product whose name appears on the label of a licensed biological product as a manufacturer, packer, distributer, shared manufacturer, joint manufacturer, or any other participant involved in divided manufacturing.

* * * * *

(f) *Reporting forms.* (1) Except as provided in paragraph (f)(3) of this section, the licensed manufacturer shall complete the reporting form designated by FDA (FDA–3500A, or, for vaccines, a VAERS form) for each report of an adverse experience.

* * * * *

(m) * * * For purposes of this provision, this paragraph also includes any person reporting under paragraph (c)(1)(ii) of this section.

Dated: October 17, 1996.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 96–27593 10–25–96; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 290

RIN 1010–AC21

Administrative Appeals Process

AGENCY: Minerals Management Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Minerals Management Service (MMS) proposes to amend the regulations governing its administrative appeals process. These amendments are in response to MMS's own initiatives to speed up the appeals process, and are in response to statutory requirements recently enacted which require the Department of the Interior to decide certain administrative appeals within 33 months from the commencement of the appeal. Under these proposed regulations, the MMS Director generally would be required to decide an appeal within 16 months of commencement of the appeal or the appeal would automatically be deemed denied. The appellant then could continue its appeal before the Interior Board of Land Appeals (IBLA). The IBLA then would have to complete its action on the appeal before the recently enacted 33-month deadline on deciding appeals involving Federal oil and gas leases. (The 33-month deadline for the IBLA would not apply to appeals involving Indian leases or to Federal leases for minerals other than oil or gas.) In addition, MMS's proposed regulations would impose a new $100.00 filing fee on appeals to the Director.

DATES: Comments must be received on or before December 27, 1996.

ADDRESSES: Comments should be sent to: Bettine Montgomery, Office of Policy and Management Improvement, Minerals Management Service, 1849 C Street, N.W., MS 4013, Washington, D.C. 20240; courier delivery to Department of the Interior, 1849 C Street, N.W., Washington, D.C. 20240, telephone (202) 208–3976; fax (202) 208–3118, e-Mail Elizabeth.Montgomery@smtp.mms.gov.

FOR FURTHER INFORMATION CONTACT: Hugh Hilliard, Office of Policy and Management Improvement, U.S. Department of the Interior, Mineral Management Service, 1849 C Street, N.W., Room 4013, Washington, D.C. 20240; telephone (202) 208–3398; fax (202) 208–4891; e-Mail Hugh__Hilliard@smtp.mms.gov.

SUPPLEMENTARY INFORMATION: The principal author of this proposed rule is Chris Thomson at (202) 208–7551 in Washington, D.C.

I. Background

In May 1994, MMS began a comprehensive review of its administrative appeals process, particularly as it relates to appeals involving orders or decisions issued by the Royalty Management Program. As part of that review, MMS held several informal meetings with state, tribal, and industry representatives to discuss the problems and possible solutions within the appeals process. The principal problems identified included the length of the appeals process, sometimes taking several years to resolve a case, and the excessive costs of the process to both MMS and appellants. These proposed regulations to amend 30 CFR Part 290 are based in part on ideas developed through that review process. Subsequent to that review, the Royalty Policy Committee (advisory committee to the Secretary of the Interior composed of representatives of states, Indian tribes, industry, other Federal agencies and the general public) established a Subcommittee on Appeals and Alternative Dispute Resolution. MMS expects the Royalty Policy Committee to consider the work of that subcommittee during the pendency of this proposed rule and will consider the recommendations of the Royalty Policy Committee as part of this rulemaking process.

One of the primary ideas developed in the review was that MMS establish both strict time limits on the appeals process and an overall time limitation for appeals as a whole. On August 13, 1996, the Federal Oil and Gas Royalty Simplification and Fairness Act, Pub. L. 104–185, 110 Stat. 1700, was enacted. Section 4 of the new Act amended the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA), 30 U.S.C. § 1701 *et seq.*, and added a new FOGRMA section 115(h) governing the Department's process for resolving appeals of MMS orders or decisions involving royalties and other payments due on Federal oil and gas leases. For appeals involving Federal oil and gas leases covered by this new provision, the Department has 33 months from the date a proceeding is commenced to complete all levels of administrative review or the appeal will be deemed decided. The 33-month deadline does not apply to appeals involving Indian leases or Federal leases for minerals other than oil and gas.

