

paragraph for § 1.897-2(c)(5) Example 2), in the 13th line, the language "'April 7, 1966' in the first and second" is removed and the language "'April 7, 1966' in the first and third" is added in its place.

Par. 2. In § 1.897-2, paragraph (h)(2)(v), page 46628, first column, the language "1325 K Street, NW., Washington, DC 20225" is removed and the language "950 L'Enfant Plaza South, SW, COMSAT Building, Washington, DC 20024" is added in its place.

Par. 3. In § 1.897-2, paragraph (h)(4)(ii), the language "OP:I:C:O" is corrected to read "OP:I:C:E".

#### § 1.1445-1 [Amended]

Par. 4. In § 1.1445-1, paragraph (c)(2)(ii), page 46630, second column, the language "(ii) *Anti-abuse rule (A) In general.*" is corrected to read "(ii) *Anti-abuse rule—(A) In general.*".

Par. 5. In the same § 1.1445-1, paragraph (c)(2)(ii)(B)(7) thereof, page 46630, third column, the reference "§ 1.1445-3T(c)" is corrected to read "§ 1.1445-3(c)".

Par. 6. In § 1.1445-1, paragraph (f), page 46631, third column, the caption that reads "*Effect of withholding on transferor.*" is corrected to read "*Effect of withholding on transferor—*".

Par. 7. In the same § 1.1445-1, paragraph (f), paragraph (f)(3)(ii), page 46632, first column, the language "for an early refund under § 1.1445-3(f)" is corrected to read "for an early refund under § 1.1445-3(g)".

#### § 1.1445-3 [Amended]

Par. 8. In § 1.1445-3, paragraph (b), page 46637, third column, the reference "§ 1.445-1(g)(10)." is corrected to read "§ 1.1445-1(g)(10).", and the language "1325 K St. NW., Washington, DC 20225." is removed.

Par. 9. In § 1.1445-3, paragraph (c)(2), page 46638, second column, the language "long term capital gain, currently 28 percent." is corrected to read "long term capital gain."

Par. 10. In § 1.1445-3, paragraph (g), page 46640, third column, in the introductory material, the reference "paragraph (f)" is corrected to read "paragraph (g)".

Par. 11. In the same § 1.1445-3, paragraph (g), page 46640, third column, in paragraph (g)(2), the language "pursuant to withholding" is corrected to read "pursuant to the withholding"; in paragraph (g)(3), the language "withheld by transferee" is corrected to read "withheld by the transferee"; and in paragraph (g)(4), the language "refunded to transferor" is corrected to read "refunded to the transferor".

#### § 1.1445-4 [Amended]

Par. 12. In § 1.1445-4, paragraph (f), page 46641, third column, in paragraph (f)(3)(ii), the word "or" is removed; and in paragraph (f)(3)(iii), the language "tasks." is corrected to read "tasks:".

#### § 1.1445-5 [Amended]

Par. 13. In § 1.1445-5(b)(2)(i) introductory text, fifth line, "1445(e) if—" is removed.

Par. 14. In § 1.1445-5, paragraph (b)(3), page 46643, third column, the subparagraph that is designated "(ii)" and is captioned "*Reliance upon certification not permitted*" is redesignated "(iii)".

Par. 15. In the same § 1.1445-5, paragraph (b), page 46643, third column, in redesignated paragraph (b)(3)(iii)(C), the word "fiduciary's" is corrected to read "fiduciary's".

Par. 16. In § 1.1445-5, paragraph (b), page 46645, first column, subparagraph (b)(7), in the 7th sentence the reference to "§ 1.1445-6(f)" is corrected to read "§ 1.1445-6(g)".

Par. 17. In § 1.1445-5, paragraph (c), page 46645, second column, paragraph (c)(1)(i), the language "subdivision (ii) or (iii)," is removed and the language "subdivision (ii), (iii), or (iv)" is added in its place.

Par. 18. In § 1.1445-5, paragraph (c), page 46646, first column, paragraph (c)(1)(iii)(A), in the final sentence of that paragraph the word "interest" is corrected to read "interests".

Par. 19. In § 1.1445-5, paragraph (c), page 46646, first column, paragraph (c)(1)(iii)(B): In the introductory material the word "az" is corrected to read "a"; in paragraph (c)(1)(iii)(B)(2), the language "(2) In the case of disposition of U.S. real property interests occurring after November 21, 1986 but before [30 days after date of publication of this regulation]" is removed and the language "(2) In the case of a disposition of a U.S. real property interest occurring after November 21, 1986, but before January 23, 1987" is added in its place.

