

the amendments as originally proposed or further modify them.

Dated: March 13, 1990.

Robert J. Bielo,  
Executive Director.

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## DEPARTMENT OF THE INTERIOR

### Minerals Management Service

#### 30 CFR Part 218

RIN 1010-AB 35

#### Assessment for Failure to Submit Payment of Proper Amount With Report or Bill or to Provide Adequate Information

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

**ACTION:** Proposed rule.

**SUMMARY:** The Minerals Management Service (MMS) is proposing to amend its regulations to provide for a new assessment amount not to exceed \$250 per incident that may be charged to payors each time that a payment cannot be matched to a report document (Form MMS-2014 or MMS-4014) or copy of a Bill for Collection because of computational errors in the amount shown on the documents provided by the payor. The new assessment may also apply each time that the payment cannot be automatically applied to the proper report or bill by the MMS Auditing and Financial System (AFS) due to inadequate or erroneous information from the payor. The new assessment would apply to all reports, bills, and payments processed by the MMS AFS. The proposed rulemaking is necessary to provide for a new assessment against payors to encourage better reporting and payment practices and to improve the efficiency of MMS's disbursement of royalties and other monies to States and Indians.

**DATES:** Written comments must be received on or before May 21, 1990.

**ADDRESSES:** Written comments may be mailed to the Minerals Management Service, Royalty Management Program, Rules and Procedures Branch, Denver Federal Center, Building 85, P.O. Box 25165, Mail Stop 662, Denver, Colorado 80225, Attention: Dennis C. Whitcomb.

**FOR FURTHER INFORMATION CONTACT:** Dennis C. Whitcomb, Chief, Rules and Procedures Branch at (303) 231-3432 or (FTS) 328-3432.

**SUPPLEMENTARY INFORMATION:** The principal author of this proposed rule is Marvin D. Siraver of the Rules and

Procedures Branch, Royalty Management Program, MMS.

#### I. Background

Pursuant to 30 CFR part 210, lessees and other royalty payors on Federal and Indian oil and gas leases are required to submit certain forms and reports to MMS. Pursuant to 30 CFR 210.52, a completed Report of Sales and Royalty Remittance (Form MMS-2014, OMB No. 1010-0022) must accompany all payments for oil and gas royalties to MMS. Similarly, for solid minerals leases, pursuant to 30 CFR 210.202, a Report of Sales and Royalty Remittance—Solid Minerals (Form MMS-4014, OMB No. 1010-0064) must accompany royalty payments. However, the requirement that the payment accompany the Form MMS-2014 or MMS-4014 does not apply if the payment is made by Electronic Funds Transfer (EFT) or if the payment is remitted directly to an Indian lockbox.

A Bill for Collection is issued by MMS to notify a payor of assessments, late-payment interest charges, or other amounts owed. Bills are also issued to purchasers of royalty oil under the Government's Royalty-in-Kind (RIK) program. Instructions are included with each bill requesting that a copy of the bill accompany the payment remitted to MMS.

The reports and bills are part of MMS's automated royalty accounting system, the AFS. A receivable from the payor is created in the AFS when a payor reports royalty due or when a bill is entered in the AFS and issued to the payor. From the information entered into the AFS with respect to the royalty report, or bill or payment, the AFS automatically matches and applies each payment to its corresponding report or bill. If a payment cannot be automatically matched and applied by the AFS to a report or bill because of inadequate or erroneous information, it must be manually matched and applied by MMS personnel.

If the payment is made by EFT, MMS receives a transmittal message of the payment from the Federal Deposit System. If the payment is remitted directly to an Indian lockbox, MMS receives notification of receipt of the payment from the financial institution involved. The information on EFT and lockbox payments is entered into the AFS upon receipt by MMS.

If a specific report/bill has not had a payment applied, it remains as an unpaid receivable balance, even though the payment may have been received by MMS. This situation may result if the payment: (1) Cannot be automatically applied by the AFS to the proper report

or bill because of inadequate or erroneous information provided by the payor, such as missing data or incorrect data; or (2) cannot be matched to a report or bill because of computational errors in the amount shown on the documents provided by the payor. If a report or bill remains unpaid, MMS initiates debt collection followup procedures. After the payment is received and matched to the report or bill, the receivable is closed.