Therefore, it is necessary that MMS design its administrative appeal process to accommodate the new limitation. Although that limitation does not apply to Indian leases, or to Federal coal or other solid minerals leases, or to orders or decisions signed by the MMS Offshore Minerals Management Program, MMS proposes to apply the same time limit on all appeals to the Director for uniformity of administration.

These regulations propose in § 290.6 that all appeals to the MMS Director will be decided within 16 months of the date the appeal is commenced. The regulations also specify the date on which the Department deems an appeal to have commenced, namely, the date on which MMS receives a notice of appeal, including a statement of the reasons the appellant offers in support of the appeal and a one-page summary of the issues presented in the statement of reasons, and payment of a filing fee. MMS chose a time period shorter than 33 months in order to accelerate the process for all appeals and to provide time for IBLA's further review of MMS decisions. If the 16-month time limitation is reached and a decision has not been issued, then the appeal will automatically be deemed denied by the Director, allowing the appellant to continue its appeal before IBLA.

In addition, the overall 16-month time limitation period for resolving appeals to the MMS Director was derived from an overview of the steps of the appeals process. As noted above, an appeal to the Director of an order or decision issued by a program office of MMS would only ''commence'' with the proper filing of a notice of appeal, including a statement of reasons the appellant offers in support of the appeal

and a one-page summary of the issues presented in the statement of reasons, and a $100.00 filing fee where applicable. Once an appeal has been properly ''commenced,'' i.e., when MMS has received all of the required items, MMS will issue a letter of receipt to the filing party.

An appeal could be filed by any person adversely affected by an MMS order or decision. This would include the person receiving the order or decision or other persons. For example, if the person receiving an MMS order or decision is an operating rights owner on a lease, then the record title owner who also may be liable under the order or decision could appeal. Or, if the person receiving an MMS order or decision is a lessee of an Indian lease and the Indian lessor is adversely affected by the order or decision, then that Indian lessor could appeal. The notice of appeal, as proposed in § 290.2, is a brief letter notifying MMS that the sender is appealing the referenced order or decision. The same MMS office that issued the original order or decision must receive the notice of appeal within 60 days after service of the order or decision upon the recipient.

Under existing regulations in 30 CFR 290.5(b), a notice of appeal is deemed filed on the date it is received by the appropriate MMS office (usually an office in the Royalty Management Program). However, if the notice of appeal is postmarked on or before the due date, and MMS receives it within 10 days of the due date, then it is deemed filed on the due date. With the widespread use of overnight mail, electronic transmissions, and other same-day delivery mechanisms, and for reasons of simplicity and consistency, MMS proposes in § 290.3(d) to eliminate the 10-day grace period for filing the notice of appeal. Thus, under the proposed rule, the notice of appeal would be considered filed on the date the appropriate MMS office receives it. Simply mailing or otherwise transmitting the document would not satisfy the filing requirement. However, MMS is proposing to extend the period for filing the notice of appeal from 30 days to 60 days. No extensions for filing the notice of appeal could be granted under the proposed rule.

The 60-day time period for filing the notice of appeal is jurisdictional, and the Director could not consider an appeal if the notice of appeal is filed late. Therefore, the order or decision would become final, and no further administrative appeal in the Department would be available.

In a change from the current regulations, the appellant would be required under § 290.2(b) to file a written statement of reasons with the notice of appeal explaining the facts and arguments the appellant believes support the appeal. The statement of reasons could be either part of the notice of appeal itself or submitted as a second document within the 60-day time period for filing the notice of appeal. The statement of reasons also would be required to include a one-page summary of the arguments presented in the statement of reasons. In order to encourage statements of reasons that focus clearly on the facts and issues applicable to the appeal, MMS proposes a 20-page limitation on these documents, plus the one-page summary. If the particular situation is unusually complex, however, the appellant may request from the office that issued the order or decision on appeal permission to file a longer statement of reasons.