Par. 20. In the same § 1.1445-5, paragraph (c)(1)(iii)(C), page 46646, in the chart in the second and third columns, the last entry in the "Date" column which reads "Jan. 1, 1987" is corrected to read "Jan. 1, 1988"; in the "Parcel sold" column opposite the date Mar. 1, 1987, the language "Parcel 1" is added, and opposite the date Mar. 5, 1987, the language "Parcel 1" is removed; in the "Gains or (loss) realized" column, opposite the date Mar. 1, 1987, the language "140,000" is added, and opposite the date Mar. 5, 1987, the language "140,000" is removed.

Par. 21. In the same § 1.1445-5, paragraph (c), page 46647, first column,

paragraph (c)(3), the language in the heading "(3) *Large partnerships or trusts—(i) In general.*" is corrected to read "(3) *Large partnerships or trusts—(i) In general.*".

Par. 22. In the same § 1.1445-5, paragraph (c), page 46647, second column, paragraph (c)(3)(iv)(A), the word "interest" is corrected to read "interests".

#### § 1.1445-6 [Amended]

Par. 23. In § 1.1445-6, paragraph (c), page 46648, second column, in the 3rd sentence of the introductory material, the language "long term capital gain, currently 20 percent." is corrected to read "long term capital gain."; and in the 4th sentence, the language "long term capital gain, currently 28 percent." is corrected to read "long term capital gain."

Par. 24. In § 1.1445-6, paragraph (e), page 46649, third column, paragraph (e)(1)(ii), the language "Director, Foreign Operations District" is removed and the language "Assistant Commissioner (International)" is added in its place.

#### § 1.1445-7 [Amended]

Par. 25. In § 1.1445-7, last line of the section heading, the word "(temporary)" is removed.

Robert A. Katcher,

Chief, Branch 5, Associate Chief Counsel (International).

[FR Doc. 87-1651 Filed 2-5-87; 8:45 am]

BILLING CODE 4330-01-01

## DEPARTMENT OF THE INTERIOR

### Minerals Management Service

#### 30 CFR Part 206

#### Waste Prevention; Value Determination

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

**SUMMARY:** The Minerals Management Service (MMS) is amending 30 CFR 206.100 to reference Bureau of Land Management (BLM) regulations on the prevention of waste of oil or gas and to provide for the determination of value of oil or gas wasted. The amendment establishes consistency between BLM and Royalty Management regulations in the event of wasted or avoidably lost production.

**EFFECTIVE DATE:** February 6, 1987.

**FOR FURTHER INFORMATION CONTACT:** John L. Price, telephone (303) 231-3392, (FTS) 326-3392.

**SUPPLEMENTARY INFORMATION:** The principal author of this rulemaking is Scott Ellis of the Minerals Management Service, Lakewood, Colorado.

### I. Background

The purpose of this final rulemaking is to clarify the policy to be followed by the Department of the Interior when the lessee of a federal onshore oil and gas lease violates the statutory and contractual prohibition against the waste of gas from the lease. At the present time, the Department requires payment of royalty on the waste of onshore oil and of offshore oil or gas. In contrast, with respect to onshore gas, current regulations of the BLM require payment of royalty (43 CFR 3162.7-1(d)), whereas, MMS regulations require the payment of full value. Through an oversight, the MMS regulation was not modified when the BLM regulation was adopted. The Department has determined that the BLM regulation, effective on October 22, 1984 (49 FR 37356), to implement the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA), 30 U.S.C. 1701 et seq., represents the policy which should be followed to value all wasted gas.

Section 16 of the Minerals Leasing Act of 1920 (30 U.S.C. 225) prohibits waste of oil and gas as a condition of the lease and states that violations may be sufficient grounds for lease forfeiture. In 1925, the Secretary of the Interior decreed that no royalty will become due for unavoidably lost production, for gas vented or flared with proper approval, and for production used for lease activity. This interpretation was ratified by Congress in 1946.

A regulation was issued in 1936 to assess the full value of all gas considered wasted or avoidably lost, and codified at 30 CFR 221.35, later renumbered in 1982 as 30 CFR 221.102. The regulation included gas that was vented or flared without specific approval to do so.

A Notice to Lessees (NTL-4) was issued in 1974 that provided for the following:

- Payment would be due on the full value of avoidably lost gas, including gas vented or flared without approval.
- Royalty value would be due on avoidably lost oil.
- Royalty value would be due on unavoidably lost oil and gas, and
- Royalty value would be due on production used for lease activity.