The manual matching by MMS personnel of payments to reports and bills results in MMS incurring substantial costs so that the AFS can operate properly to account for and distribute royalties. This situation also delays the payment application process and can result in delay in distribution of royalties and related information to States and Indian Tribes and allottees.

To recover costs related to manually matching of payments to reports or bills, and to encourage more careful preparation of reports and payments by payors, MMS is proposing to amend its regulations to add a new assessment that may be charged each time a payment cannot be matched to a report document (Form MMS-2014 or MMS-4014) or copy of a Bill for Collection because of computational errors in the amount shown on the documents provided by the payor. The new assessment would encourage payors to submit their payment, when required, together with the applicable report or copy of the bill and for the same amount as the report or bill. The new assessment would also encourage payors to adequately identify payments to the report or bill to be paid.

#### II. Proposed Rule

The MMS is proposing to add a new § 218.41 under subpart A of part 218 to provide for the new assessment amount not to exceed \$250 per incident. Under the proposed rule, payors may be assessed a fixed amount each time a payment: (1) Cannot be automatically applied by the AFS to the proper report or bill because of inadequate or erroneous information provided by the payor, such as no payor code, an incorrect payor code, or no payor assigned document number; or (2) cannot be matched to a report or bill because of computation errors in the amount shown on documents provided by the payor. The assessment is necessary to cover the administrative cost of manual effort required to follow up on the documents and process the payment in the AFS and to encourage more careful preparation of reports and payments by the payor.

The amount of the new assessment will be established prior to adoption of the final rule, and periodically thereafter by MMS based on its experience with costs of the effort required to manually match and apply payments to reports and bills. Under the final rule, MMS would publish a Notice in the Federal Register establishing or revising the assessment amount as required. For example, if in the preceding 12-month reporting period the total assessments collected for the violation(s) significantly exceed the costs of manually applying payments to reports and bills, MMS would publish a Notice to revise the assessment amount to bring the costs and the liquidated damages into parity. Based upon the most recent analysis, the assessment amount would be set at \$100 per incident.

For purposes of reports required for the AFS, a report is defined in § 218.40(c) as each line item on a Form MMS-2014 or Form MMS-4014. However, for the purpose of this new assessment, MMS is proposing that the assessment apply to the total and complete Form MMS-2014 or Form MMS-4014 and not to an individual line item on the form. Similarly, the proposed assessment would apply to a total and complete Bill for Collection issued to a payor or purchaser of RIK oil, a copy of which should accompany the remitted payment.

The proposed assessment would also apply to the following authorized payment documents identified in § 218.51(a)(3):

- (i) Federal Reserve check.
- (ii) Commercial check (drawn on a solvent bank).
- (iii) Money order.
- (iv) Bank draft (drawn on a solvent bank).
- (v) Cashier's check.
- (vi) Certified check.
- (vii) Electronic Funds Transfer.

Section 218.40 of MMS regulations provides for assessments for incorrect or late reports and failure to report, and § 218.54 provides for the assessment of interest for late and underpayment of amounts due. The proposed new assessment is in addition to the assessments provided for in §§ 218.40 and 218.54.

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed rule to the location identified in the ADDRESSES section of this preamble. Comments must be received on or

before the day specified in the DATES section of this preamble.

### III. Procedural Matters

#### *Executive Order 12291 and the Regulatory Flexibility Act*

The Department has determined that this document is not a major rule under E.O. 12291 and certifies that this document will 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.).

The proposed rulemaking is necessary to provide for a new assessment against payors to encourage better reporting and payment practices and to improve the efficiency of MMS's disbursement of royalties and other monies to States and Indians.

#### *Executive Order 12630*

The rule does not represent a governmental action capable of interference with constitutionally protected property rights. Thus, a Takings Implication Assessment need not be prepared pursuant to Executive Order 12630, "Government Action and Interference with Constitutionally Protected Property Rights."

#### *Paperwork Reduction Act of 1980*

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*

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and a detailed statement pursuant to 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 218

Coal, Continental shelf, Electronic funds transfer, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Penalties, Petroleum, Public lands—mineral resources, Reporting and recordkeeping requirements.