If the appellant needs more than 60 days to prepare its statement of reasons, the appellant must request an extension from MMS before the end of the 60-day filing period. In addition, to obtain an extension the appellant would be required to provide a written explanation of the reasons for the extension request to the MMS office where the appellant would otherwise file its statement of reasons. Extensions for filing the statement of reasons, and any other extensions requested in connection with an appeal, would be granted only for ''good cause,'' and only when accompanied by an agreement tolling any and all applicable time periods for issuing decisions, including the 16-month time period in this proposed rule as well as the 33-month time period under the new FOGRMA section 115(h), for the duration of the extension granted. If the Director denies the extension request, then the appellant would be required to file the statement of reasons and the summary by the end of the 60-day period for filing the original appeal. Thus, appellants that need additional time should file their extension requests well before the end of the period.

Under proposed § 290.3(b)(4), if the statement of reasons is not received by the due date, then the Director will dismiss the appeal unless the Director determines that there is good cause in his or her discretion not to dismiss the appeal. If the Director dismisses the appeal, then the order or decision would be final and no further administrative appeal would be available.

As with the notice of appeal, filing the statement of reasons would mean receipt in the appropriate MMS office by the prescribed date. Simply mailing or otherwise transmitting the document would not satisfy the filing requirement.

Consistent with current practice, the MMS office that issued the original order or decision would continue to prepare a field report responding to the statement of reasons. The MMS office would send a copy of the field report to the appellant. Current practice has been for most appellants to prepare written replies to the field report. Under the proposed regulations, the appellant is not required to file any other supplemental documents in connection with an appeal, including responses to field reports, but could file a written request to file supplemental documents in connection with an appeal with the MMS office that issued the order or decision. However, the Director could set deadlines for the filing of any supplemental documents in connection with appeals and may disregard supplemental documents that are filed after the deadline and without an approved extension. The appellant should submit a request for an extension to file supplemental documents in connection with an appeal in writing with the reason for the request. The Director would grant extension requests only for ''good cause,'' and only when accompanied by an agreement tolling any and all applicable time periods for issuing decisions, including the 16-month time period in this proposed rule and the 33-month time period under the new FOGRMA section 115(h), for the duration of the extension granted. If the Director needs additional information from the appellant, or has any questions necessary to decide the appeal, then the appellant would be contacted.

Another change MMS is proposing to the appeals process is the addition of cost recovery and filing fees. The Independent Offices Appropriation Act, 31 U.S.C. § 9701, provides generally for cost recovery by Federal agencies. The Independent Offices Appropriation Act also authorizes agency heads to ''prescribe regulations establishing the charge for a service or thing of value provided by the agency.'' 31 U.S.C. 9701(b). In addition, Office of Management and Budget Circular No. A–25 states that the general Federal policy on cost recovery is to charge ''each identifiable recipient for special benefits derived from Federal activities beyond those received by the general public.'' Furthermore, the Department of the Interior Manual requires that agencies impose charges to recover costs for services which provide a special benefit or privilege to an identifiable non-Federal recipient above and beyond those which accrue to the public at large.

MMS must consider cost recovery options for activities which meet the specific criteria outlined above. Because the MMS administrative appeals process is a voluntary activity that conveys a special benefit upon those who use it, it qualifies for cost recovery.

In 1993–94, MMS engaged in a cost recovery study to determine the actual cost of processing an administrative appeal to the Director of MMS. In that study, completed in August 1994, the cost recovery team noted that the cost to MMS for processing an appeal is approximately $2,000 for routine appeals and $8,000 for non-routine appeals. However, as recommended by that study, it may not be feasible to attempt to recover full actual costs. Instead, some smaller charge could be selected. The study recommended that MMS consider the filing fees other judicial and quasi-judicial governmental entities charge.

