

provision under which the Regional Director could require the holder of a right-of-way to submit and maintain additional security in the form of a supplemental bond or bonds or by increasing the amount of coverage provided under an existing surety bond.

Part 251—G&G Explorations of the OCS

Section 251.6–4, Bonds, would be modified to increase the bond coverage required to \$200,00 for drilling a deep stratigraphic test well unless an areawide bond is maintained. A provision would be added under which the Regional Director could require a permittee under a G&G Exploration permit to submit and maintain additional security in the form of a supplemental bond or bonds or by increasing the amount of coverage provided under an existing surety bond. Compliance with the increased amount of bond coverage would be required for all permits granted after the effective date of a final rule.

Part 256—Leasing of Sulphur or Oil and Gas in the OCS

Subpart I—Bonding

Section 256.52 Requirement to File a Bond

Proposed § 256.52, Requirement to file a bond (current § 256.58, Acceptable bonds/alternate security instruments), expands upon the provisions of § 256.58 and establishes the bonding requirements for lessees. This section establishes the time at which a bond must be provided and recognizes alternate methods that a Regional Director may approve for providing additional security.

Proposed § 256.52(d) expands upon the provisions of current § 256.58(d) with regard to the results of a payment of a claim in the face amount of the surety.

Proposed § 256.52(f) expands upon the provisions of current § 256.58(f) with regard to the responsibility of the lessee to monitor the value of U.S. Department of the Treasury (U.S. Treasury) instruments provided to MMS and to submit additional U.S. Treasury instruments if the value of the instruments previously provided falls below the level of bond required.

In § 256.52, new paragraph (i) requires the lessee to give notice and to cease operations if the lease ceases to be in compliance with bonding requirements. Paragraph (i) also authorizes the Regional Director to allow continued operations when ceasing operations would pose a danger to the environment or to the producing reservoir but with

all proceeds being paid into lease abandonment accounts.

Section 256.53 Additional Bonds

Proposed § 256.53, Additional bonds (existing § 256.61, Additional bonds), expands the provisions of current § 256.61 to establish a deadline (2 years after promulgation of a final rule) for lessees of existing leases to provide the required increased amounts of bond coverage.

Proposed § 256.53(d) modifies the generic criteria used by the Regional Director to assess the ability of a lessee to carry out its present and future financial obligations and the need for supplemental bond.

Proposed § 256.53(e) would expand § 256.61 to establish regulatory provisions for determining the amount of additional bond coverage to be required.

Section 256.54 Bond Form

Section 256.59, Form of bond, would be renumbered and renamed § 256.54, Bond form. New § 256.54 establishes certain required terms of surety bonds including a requirement that the bond be noncancellable.

Proposed § 256.54(d)(3) authorizes the submission of U.S. Treasury securities in lieu of surety bond, in accordance with 31 U.S.C. 9303. It specifies that the lessee using such Treasury securities shall also submit authorization for the Regional Director to sell such securities upon the lessee's default on its lease obligations.

The MMS is concerned that, should the lessee file for bankruptcy and MMS merely have a security interest in the Treasury securities, it will not be able to obtain prompt access to funds to provide for remediation of leaking wells and or other critical environmental problems. In that event, the Treasury bills or notes will not give MMS the same assurance of timely performance of lease obligations that a surety bond provides. Accordingly, MMS is exploring with the Department of the Treasury alternative procedures under which the lessee would transfer title to its book-entry Treasury bills to MMS or a third-party escrow agent, so that the bills would not be property of the bankruptcy estate in the event of insolvency. The MMS requests comments on its alternative approach which it may adopt in the final version of this rule.

Section 256.55 General Terms and Conditions of Bond

Proposed new § 256.55 would establish general terms and conditions

of a bond and includes language which specifies that bonds are to be payable to the MMS Regional Director and conditioned upon compliance with *all* terms and conditions of the OCS oil and gas or sulphur leases and governing regulations. Lessees or sureties may propose alternate forms of bond for the Director's approval but should submit therewith an opinion of qualified counsel that the proposed bond form provides security equivalent to that of the standard MMS bond forms.

Proposed § 256.55(d) adds a requirement that the lessee give prompt notice to the Regional Director of any action alleging the insolvency or bankruptcy of the surety or alleging any matter which could result in suspension or revocation of the surety's charter or license to do business.

Section 256.56 Lease-Specific Abandonment Accounts

Proposed new § 256.56, Lease-specific abandonment accounts, establishes regulatory guidance for the establishment of lease-specific abandonment accounts in addition to the Treasury pledge accounts currently established to permit lessees to fund end-of-lease abandonment and clearance costs through scheduled payments into a lease-specific escrow account dedicated to lease abandonment and cleanup.

Section 256.57 Third-Party Guarantee

The third-party guarantee provisions of proposed § 256.57 would establish a regulatory framework for identifying some of the criteria that the Regional Director would use to approve a third-party guarantee of a lessee's compliance with its lease obligations and for establishing how MMS will obtain needed information.

Section 256.58 Termination of the Period of Liability and Cancellation of a Bond

Proposed new § 256.58(a) provides for termination of the period of liability under a bond and allows the Regional Director to permit a lessee to replace existing bonds with other forms of security that provide equivalent protection. Replacement of a bond pursuant to § 256.58(b) would conditionally release the existing bond.

Section 256.59 Forfeiture of Bonds and/or Other Securities

Proposed new § 256.59 specifies that if a lessee refuses or is unable to comply