Dated: January 19, 1990.

Scott Sewell,

*Deputy Assistant Secretary—Land and Minerals Management.*

For the reasons set out in the preamble, 30 CFR part 218 is proposed to be amended as set forth below:

### PART 218—COLLECTION OF ROYALTIES, RENTALS, BONUSES, AND OTHER MONIES DUE THE FEDERAL GOVERNMENT

1. The authority citation for part 218 is revised to read as follows:

Authority: 25 U.S.C. 396 et seq.; 25 U.S.C. 396a et seq.; 25 U.S.C. 2101 et seq.; 30 U.S.C. 181 et seq.; 30 U.S.C. 351 et seq.; 30 U.S.C. 1001 et seq.; 30 U.S.C. 1701 et seq.; 31 U.S.C. 9701; 43 U.S.C. 1301 et seq.; 43 U.S.C. 1331 et seq.; and 43 U.S.C. 1801 et seq.

2. A new § 218.41 is added under subpart A of part 218 to read as follows:

#### **§ 218.41 Assessment for failure to submit payment of proper amount with report or bill or to provide adequate information.**

(a) An assessment of an amount not to exceed \$250 per incident may be charged for each payment document received by the Minerals Management Service (MMS) which is incorrectly completed or is submitted without the accompanying report document or copy of the bill, when required.

(b) An assessment of an amount not to exceed \$250 per incident may be charged for each report document or copy of a bill that is received by MMS without the accompanying payment document, when required.

(c) An assessment of an amount not to exceed \$250 per incident may be charged where the amount from the payment document and the totals from the report document or copy of the bill are not equivalent.

(d) An assessment of an amount not to exceed \$250 per incident may be charged for each payment document that cannot be automatically applied by the MMS Auditing and Financial System (AFS) to the proper Form MMS-2014 (Report of Sales and Royalty Remittance) or Form MMS-4014 (Report of Sales and Royalty Remittance—Solid Minerals) or Bill for Collection because of inadequate or erroneous information from the payor. Inadequate or erroneous information includes, but is not limited to, absent or incorrect payor code on the payment document and/or report or bill, or an absent or incorrect payor assigned document number.

(e) For purposes of this section, a report document is defined as a total and complete Form MMS-2014 or Form MMS-4014. The report document consists of one or more line items of information reported by the payor.

(f) For purposes of this section, a bill is defined as any Bill for Collection that has been issued by MMS for assessments, late-payment interest charges, or other amounts owed.

(g) For purposes of this section, a payment document is defined as one of the payment methods identified in § 218.51(a)(3) of this part.

(h) An assessment under this section shall not be shared with a State, Indian Tribe, or Indian allottee.

(i) The amount of the assessment to be imposed pursuant to paragraphs (a), (b), (c) and (d) of this section shall be established periodically by MMS. The assessment amount for each incident will be based on MMS's experience with costs and improper paying or reporting. The MMS will publish a Notice of the assessment amount to be applied in the Federal Register prior to the effective date of the new assessment.

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#### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 925

#### Missouri Permanent Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Proposed rule; reopening and extension of comment period.

**SUMMARY:** OSM is announcing receipt of additional explanatory information pertaining to previously proposed amendments to the Missouri permanent regulatory program (hereinafter, the "Missouri program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). OSM is also combining the bond related provisions of these amendments into one decision document. This additional information pertains only to a public hearing and responses to that hearing on Missouri's alternative bonding system.

The amendment is intended to revise the State program to be consistent with the corresponding Federal standards and at the State's own initiative to improve its program.

This notice sets forth the times and locations that the Missouri program, proposed amendments to that program, and additional information are available for public inspection. This notice also reopens the comment period during which interested persons may submit written comments on the proposed amendments.

**DATES:** Written comments must be received on or before 4 p.m., c.d.t. April 6, 1990.

**ADDRESSES:** Written comments should be mailed or hand delivered to William J. Kovacic at the address listed below.

Copies of the Missouri program, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Kansas City Field Office.