In determining the recommended filing fee for appeals, MMS considered the following:

(A) the relative hardship upon potential appellants of instituting a filing fee;

(B) the possibility that any filing fee will likely provide some disincentive to the filing of nominal appeals;

(C) the current threshold for issuing appealable bills and orders is $100.00 for Federal cases and $25.00 for Indian cases;

(D) the possibility of a two-tiered fee structure that might include different fees for different types of appeals;

(E) the fact that a filing fee mechanism will result in some increased cost to MMS for billing and collecting the filing fees (estimated by the Department of the Interior Director of Financial Management at $8.00 in 1991);

(F) the MMS appeals process is only the first of two levels of appeal within the Department; and

(G) the MMS appeals process does confer some limited public benefit by acting as a process for the specification and clarification of Federal mineral law and policy.

In considering the recommendation that MMS select a fee less than actual costs, the following is a list of various filing fees charged by other judicial and quasi-judicial governmental agencies:

United States District Court:	
(Civil Action)	$120.00
(Tax Appeal from Tax Court)	100.00
United States Bankruptcy Court:	
(Chapters 7 and 13)	160.00
(Chapter 11)	800.00
United States Tax Court (Petition)	60.00
Board of Immigration Appeals (Appeal from INS decision)	110.00
Federal Energy Regulatory Commission (Review of jurisdictional agency decision)	100.00

Therefore § 290.4 is proposed as a new section implementing the cost recovery requirements under the Independent Offices Appropriation Act and Office of Management and Budget Circular No. A–25. It would provide for a $100.00 filing fee on most appeals to the Director of MMS under this part. Indian tribes and Indian allottees would not be charged a fee.

Under the proposed regulations, the Director cannot consider any appeal for which the appellant has not properly paid the filing fee. Because the regulations require that the appellant put the filing fee in the form of an electronic fund transfer through a financial institution that may operate on different business hours than MMS, MMS would accept a filing fee that is received no later than the end of the next business day after the notice of appeal is filed, or the end of the 60th day after service of the order or decision upon the recipient, whichever is later.

All new appeals commenced after the effective date of the final regulation would be subject to the time limitation and filing requirement changes. The amount of the filing fee would be reevaluated periodically, and any adjustments would be published in the Federal Register.

Section 290.4 currently provides that oral argument will be allowed on an appellant's motion at the discretion of the Director of MMS. That section would be replaced by proposed § 290.5, which reflects that an appellant may request a hearing before the Director or request alternative dispute resolution (ADR). The Director retains discretion to allow a hearing or engage in other forms of ADR. Appellants, however, are encouraged to seek alternative resolution of their appeals where feasible throughout the appeals process. For appeals involving actions of the Royalty Management Program, appellants should contact the Royalty Management Program Office of Enforcement to initiate ADR.

Proposed § 290.6, which states the time limitations for an appeal, has been addressed previously in this preamble.

Proposed § 290.7, which addresses appeals involving Indian lands, is the same as the current § 290.6 with only minor technical amendments.

Proposed § 290.8, which explains how to appeal the MMS Director's decision to the IBLA, is the same as the current § 290.7 with only minor technical amendments.

Proposed § 290.9 addresses the time for the IBLA to issue decisions under the new FOGRMA § 115(h) in cases involving Federal oil and gas leases—namely, the last day of the 33rd month after the date the appeal is commenced, as specified under section 290.2, or, if that period has been extended under any tolling agreement between an appellant and either the MMS or the IBLA, by the last day of the period for which the time has been extended.

If the Board does not issue a decision within that time, then one of two results would occur. With respect to any nonmonetary obligation, and with respect to any monetary obligation for which the principal amount that the appellant must pay is less than $10,000, an appeal would be deemed to have been decided in the appellant's favor. With respect to any monetary obligation for which the principal amount that the appellant must pay is $10,000 or more, the appeal would be deemed decided in MMS' favor and against the appellant. An appeal which is deemed to have been decided against the appellant would be a judicially reviewable final agency action under 5 U.S.C. 704.

