning Area and the 181 South Area?

(a) ONRR will determine the great circle distance between:

(1) The geographic center of each applicable leased tract (Phase I); and

(2) The point on the coastline of each Gulf producing State that is closest to the geographic center of each applicable leased tract (Phase I).

(b) Based on these distances, we will calculate the qualified OCS revenues (Phase I) to disburse to each Gulf producing State as follows:

(1) For each Gulf producing State, we will calculate and total, over all applicable leased tracts (Phase I), 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 (Phase I), and the geographic centers of the applicable leased tracts (Phase I). For applicable leased tracts intersected by the planning area administrative boundary line, we will use the geographic center of the entire lease for the inverse distance determination.

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

Alabama Share = ($I_{AL} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})$) x qualified OCS revenues (Phase I)

Louisiana Share = ($I_{LA} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})$) x qualified OCS revenues (Phase I)

Mississippi Share = ($I_{MS} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})$) x qualified OCS revenues (Phase I)

Texas Share = ($I_{TX} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})$) x qualified OCS revenues (Phase I)

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

§1219.414 How will ONRR allocate the qualified OCS revenues (Phase I) to coastal political subdivisions within the Gulf producing States?

(a) Of the qualified OCS revenues (Phase I) allocated to a Gulf producing State's CPSs, ONRR will allocate 25 percent based on the proportion that each CPS's population bears to the population of all CPSs in the State.

(b) Of the qualified OCS revenues (Phase I) allocated to a Gulf producing State's CPSs, we will allocate 25 percent based on the proportion that each CPS's miles of coastline bears to the total miles of coastline across all CPSs in the State. However, for the State of Louisiana, we will deem CPSs without a coastline to each have a coastline one-third the average length of the coastline of all CPSs within Louisiana that have a coastline.

(c) Of the qualified OCS revenues (Phase I) allocated to a Gulf producing State's CPSs, we will allocate 50 percent in amounts that are inversely proportional to the respective distances between the point in each CPS that is closest to the geographic center of each applicable leased tract (Phase I) and the geographic center of each applicable leased tract (Phase I); except that we will exclude amounts collected for an applicable leased tract (Phase I) 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 the leased tract was in production on that date.

§1219.415 How will ONRR allocate qualified OCS revenues (Phase I) 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, ONRR will allocate revenues to the CPSs in accordance with the following criteria:

(a) Of the qualified OCS revenues (Phase I) allocated to a Gulf producing State's CPSs, we will allocate 50 percent based on the proportion that each CPS's population bears to the population of all CPSs in the State.

(b) Of the qualified OCS revenues (Phase I) allocated to a Gulf producing State's CPSs, we will allocate 50 percent based on the proportion that each CPS's miles of coastline bears to the total miles of coastline across all CPSs within the State. However, for the State of Louisiana, we will deem CPSs without a coastline to each have a coastline one-third the average length of the coastline of all CPSs within Louisiana having a coastline.

§1219.416 When will ONRR disburse funds to Gulf producing States and coastal political subdivisions?

(a) ONRR will disburse GOMESA funds in the fiscal year after we collect the qualified OCS revenues (Phase I).

(b) We intend to disburse revenues within the first half of the fiscal year following the year that we collect qualified OCS revenues (Phase I).

Subpart E—Oil and Gas, Offshore, GOMESA Phase II Revenue Sharing

§1219.510 What does this subpart contain?

(a) GOMESA directs the Secretary of the Interior to disburse a portion of the rentals, royalties, bonus bids, and other sums derived from certain OCS leases in the GOM to the States of Alabama, Louisiana, Mississippi, and Texas (collectively identified as the Gulf producing States); to eligible CPSs within those States; and to the LWCF. GOMESA directs the Gulf producing States and CPSs to use the shared revenues 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; and

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

(b) This subpart sets forth the formula and methodology ONRR will use to determine the amount of revenues allocated and disbursed to each Gulf producing State and each eligible CPS for fiscal year 2017 and each fiscal year thereafter. Leasing revenues disbursed under this subpart (also referred to as GOMESA Phase II) originate from leases issued on or after December 20, 2006, in the 181 Area, the 181 South Area, and the GOM 2002-2007 Planning Area subject to restrictions and caps identified in GOMESA. For questions related to the revenue-sharing provisions in this subpart, please contact: Program Manager, Financial Management, Office of Natural Resources Revenue, P.O. Box 25165, Denver Federal Center, Building 85, Denver, CO 80225-0165, or at (303) 231-3217.

§1219.511 What definitions apply to this subpart?