Although NTL-4 was specific to onshore production, the Department of the Interior (DOI) interpreted the provisions of NTL-4 and the treatment of offshore production (in NTL's 78-1

and 78-2) to be the same. In 1978, however, the Federal courts overruled the provisions of NTL-4, *Gulf Oil Corp. v. Andrus*, 460 F. Supp. 15 (C.D. Cal.), and, in 1981, the courts similarly determined that the offshore NTL's were invalid, *Amoco Production Co. v. Andrus*, 527 F. Supp. 796 (E.D. La), as they applied to unavoidably lost production, approved venting and flaring, and production used for lease or unit operating purposes.

Since an explanatory notice for lost production royalty was required with the demise of NTL-4, NTL-4A was issued (44 FR 78000, December 27, 1979), which provided for the following:

- Payment would be due on the full value of avoidably lost gas (wasted), including gas vented or flared without approval, as provided in the regulations;
- Royalty value would be due for avoidably lost oil (wasted);
- No royalty value would be due on unavoidably lost production, including gas vented or flared with approval or on any production used on the lease.

Section 306 of the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA) provided that lessees were liable for royalty payments on oil or gas lost or wasted from a lease site (30 U.S.C. 1756). Before regulations were issued to implement the FOGRMA, BLM and MMS were reorganized.

In August of 1983, oil and gas operational and royalty regulations were revised within the jurisdictional agencies to reflect the BLM/MMS reorganization. Prior regulations at 30 CFR 221.102, which required the full value for gas wasted onshore, and at 30 CFR 250.65 and 250.66, which required royalty for oil and gas wasted offshore, all became royalty valuation regulations at 30 CFR Part 206, with the onshore regulation at 30 CFR 206.100.

The BLM regulations to implement FOGRMA were published at 49 FR 37356 (September 21, 1984) and were effective on October 22, 1984. These BLM regulations require royalty payment for avoidably lost or wasted onshore oil or gas (43 CFR 3162.7-1(d)) and supersede the statement in NTL-4A concerning full value. The MMS regulation which required full value for avoidably lost or wasted onshore oil or gas remained at 30 CFR 206.100.

This regulatory amendment is meant to correct these inconsistencies and provide the following:

- Specific reference to BLM regulations for determining whether the loss of production is considered wasted.

—Specific reference to royalty valuation regulations when BLM determines that production has been wasted.

The amended rule provides that the lessee is obligated to prevent the waste of Federal and Indian onshore oil or gas production in accordance with BLM regulations. The determination of what constitutes waste is the responsibility of BLM, under its operational regulations. This amendment will also have the effect of deleting the current provision that places full value on oil or gas production that is regarded as avoidably lost. Since BLM operational regulations stipulate that royalty is due at the royalty percentage provided in the lease for production considered to be avoidably lost, this MMS amendment merely states that the value, for royalty purposes, will be determined in accordance with the value provisions in 30 CFR Part 206. Accordingly, the amended rule will be consistent with the operational regulations of BLM.

This final rule clarifies all existing production value directives regarding wasted or avoidably lost onshore oil or gas production contained in various Secretarial, MMS, and U.S. Geological Survey Conservation Division (now BLM, Onshore Operations Division) directives, regulations, and NTL's (Notice to Lessees) issued prior to and after the effective date of this rulemaking.

### II. Procedural Matters

#### Effective Date

The changes included in this MMS rulemaking are administrative corrections only, and not substantive changes. BLM, not MMS, is the agency within the Department of the Interior to which the Secretary has delegated the authority to establish substantive regulations governing lease operations and remedies for failure by lessees to comply with its regulations. The MMS operating procedures are already consistent with BLM regulations and the amended MMS regulations should be made effective immediately. Accordingly, pursuant to 5 U.S.C. 553(b), it has been determined that it is unnecessary to issue proposed regulations before the issuance of this final regulation. For the same reason, it has been determined that in accordance with 5 U.S.C. 553(d), there is good cause to make this regulation effective immediately. Moreover, as a matter of Secretarial policy, the deleted regulation will not be applied to any assessment for wasted onshore gas issued after the effective date of the BLM regulations to

implement the FOGRA, which is October 22, 1984.

*Executive Order 12291 and Regulatory Flexibility Act*

The Department of the Interior 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.).

This rulemaking amendment is not considered to be a major rule because the changes are administrative only and not substantive.