The term ''monetary obligation'' means any requirement in any order or decision that results in the appellant having to pay or to compute and pay royalty, minimum royalty, rental, bonus, net profit share, proceeds of sale, interest, penalty, or assessment. For example, if a lessee asked for a royalty value determination from MMS' Valuation and Standards Division (''VSD''), and if the result of that determination is that the lessee must pay additional royalties, then a monetary obligation would be involved. If the principal amount of a monetary obligation is not specifically stated in an order or decision and must be computed, the $10,000 amount means the principal amount that MMS estimates that the appellant would be required to pay as a result of the order or decision.

II. Procedural Matters

The Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. § 601 *et seq.*). The effect of this rule will be to shorten the MMS' administrative appeals process.

Executive Order 12630

The Department of the Interior certifies that the rule does not represent a governmental action capable of interference with constitutionally protected property rights. Thus, a

Takings Implications Assessment need not be prepared under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights.''

Executive Order 12988

The Department of the Interior has certified to the Office of Management and Budget that these regulations meet the applicable reform standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988.

Executive Order 12866

This document has been reviewed under Executive Order 12866 and is not a significant regulatory action.

Unfunded Mandates Reform Act of 1995

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

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. § 3501 *et seq.*

National Environmental Policy Act of 1969

The Department of the Interior has determined that this rulemaking is not a major Federal action significantly affecting the quality of the human environment, and a detailed statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. § 4332(2)(C)) is not required.

List of Subjects in 30 CFR Part 290

Administrative practice and procedure, Mineral royalties—appeals; Penalties; Public lands—Mineral resources.

Dated: October 21, 1996.

Sylvia V. Baca,

Deputy Assistant Secretary—Land and Minerals Management.

For the reasons set out in the preamble, MMS proposes to revise 30 CFR part 290 as follows:

PART 290—APPEALS PROCEDURES

Sec.

Authority: 25 U.S.C. 2, 9; 30 U.S.C. 189, 285, 359, 1023, 1701 *et seq.*; 31 U.S.C. 9701; 43 U.S.C. 1334, 1335.

§ 290.1 What appeals does this part apply to?

The rules in this part apply to appeals to the Director, Minerals Management Service (MMS) (and the Deputy Commissioner of Indian Affairs when Indian lands are involved), from orders or decisions of MMS officers. This part also provides for the further right of appeal to the Board of Land Appeals in the Office of Hearings and Appeals, Office of the Secretary, from adverse decisions of the Director (and the Deputy Commissioner of Indian Affairs when Indian lands are involved) rendered under this part. This part also provides for how to determine time deadlines that apply to these appeals.

§ 290.2 How do I appeal an order or decision to the MMS Director?

If you are adversely affected by an MMS order or decision, you may appeal to the Director, MMS, unless the Director, Assistant Secretary, or the Secretary approved the order or decision before it was issued. You must file the appeal in the MMS office issuing the order or decision. Your appeal does not commence for purposes of the time periods provided in §§ 290.6 and 290.9 and section 115(h) of the Federal Oil and Gas Royalty Management Act, 30 U.S.C. 1725(h), as applicable, until MMS receives all of the following items as further provided in § 290.3:

(a) A written notice of appeal that clearly indicates the order or decision being appealed;

(b) A written statement of reasons, either as part of the notice of appeal or as a separate document, explaining the facts and law you believe justify reversal or modification of the order or decision, including a one-page summary of the arguments presented in the statement of reasons; and

(c) Where applicable, a $100.00 filing fee.

§ 290.3 When do I file the items required for an appeal?

(a) *Notice of appeal.* You must file the notice of appeal in the MMS office that issued the order or decision within 60 days after the order or decision was served upon the recipient. The 60-day time limit for filing the notice of appeal cannot be extended. See paragraph (d) of this section for additional information on timely filing. If you file the notice of appeal late, the Director cannot consider the appeal, and the order or decision appealed from is final. No further administrative appeal is available.

(b) *Statement of reasons.* (1) You must file a statement of reasons in support of your appeal in the MMS office that issued the order or decision at the same time you file your notice of appeal, or as a separate document, within 60 days after the order or decision was served upon the recipient. See paragraph (d) of this section for additional information on timely filing. The statement of reasons may not be longer than 20 pages plus the one-page summary, unless the MMS office that issued the order or decision gives you permission to file a statement of reasons longer than 20 pages.

