

(3) The operator of any vessel in the immediate vicinity of this safety zone shall immediately stop the vessel or proceed as directed by any commissioned, warrant or petty officer of the U.S. Coast Guard.

Dated: November 24, 1991.

G.J.E. Thornton,

Captain, U.S. Coast Guard, Captain of the Port Hampton Roads.

[FR Doc. 91-29143 Filed 12-4-91; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

43 CFR Part 3160

RIN 1010-AB59

Royalty Rates on Oil; Sliding- and Step-Scale Leases (Public Land Only)

AGENCY: Mineral Management Service, Bureau of Land Management, Interior.

ACTION: Notice of interpretation.

SUMMARY: The Department of the Interior hereby gives notice of its interpretation of 43 CFR 3162.7-4. The purpose of this notice is to clarify how gross production from the lease is to be calculated in determining the applicable royalty rate for those onshore Federal oil and gas leases where the royalty rate is based upon the average daily production per well for the month or upon the average production per day (applicable only to gas produced from sliding-scale leases).

EFFECTIVE DATE: January 19, 1990.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service (MMS), Royalty Management Program, Royalty Valuation and Standards Division, Oil and Gas Valuation Branch, Denver Federal Center, Building 41, P.O. Box 25165, Mail Stop 3520, Denver, Colorado 80225. Attention: John L. Price, Telephone (303) 231-3392.

SUPPLEMENTARY INFORMATION: The principal authors of this notice are Bob Casey and John L. Price of the Royalty Valuation and Standards Division of the Royalty Management Program, MMS.

On January 19, 1990, the Interior Board of Land Appeals (IBLA) issued a decision in an appeal involving the issue of the use of the term "production" when determining the applicable royalty rate for a sliding-scale lease, *Sun Exploration and Production Co.*, 112 IBLA 373 (1990). The principal issue in the decision was whether production should be defined as only that volume of oil upon which royalty was due or the total production from the lease,

including oil used on the lease for operational purposes.

Sun Exploration and Production Company (Sun) appealed from an August 13, 1987, decision of the Director, MMS, MMS-86-0202-O&G and MMS-86-0307-O&G, stating that Sun had failed to properly apply the sliding-scale royalty provisions of its lease when determining the royalty rate applicable to oil production during the period from January 1977 through January 1983, based on the gross production removed or sold from the lease. The Director concluded that Sun had improperly calculated the average daily production by not including the oil consumed in lease operations. This resulted in Sun's misapplication of the sliding-scale royalty rates to the oil sold and its failure to deliver the total volumes of royalty-in-kind oil due. The Director instructed the responsible MMS office to assign lease use volumes to each royalty rate category proportionately and recalculate the royalties due based on the reassignment of the total volume of oil used on the lease to each category. Sun appealed the decision to IBLA.

In its decision, IBLA ruled that both methods were consistent with the royalty provisions in the Mineral Leasing Act, 30 U.S.C. 181 *et seq.*, and the regulations, but MMS could only apply its interpretation prospectively since the lessee was not notified of the procedural change and MMS had accepted the lessee's royalty accounting procedure as previously interpreted for several years. The IBLA viewed the new interpretation as an abrupt change from a well-established practice that the lessee had relied upon during the entire audit period. The new interpretation also would have imposed an additional royalty burden on the lessee which outweighed the statutory interest and purpose sought to be protected.

After further consideration of IBLA's decision, the Department has determined that it should continue to interpret gross production in a manner consistent with the well-established practice that lessees have historically relied on. Therefore, for production sold in the same month it is produced, gross production from a lease under 43 CFR 3162.7-4 will be synonymous with sales from a lease. Volumes that are not subject to royalty; i.e., production used on the lease and/or unavoidably lost, are not to be included in the determination of royalty rates.

The Department also wants to clarify that general reliance on sales volumes in the determination of royalty rates for sliding- and step-scale leases does not affect the royalty rate applicable to volumes produced from a lease in a

given month but not sold until a later month. Thus, the royalty rate applicable to any oil or gas is determined by the production volume in the month in which that oil or gas is produced, not the month in which it is sold. To further clarify the Department's interpretation of this rule, the following examples are provided:

Examples:

Lease	Beginning inventory (barrels)	Oil production during the month (barrels)	Oil sold during the month (barrels)	Ending inventory (barrels)
January:				
A	0	1,000	700	300
B	0	1,000	1,000	0
February:				
A	300	2,000	1,200	1,100
B	0	500	500	0

Lease A

In January, 1,000 barrels are produced during the month and 700 barrels are sold leaving 300 barrels as the ending inventory. In February, 2,000 barrels are produced during the month (thus, for purposes of illustration, incurring a higher royalty rate) and 1,200 barrels are sold leaving 1,100 barrels as the ending inventory. The royalty rate for the 700 barrels sold in January is based upon all of January's production, 1,000 barrels. The inventory carried over into February will be the first oil sold in February. The royalty rate on the 300 barrels produced during January and sold in February would be determined based on the royalty rate established for January production, not on the royalty rate for February production. The royalty rate for the 900 barrels produced and sold in February is the royalty rate established for February based upon the 2,000 barrels produced. Royalty on the 1,100 barrels remaining in inventory at the end of February will also be at the royalty rate calculated for February when that production is sold.