For purposes of this subpart:

181 Area is defined at §1219.411.

181 South Area is defined at §1219.411.

"181 Area in the Central Planning Area" is comprised of the area of overlap of the two geographic areas defined at §1219.411 as the "181 Area" and the "Central Planning Area."

2002-2007 Planning Area means any area–

(1) Located in—

(i) The Eastern Planning Area, as designated in the "Proposed Final Outer Continental Shelf Leasing Program 2002-2007," dated April 2002;

(ii) The Central Planning Area, as designated in the "Proposed Final Outer Continental Shelf Leasing Program 2002-2007," dated April 2002; or

(iii) The Western Planning Area, as designated in the "Proposed Final Outer Continental Shelf Leasing Program 2002-2007," dated April 2002; and

(2) Not located in–

(i) An area in which no funds may be expended to conduct offshore preleasing, leasing, and related activities under sections 104 through 106 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006 (Public Law 109-54; 119 Stat. 521) (as in effect on August 2, 2005);

(ii) An area withdrawn from leasing under the "Memorandum on Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition," from 34 Weekly Comp. Pres. Doc. 1111, dated June 12, 1998; or

(iii) The 181 Area or 181 South Area.

Applicable leased tract (Phase II) means a tract that is subject to a lease under section 8 of the OCSLA, for the purpose of drilling for, developing, and producing oil or natural gas resources, issued on or after December 20, 2006, and located fully or partially in either the 181 Area or the 181 South Area.

Central Planning Area is defined at §1219.411.

Coastal political subdivision is defined at §1219.411.

Coastline is defined at §1219.411.

Distance is defined at §1219.411.

Eastern Planning Area is defined at §1219.411.

Gulf producing State is defined at §1219.411.

Historical lease site means any tract leased on or after October 1, 1982, under section 8 of the OCSLA, for the purpose of drilling for, developing, and producing oil or natural gas resources in the 2002–2007 Planning Area.

Leased tract is defined at §1219.411.

Military Mission Line is defined at §1219.411.

Qualified OCS revenues (Phase II) means—

(1) In the case of fiscal year 2017 and each fiscal year thereafter, all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases that lessees enter(ed) into on or after December 20, 2006, located:

(i) In the 181 Area.

(ii) In the 181 South Area.

(iii) In the 2002–2007 Planning Area.

(2) Exclusions from the term *“Qualified OCS revenues (Phase II)”* are:

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

(ii) Civil penalties;

(iii) Royalties "taken by the Secretary in-kind and not sold." (Pub. L. 109-432, Dec 20, 2006);

(iv) Revenues generated from leases subject to section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g));

(v) User fees; and

(vi) Lease revenues explicitly excluded from GOMESA revenue sharing by statute or appropriations law.

(3) The term *"Qualified OCS revenues (Phase II)"* consists wholly of the two subsets defined as *"Qualified OCS revenues (Phase II–capped)"* and *"Qualified OCS revenues (Phase II–uncapped)."*

(i) *Qualified OCS revenues (Phase II–capped)* means, in the case of fiscal year 2017 and each fiscal year thereafter, the subset of qualified OCS revenues (Phase II) due and payable to the United States from leases that lessees enter(ed) into on or after December 20, 2006, located:

(A) In the 181 Area in the Central Planning Area.

(B) In the 2002–2007 Planning Area.

(ii) *Qualified OCS revenues (Phase II–uncapped)* means, in the case of fiscal year 2017 and each fiscal year thereafter, the subset of qualified OCS revenues (Phase II) due and payable to the United States from leases that lessees enter(ed) into on or after December 20, 2006, located:

(A) In the 181 Area in the Eastern Planning Area.

(B) In the 181 South Area.

§1219.512 How will ONRR divide the qualified OCS revenues (Phase II)?

(a) For fiscal year 2017 and each fiscal year thereafter, the Secretary of the Treasury will deposit 50 percent of the qualified OCS revenues (Phase II–uncapped) into a special U.S. Treasury account, from which ONRR will disburse 75 percent to the Gulf producing States and 25 percent to the LWCF. Of the revenues disbursed to a Gulf producing State, we will disburse 20 percent directly to the CPSs within that State. Each Gulf producing State will receive at least 10 percent of the qualified OCS revenues (Phase II–uncapped) available for allocation to the Gulf producing States each fiscal year. The following table summarizes the resulting revenue shares (adding to 100 percent):

REVENUE DISTRIBUTION OF QUALIFIED OCS REVENUES (PHASE II–UNCAPPED) UNDER GOMESA PHASE II

Recipient of Qualified OCS Revenues	Percentage of Qualified OCS Revenues
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%