(2) You may request in writing an extension of time to file the statement of reasons from the MMS office that issued the order or decision within 60 days after the order or decision was served upon the recipient. Your extension request must explain the reason for your request. Your extension request also must include an agreement tolling the running of any applicable time periods, including the time periods for deciding appeals in §§ 290.6 and 290.9 and section 115(h) of the Federal Oil and Gas Royalty Management Act, 30 U.S.C. 1725(h), for the length of the extension granted.

(3) The Director will grant your extension request only for good cause and at the discretion of the Director. If the Director approves your extension request, you must provide written documentation of the extension, including the tolling agreement, by the end of the 60-day period for filing the appeal. If the Director denies your extension request, then you must file the statement of reasons by the end of the 60-day period for filing the appeal.

(4) If you do not file your statement of reasons by the required due date and your notice of appeal does not include a statement of reasons for the appeal, then the Director will dismiss your appeal unless the Director determines that there is good cause in his or her discretion not to dismiss your appeal. If the Director dismisses your appeal, then the order or decision appealed from is final and no further administrative appeal is available.

(c) *Supplemental documents.* (1) You may file a written request to file supplemental documents in connection with an appeal with the MMS office that issued the order or decision. The

Director may establish reasonable due dates for filing supplemental documents in connection with an appeal. See paragraph (d) of this section for additional information on timely filing.

(2) If you file a supplemental document with MMS after the due date for that document, the Director may disregard that document in issuing a decision on the appeal.

(3) You may request in writing an extension of time to file a supplemental document from the MMS office that issued the order or decision if that MMS office receives the request before the document is due. Your extension request:

(i) Must explain the reason for your request;

(ii) Must include an agreement tolling the running of any applicable time periods, including the time periods in §§ 290.6 and 290.9 and section 115(h) of the Federal Oil and Gas Royalty Management Act, 30 U.S.C. 1725(h), for the length of the requested extension granted;

(iii) Will be granted only for good cause and at the discretion of the Director.

(d) *Timely filing.* Your notice of appeal, statement of reasons, or supplemental document is considered filed only when it is received in the MMS office where the appeal is due. Simply mailing or otherwise transmitting the notice of appeal, statement of reasons or supplemental document does not satisfy the filing requirement.

§ 290.4 How do I pay the filing fee?

(a) Unless you are an Indian tribe or allottee, you must pay a $100.00 filing fee for each notice of appeal. Indian tribes or allottees do not have to pay a filing fee.

(b) You must pay the filing fee by electronic funds transfer made payable to ''Minerals Management Service.'' Include with the payment your payor identification number and the number of the order or decision being appealed, where applicable.

(c) If MMS does not receive your filing fee by the end of the next business day after MMS receives your notice of appeal or by the end of the 60th day after service of the order or decision upon the recipient whichever is later, then the Director cannot consider your appeal, and the order or decision appealed from is final. No further administrative appeal is available.

§ 290.5 Is oral argument or alternative dispute resolution (ADR) allowed?

(a) While your appeal is pending, you may:

(1) Meet with the office that issued the order or decision under appeal to resolve the issues you have raised in your appeal (for appeals involving actions of the Royalty Management Program, you may ask the Royalty Management Program's Office of Enforcement to engage in settlement negotiations, mediation, or other ADR); or

(2) Request a hearing before the Director regarding your appeal. The Director has the discretion to decide whether or not to grant the hearing request.

(b) Any hearing by the Director, settlement negotiation, or other ADR will not extend any applicable time period in §§ 290.6, 290.9, or section 115(h) of the Federal Oil and Gas Royalty Management Act, 30 U.S.C. 1725(h), for deciding the appeal unless you and MMS sign a tolling agreement.

§ 290.6 When can I expect a decision from the MMS Director?

(a) For all appeals filed after this rule becomes effective, the Director will issue a decision by the last day of the 16th month after the date the appeal is commenced, as specified under § 290.2, or, if the 16-month period had been extended under any tolling agreement between you and MMS, by the last day of the period for which the time has been extended.