Lease B

In January and February, the production and sales volumes are identical, therefore, the royalty rates will be established based upon either the production or the sales volumes for each month. There is no carry over of inventories or royalty rates into succeeding months.

The Department therefore is providing notice that its interpretation regarding the calculation of production as used in 43 CFR 3162.7-4, will be consistent with

its historical practice. The term "gross production," as used in 43 CFR 3162.7-4 for calculating applicable royalty rates, will be interpreted to mean all production from the lease excluding any production used on the lease or unavoidably lost. This notice of interpretation is effective as of the date of the IBLA decision, January 19, 1990.

Any inquiries regarding this Notice or the calculation of the applicable royalty rate for production under sliding- or step-scale leases should be directed to MMS at the address shown under **FOR FURTHER INFORMATION CONTACT**.

Dated: June 28, 1991.

David C. O'Neal,

Assistant Secretary—Land and Minerals Management.

[FR Doc. 91-29188 Filed 12-4-91; 8:45 am]

BILLING CODE 4310-MR-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 22, and 94

[General Docket No. 82-243; DA 91-1419]

Service and Technical Rules for Government and non-Government Fixed Service Usage of the Frequency Bands 932-935 and 941-944 MHz

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action amends the Commission's Rules pertaining to the fee type codes and addresses for private and common carrier license applications for point-to-multipoint frequencies at 932-932.5/941-941.5 MHz. The objective of this action is to facilitate Commission processing of the 932-932.5/941-941.5 applications.

EFFECTIVE DATE: December 5, 1991.

FOR FURTHER INFORMATION CONTACT: Tom Mooring, telephone (202) 653-8114.

SUPPLEMENTARY INFORMATION: The Order was adopted November 26, 1991 and released November 27, 1991.

Order

By the Office of the Managing Director, Common Carrier Bureau, and Private Radio Bureau:

1. This Order amends our rules pertaining to the fee type codes and addresses, 47 CFR 1.1102 and 1.1105, solely for private radio and common carrier license applications in the Government/non-Government fixed service for the point-to-multipoint frequencies at 932-932.5/941-941.5 MHz (932/941 MHz). The Order also modifies our rules pertaining to the initial filing period for these frequencies, 47 CFR 22.27(b)(2) and 94.25(k). The amendments are necessary to facilitate Commission processing of the 932/941 MHz applications.

2. The fee type code for private radio applications is PEP. The fee is \$155 per application. Each private radio application requiring a fee must have the following inscription on the face of its envelope and be sent to: Federal Communications Commission, 932/941 MHz Point-to-Multipoint Channels, Private Radio Bureau, P.O. Box 358675, Pittsburgh, PA 15250-5675.

Each private radio application not requiring a fee must have the following inscription on the face of its envelope and be sent to: Federal Communications Commission, 932/941 MHz Point-to-Multipoint Channels, 1270 Fairfield Road, Gettysburg, PA 17325-7245.

3. The fee type code for common carrier applications is CMP. The fee is \$230 per transmitter. Each common carrier application requiring a fee must have the following inscription on the face of its envelope and be sent to: Federal Communications Commission, 932/941 MHz Point-to-Multipoint Channels, Common Carrier Bureau, P.O. Box 358924, Pittsburgh, PA 15251-5924.

Each common carrier application not requiring a fee must be filed with or sent to: Federal Communications Commission, 932/941 MHz Point-to-Multipoint Channels, Office of the Secretary, room 222, 1919 M Street, NW., Washington, DC 20554.

4. We are also modifying the initial filing period for the applications for 932/941 MHz frequencies from one week for all applications to two days for five different groups of applications. This change is necessary because of the large initial volume of applications anticipated for these frequencies. Permitting only one week for the submission of all initial 932/941 MHz applications would result in an

excessive burden on Commission processing facilities. Accordingly, we are dividing the United States and its outlying areas into five groups and will accept applications from each group during separate two-day filing periods. While the two-day filing period for each group is shorter than previously specified, we note that such a filing period has been recently used successfully with respect to the submission of 220-222 MHz license applications (PR Docket No. 89-552).

5. This action is taken pursuant to authority found in Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), and pursuant to sections 0.231(d), 0.291, and 0.331 of the Commission's Rules, 47 CFR 0.231(d), 0.291, and 0.331. These rule changes pertain to agency management and procedure, and therefore public comment is not required by the Administrative Procedure Act, see 5 U.S.C. 553(a)(2), (b)(A). This Order is effective upon publication in the **Federal Register**.

List of Subjects

47 CFR Part 1

Administrative practice and procedure.

47 CFR Part 22

Communications common carriers, public mobile service.

47 CFR Part 94

Private operational-fixed microwave service, Radio.

Rule Changes

I. Part 1 of title 47 of the Code of Federal Regulations is amended as follows:

PART 1—PRACTICE AND PROCEDURE

1. The authority citation in part 1 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303; Implement. 5 U.S.C. 552, unless otherwise noted.

2. Section 1.1102 is amended by adding an entry for (3)(e) to read as follows:

§ 1.1102 Schedule of charges for private radio service.

Action	FCC form No.	Fee amount	Fee type code	Address
3. . . .				
e. 932-932.5/941-941.5 MHz Point-to-Multipoint Channels....	FCC 402	155	PEP	Federal Communications Commission, 932/941 MHz Point-to-Multipoint Channels, Private Radio Bureau, P.O. Box 358675, Pittsburgh, PA 15250-5675.