William J. Kovacic, Director, Kansas City Field Office, Office of Surface Mining Reclamation and Enforcement, 1103 Grand Avenue, Room 502, Kansas City, MO 64106, Telephone: (816) 374-6405

Missouri Department of Natural Resources, Land Reclamation Program, 205 Jefferson Street, P.O. Box 176, Jefferson City, MO 65102, Telephone: (314) 751-4041.

**FOR FURTHER INFORMATION CONTACT:**

William J. Kovacic, Director, Kansas City Field Office at (816) 374-6405.

**SUPPLEMENTARY INFORMATION:**

#### I. Background on the Missouri Program

On November 21, 1980, the Secretary of Interior conditionally approved the Missouri program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Missouri program can be found in the November 21, 1980, Federal Register (45 FR 77017). Subsequent actions concerning Missouri's program and program amendments can be found at 30 CFR 925.12, 925.15, and 925.16.

#### II. Proposed Amendment

By letter dated March 18, 1988 (Administrative Record No. MO-371), July 8, 1988 (Administrative Record No. MO-388), and January 12, 1989 (Administrative Record No. MO-410), Missouri proposed revisions to its program pursuant to SMCRA. Missouri submitted the proposed revisions (1) in response to a January 30, 1988, letter from OSM sent in accordance with 30 CFR 732.17(c) concerning its alternative bonding system and (2) at its own initiative.

The regulations that Missouri proposes to amend from its March 18, 1988, amendment are: 10 CSR 40-7.011(2)(D), (E), and (F), Requirement to File a Bond. The amendment of July 8, 1988, proposes to amend the Revised Statutes of Missouri (MO Rev. Stat.) at sections: 444.805, Definitions; 444.830, Bond Required; 444.850, Pit Reclamation; 444.960, Coal Mine Land Reclamation Fund; and 444.965, Fund Assessments. The amendment of January 12, 1989,

proposes to amend Missouri's regulations at: CSR 40-7.011, Bond Requirements; 10 CSR 40-7.021, Duration and Release of Reclamation Liability; 10 CSR 40-7.031, Permit Suspension or Revocation, Bond Forfeiture, and Authorization To Expend Reclamation Fund Monies; 10 CRS 40-7.041, Form and Administration of the Coal Mine Land Reclamation Fund.

OSM published a notice in the May 3, 1988, Federal Register (53 FR 15702) announcing receipt of the March 18, 1988, amendment and inviting public comment on the adequacy of the proposed amendment (Administrative Record No. MO-382). The public comment period ended June 2, 1988.

During its review of the amendment, OSM identified a concern relating to 10 CSR 40-7.011(2)(F), Requirement To File a Bond. OSM notified Missouri of the concern by letter dated August 18, 1989 (Administrative Record No. MO-460). Missouri responded in a letter dated August 30, 1989 (Administrative Record No. MO-470), that the concern would be addressed in a later rulemaking.

OSM published a notice in the August 12, 1988, Federal Register (53 FR 30449) announcing receipt of the July 8, 1988, amendment and inviting public comment on the adequacy of the proposed amendment (Administrative Record No. MO-397). The public comment period ended September 12, 1988.

During its review of the amendment OSM identified a concern relating to Mo. Rev. Stat. Section 444.805.15, Definitions. OSM notified Missouri of the concern by letter dated November 29, 1988 (Administrative Record No. MO-427). Missouri responded in a letter dated December 30, 1988 (Administrative Record No. MO-411), that it disagreed with OSM's concern. By telephone conversation of January 19, 1989, OSM discussed the concern with Missouri and Missouri agreed to address the concern in a later rulemaking (Administrative Record No. MO-415).

OSM published a notice in the February 10, 1989, Federal Register (54 FR 6423) announcing receipt of the January 12, 1989, amendment and inviting public comment on the adequacy of the proposed amendment (Administrative Record No. MO-447). The public comment period ended March 13, 1989.

During its review of the amendment, OSM identified concerns relating to 10 CSR 40-7.011(5) (D) 2D (I), Self Bonding; 10 CSR 40-7.011(5) (D) 5A and B, Self Bonding; 10 CSR 40-7.011(5) (D) 8, Self Bonding; 10 CSR 40-7.021(2) (A), Criteria and Schedule for Release of Reclamation Liability; 10 CSR 40-