*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*

The Department of the Interior has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required under the National Environmental Policy Act of 1969 [42 U.S.C. 4332(2)(C)].

List of Subjects in 30 CFR Part 206

Continental shelf, Geothermal energy, Government contracts, Mineral royalties, Oil and gas exploration, Public lands-mineral resources.

Dated: November 26, 1986.

James E. Cason,

Acting Assistant Secretary—Land and Minerals Management.

For the reasons set out in the preamble, the following revisions are made to 30 CFR Part 206:

**SUBCHAPTER A—ROYALTY MANAGEMENT**

**PART 206—(AMENDED)**

1. The authority citation for Part 206 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.; 43 U.S.C. 1301 et seq.; 43 U.S.C. 1331 et seq.; 43 U.S.C. 1801 et seq.

2. Section 206.100 is revised to read as follows:

**§ 206.100 Waste prevention; value determination.**

The lessee is obligated to prevent the waste of oil or gas. If the BLM determines in accordance with 43 CFR

Part 3160 that waste has occurred, the value of oil or gas wasted will be determined in accordance with this Part.

[FR Doc. 87-2477 Filed 2-5-87; 8:45 am]

BILLING CODE 4310-09-01

**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

**33 CFR Part 100**

[CGD7 87-02]

**Special Local Regulations; Sundays of Haulover/Tel Tec 100**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** Special local regulations are being adopted for the Sundays of Haulover/Tel Tec 100 powerboat race. The event will be held on the 14th of February 1987 from 11:30 a.m. to 4:30 p.m. EST. The regulations are needed to promote the safety of life on navigable waters.

**EFFECTIVE DATES:** These regulations become effective on 14 February 1987 at 11:30 a.m. EST and terminate on 14 February 1987 at 4:30 p.m. EST.

**FOR FURTHER INFORMATION CONTACT:** CWO Tom Small (305) 535-4304.

**SUPPLEMENTARY INFORMATION:** In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impractical as there was insufficient time to publish proposed rules in advance of the event or to provide for a delayed effective date.

**Drafting Information**

The drafters of these regulations are CWO T.C. Small, project officer, USCG Group Miami and LCDR S.T. Fuger, Jr., project attorney, Seventh Coast Guard District Legal Office.

**Discussion of Regulations**

The Offshore Power Boat Racing Assoc. (OPBRA) of Miami, will sponsor the Sundays of Haulover/Tel Tec 100 offshore power boat race. The event is a high performance offshore power boat race, involving race boats ranging in length of 21 to 40 feet and with capabilities of reaching speeds in excess of 100 MPH. Thirty vessels are expected to participate in the race and an additional 400 spectator craft are expected to view the race. Regulations are issued by the Commander, Seventh

Coast Guard District, Miami, Florida, as a public service to promote the safety of life on navigable waters.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

**PART 100—(AMENDED)**

**Regulations**

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.2.

2. A temporary § 100.35-702 is added as follows:

**§ 100.35-702 Sundays of haulover/TEL TEC 100 powerboat race.**

(a) *Regulated Area.* The waters of the Atlantic Ocean in the vicinity of Miami Beach Florida and bounded by the following points: Miami Beach shoreline at 25-57.6N, seaward to 25-53.5N and 080-05.0W, southward to 25-46.7N and 080-06.2W, and west to the shoreline at 25-45.4N.

(b) *Special Local Regulations.* (1) Entry into the regulated area is prohibited unless authorized by the patrol commander.

(2) A succession of not less than 5 short whistle or horn blasts from a patrol vessel will be signal for any non-participating vessels to stop immediately. The display of an orange distress smoke signal from a patrol vessel will be the signal for any and all vessels to stop immediately.

(c) *Effective dates.* These regulations become effective on 14 February 1987 from 11:30 a.m. EST and terminate on 14 February 1987 at 4:30 p.m. EST.

Dated: January 27, 1987.

H.B. Thorsen,

Rear Admiral, U.S. Coast Guard Commander, Seventh Coast Guard District.

[FR Doc. 87-2439 Filed 2-5-87; 8:45 am]

BILLING CODE 4810-14-01

**33 CFR Part 165**

[COTP Boston, MA Regulation CCGD1-86-20]

**Safety Zone Regulation; Jenny Dock, Chelsea River, Boston Inner Harbor, Boston, MA**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Cancellation of rule.

**SUMMARY:** On the evening of 3 November 1986 approximately 125 feet of sea wall, tank farm containment wall,