(b) If the Director does not issue a decision on your appeal within the period specified in paragraph (a) of this section, your appeal is deemed denied by the Director, and you may appeal such denials further under § 290.8 of this part. MMS will send you a timely notice that your appeal is denied.

§ 290.7 Are there different appeal procedures for Indian lands?

No. The appeal procedures in this part apply to orders or decisions affecting Indian lands, except that the Deputy Commissioner of Indian Affairs will issue the decision on your appeal.

§ 290.8 How do I appeal to the Interior Board of Land Appeals?

If you are a party to a case, or an Indian tribe or Indian allottee, adversely affected by a decision of the MMS Director or the Deputy Commissioner of Indian Affairs under this part, you may appeal to the Interior Board of Land Appeals (IBLA) in the Office of Hearings and Appeals, Office of the Secretary, in accordance with 43 CFR part 4, ''Department Hearings and Appeals Procedures.'' If your appeal is deemed denied under § 290.6(b) of this part, the date of the Director's decision, for purposes of calculating the due date for filing any appeal to the Interior Board of Land Appeals, is the earlier of:

(a) The date you receive written notice that your appeal was considered denied by the Director; or

(b) 30 days after the last day for the Director to decide the appeal under § 290.6.

§ 290.9 When can I expect a decision from the Interior Board of Land Appeals?

(a) For all appeals from Director's decisions involving royalties or other payments due under Federal oil and gas leases commenced after [the effective date of the final rule], the IBLA will issue a decision by the last day of the 33rd month after the date the appeal is commenced, as specified under § 290.2, or, if that period has been extended under any tolling agreement between you and MMS or you and IBLA, by the last day of the period for which the time has been extended.

(b) If the IBLA does not issue a decision on your appeal within the period stated in paragraph (a), then your appeal will be—

(1) Deemed to have been decided in your favor with respect to any nonmonetary obligation and with respect to any monetary obligation for which the principal amount that you would be required to pay is less than $10,000; or

(2) Deemed to have been decided against you with respect to any monetary obligation for which the principal amount that you would be required to pay is $10,000 or more. An appeal which is deemed to have been decided against you under this paragraph constitutes judicially reviewable final agency action under 5 U.S.C. 704.

(c)(1) As used in this section, the term ''monetary obligation'' means any requirement in any order or decision that results in your having to pay or to compute and pay royalty, minimum royalty, rental, bonus, net profit share, proceeds of sale, interest, penalty, or assessment.

(2) In the case of any monetary obligation for which the principal amount is not specifically stated in an order or decision and which must be computed to comply with the order or decision, the $10,000 amount in paragraph (b) means the principal amount that MMS estimates that you would be required to pay as a result of the order or decision.

(d) The time limitations in this section for the IBLA to issue a decision do not apply to appeals involving royalties due under Indian tribal or

allotted leases or under Federal leases for minerals other than oil and gas.

[FR Doc. 96–27506 Filed 10–25–96; 8:45 am]

BILLING CODE 4310–MR–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[TX–7–1–5220b; FRL–5629–6]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants, Texas; Control of Sulfuric Acid Mist Emissions From Existing Sulfuric Acid Production Plants and Total Reduced Sulfur From Existing Kraft Pulp Mills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: The EPA is proposing approval of the Texas plans for controlling sulfuric acid mist emissions from existing sulfuric acid production plants and for controlling total reduced sulfur (TRS) from existing kraft pulp mills. The plans were submitted to fulfill the requirements of section 111(d) of the Clean Air Act. These plans were adopted by the State of Texas on May 12, 1989, and submitted by the Governor to the EPA in a letter dated August 21, 1989. Please see the direct final notice of this action located elsewhere in today's Federal Register for a detailed description of the State plan.

DATES: Comments on this proposed rule must be postmarked by November 27, 1996.

ADDRESSES: Comments should be mailed to Thomas H. Diggs, Chief, Air Planning Section (6PD–L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733. Copies of the State's plan and other information relevant to this action are available for inspection during normal hours at the following locations:

Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Texas Natural Resource Conservation Commission, Air Quality Program, 12124 Park 35 Circle, Austin, Texas 78753.

