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United States General Accounting Office
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March 16, 2004

The Honorable Pete V. Domenici
Chairman
The Honorable Jeff Bingaman
Ranking Minority Member
Committee on Energy and Natural Resources
United States Senate

The Honorable Richard W. Pombo
Chairman
The Honorable Nick J. Rahall II
Ranking Minority Member
Committee on Resources
House of Representatives

Subject: *Department of the Interior, Minerals Management Service: Oil and Gas and Sulphur Operations in the Outer Continental Shelf--Relief or Reduction in Royalty Rates--Deep Gas Provisions*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of the Interior, Minerals Management Service (MMS), entitled "Oil and Gas and Sulphur Operations in the Outer Continental Shelf--Relief or Reduction in Royalty Rates--Deep Gas Provisions" (RIN: 1010-AD01). We received the rule on March 3, 2004. It was published in the Federal Register as a final rule on January 26, 2004. 69 Fed. Reg. 3492.

The final rule provides temporary incentives in the form of royalty suspension volumes for producing gas from certain deep wells (at least 15,000 feet below sea level). The rule also provides a royalty suspension supplement for drilling certain unsuccessful deep wells. The rule also provides price thresholds that may result in discontinuation of the royalty relief.

The final rule has an announced effective date of March 1, 2004. The Congressional Review Act requires a 60-day delay in the effective date of a major rule from the date of publication in the Federal Register or receipt of the rule by Congress, whichever is later. 5 U.S.C. 801(a)(3)(A). The rule was published in the Federal Register on January 26, 2004, and was received by Congress on March 4, 2004. Therefore, the rule does not have the required 60-day delay in its effective date.

Enclosed is our assessment of the MMS's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the MMS, with the exception of the delay in the effective date discussed above, complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is Robert Robinson, Managing Director, Natural Resources and Environment. Mr. Robinson can be reached at (202) 512-3841.

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: Rebecca W. Watson
Assistant Secretary, Land and
Minerals Management
Department of the Interior

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF THE INTERIOR,
MINERALS MANAGEMENT SERVICE
ENTITLED
"OIL AND GAS AND SULPHUR OPERATIONS
IN THE OUTER CONTINENTAL SHELF--
RELIEF OR REDUCTION IN ROYALTY RATES--
DEEP GAS PROVISIONS"
(RIN: 1010-AD01)

(i) Cost-benefit analysis

MMS performed a cost-benefit analysis of the final rule and found that it will reduce consumer expenditures on natural gas by about \$500 million each year. The deep gas royalty suspensions are likely to reduce net federal royalty collections. MMS's best estimate of this reduction is from \$150 million to \$220 million in net present value over a 16-year period, depending on gas price volatility.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607 and 609

MMS prepared a Final Regulatory Flexibility Analysis in connection with the final rule and found that the rule is likely to provide at least a proportionate share of its benefits to small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The final rule does not contain either an intergovernmental or private sector mandate, as defined in title II, of more than \$100 million in any one year.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The final rule was issued using the notice and comment procedures found at 5 U.S.C. 553. On March 26, 2003, MMS published a Notice of Proposed Rulemaking in the Federal Register. 68 Fed. Reg. 14868. In response, MMS received 14 comments and discusses them in the preamble to the final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains information collections that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. OMB has approved the collections and assigned OMB control number 1010-0153 with an expiration date of April 30, 2006. MMS estimates the cost burden of the collections to be \$18,050.

Statutory authorization for the rule

The final rule is promulgated under the authority found at 43 U.S.C. 1337(a)(3).

Executive Order No. 12866

The final rule was reviewed by OMB and found to be an “economically significant” regulatory action under the order.

Executive Order No. 13132 (Federalism)

MMS has determined that the final rule does not have sufficient federalism implications to warrant the preparation of a federalism impact summary statement.