(b) For fiscal year 2017 and each fiscal year thereafter, the Secretary of the Treasury will deposit 50 percent of the qualified OCS revenues (Phase II–capped) into a special U.S. Treasury account. The total amount of qualified OCS revenues (Phase II–capped) deposited in the special U.S. Treasury account and available for allocation to the Gulf producing States, the CPSs and the

LWCF, under this subpart, cannot exceed $500,000,000 for each of the fiscal years 2017 through 2055. After applying the cap, if applicable, ONRR will disburse 75 percent to the Gulf producing States and 25 percent to the LWCF. Of the revenues disbursed to a Gulf producing State, we will disburse 20 percent directly to the CPSs within that State. Each Gulf producing State will receive at least 10 percent of the qualified OCS revenues (Phase II–capped) available for allocation to the Gulf producing States each fiscal year.

§1219.513 How will ONRR determine each Gulf producing State's share of the qualified OCS revenues (Phase II) from leases in the 181 Area, the 181 South Area and the 2002–2007 Planning Area?

(a) ONRR will determine the great circle distance between:

(1) The geographic center of each tract or site; and

(2) The point on the coastline of each Gulf producing State that is closest to the geographic center of each applicable leased tract (Phase II) or historical lease site.

(b) Based on these distances, we will calculate the qualified OCS revenues (Phase II) to disburse to each Gulf producing State as follows:

(1) For each Gulf producing State, we will calculate and total, over all applicable leased tracts (Phase II) and historical lease sites, 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 (Phase II) and historical lease sites, and the geographic centers of the applicable leased tracts (Phase II) and historical lease sites.

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

Alabama Share = (I_{AL} ÷ (I_{AL} + I_{LA} + I_{MS} + I_{TX})) x qualified OCS revenues (Phase II)

Louisiana Share = (I_{LA} ÷ (I_{AL} + I_{LA} + I_{MS} + I_{TX})) x qualified OCS revenues (Phase II)

Mississippi Share = (I_{MS} ÷ (I_{AL} + I_{LA} + I_{MS} + I_{TX})) x qualified OCS revenues (Phase II)

Texas Share = (I_{TX} ÷ (I_{AL} + I_{LA} + I_{MS} + I_{TX})) x qualified OCS revenues (Phase II)

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

§1219.514 How will ONRR allocate the qualified OCS revenues (Phase II) to coastal political subdivisions within the Gulf producing States?

(a) Of the qualified OCS revenues (Phase II) allocated to a Gulf producing State's CPSs, ONRR will allocate 25 percent based on the proportion that each CPS's population bears to the population of all CPSs in the State.

(b) Of the qualified OCS revenues (Phase II) allocated to a Gulf producing State's CPSs, we will allocate 25 percent based on the proportion that each CPS's miles of coastline bears to the total miles of coastline across all CPSs in the State. However, for the State of Louisiana, we will deem CPSs without a coastline to each have a coastline one-third the average length of the coastline of all CPSs within Louisiana that have a coastline.

(c)(1) Of the qualified OCS revenues (Phase II) allocated to a Gulf producing State's CPSs, we will allocate 50 percent in amounts that are inversely proportional to the respective distances between:

(i) The point in each CPS that is closest to the geographic center of the applicable leased tract (Phase II) or historical lease site; and

(ii) The geographic center of each applicable leased tract (Phase II) or historical lease site.

(2) However, we will exclude an applicable leased tract (Phase II) 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 the leased tract was in production on that date.

§1219.515 How will ONRR update the group of "historical lease sites" and "applicable leased tracts (Phase II)" used for determining the allocation of shared revenues?

(a) As GOMESA directs, ONRR will update the group of historical lease sites in the 2002–2007 Planning Area as follows:

(1) On December 31, 2015, we will freeze the group of historical lease sites, subject to the adjustment under paragraph (a)(2) of this section.

(2) Beginning January 1, 2022, and every fifth year thereafter, we will extend the ending date for determining the group of historical lease sites for an additional five calendar years by adding any new historical lease sites to the existing group.

(b) Each year we will update the group of applicable leased tracts (Phase II) to include only leases that were in effect at any time during the fiscal year.

§1219.516 When will ONRR disburse funds to Gulf producing States and coastal political subdivisions?

(a) ONRR will disburse GOMESA funds in the fiscal year after we collect the qualified OCS revenues (Phase II).

(b) We intend to disburse revenues within the first half of the fiscal year following the year that we collect qualified OCS revenues (Phase II).

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