Anyone wishing to review this plan at the Region 6 EPA office is asked to contact the person below to schedule an appointment 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Lt. Mick Cote, Air Planning Section (6PD–L), EPA Region 6, telephone (214) 665–7219.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final rule which is located in the Rules Section of this Federal Register.

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Paper and paper products industry, Reporting and recordkeeping requirements, Sulfuric acid plants, Sulfuric oxides.

Authority: 42 U.S.C. 7401–7671q.

Dated: September 30, 1996.

Jerry Clifford,

Acting Regional Administrator.

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40 CFR Part 372

[OPPTS–400106A; FRL–5572–4]

Emergency Planning and Community Right-to-Know; Notice of Public Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: This Notice amends a Notice of Public Meetings that was published in the Federal Register of October 1, 1996, announcing two public meetings to receive public comment on issues raised by the Agency's advance notice of proposed rulemaking (ANPR) titled ''Addition of Reporting Elements; Toxic Chemical Release Reporting; Community Right-to-Know,'' also issued in the Federal Register of October 1. This Notice is to inform the public that EPA is extending the public meeting time in Baton Rouge, Louisiana to 2 days due to the large number of people who registered to speak at this meeting and that the location of the meeting is being changed. In order to allow all registered speakers sufficient time to publicly present their comments on these issues, EPA feels it is necessary to provide an additional meeting day. EPA is not extending registration for speakers for this meeting, therefore only those stakeholders already registered to speak at this meeting will be scheduled on the agenda. Speakers who registered on or before October 11, 1996, will be notified by EPA as to which day of the meeting they will be scheduled to speak. The order of speakers will be based upon the order in which they signed up; no specific times will be assigned. Preferences for speaking on a particular day will be given in the order in which the speakers were registered. In addition, EPA is announcing a third public meeting on the issues associated with the ANPR. This meeting will be held in Washington, DC to provide additional opportunity for the public to present their comments to EPA.

DATES: The meeting in Baton Rouge, LA is schedule to take place on October 29 and 30, 1996. The meeting on October 29 is scheduled from 9 a.m. to 5 p.m. The meeting on October 30 will start at 9 a.m. and will continue through the last registered speaker, which will be no later than 5 p.m. The meeting in Washington, DC is scheduled to take place on December 3 and 4, 1996, from 9 a.m. to 5 p.m. or through the last registered speaker, which will be no later than 5 p.m.

ADDRESSES: The meeting on October 29 and 30 will be held at the Best Western Richmond Suites Hotel, 5668 Hilton Avenue, Baton Rouge, LA. (Please note that this is a change of location.) The meeting on December 3 and 4, 1996, will be held at the Environmental Protection Agency, Education Center Auditorium, 401 M St., SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: To register to speak at the public meeting on December 3 or 4, contact Cassandra Vail at 202-260-0675, e-mail: vail.cassandra@epamail.epa.gov. For additional information about the meetings, contact Denise Coutlakis at 202-260-5558, e-mail: coutlakis.denise@epamail.epa.gov. For further information on EPCRA section 313, contact the Emergency Planning and Community Right-to-Know Hotline, Environmental Protection Agency, Mail Stop 5101, 401 M St., SW., Washington, DC 20460. Toll free: 1-800-535-0202, in Virginia and Alaska: 703-412-9877 or Toll free TDD: 800-553-7672.

SUPPLEMENTARY INFORMATION: In 1986, Congress enacted the Emergency Planning and Community Right-to-Know Act (EPCRA). Section 313 of EPCRA requires certain businesses to submit reports each year on the amounts of toxic chemicals their facilities release into the environment or otherwise manage. The information is placed in a publicly accessible data base known as the Toxics Release Inventory (TRI). The purpose of this requirement is to inform the public, government officials, and industry about the chemical management practices of specified toxic chemicals.

EPA is interested in expanding the information available via TRI to include chemical use information such as materials accounting data. The Agency