adding the following paragraph at the end thereof:

### Appendix—Testing Protocol for BRD Certification

**Note:** This Appendix will not appear in the code of Federal Regulations.

* * * * *

Before conducting any certification test, or series of tests, in state waters, a person must meet any applicable state requirements for notification and approval. Persons planning to conduct certification tests in both state waters and the EEZ have two options. The person may submit an application for certification testing in the EEZ directly to the RD. Alternatively, if state approval is required, a person may submit the required application to conduct BRD testing in the EEZ to the appropriate state director or designee, and the state could forward copies to the RD for concurrent approval for EEZ waters. Under either option, the application to conduct BRD testing in the EEZ must identify the sponsor of the tests and include the information solicited by the Vessel Information Form and the Gear Specification Form. Once the RD determines that the application is complete and all applicable regulations are satisfied, the RD will issue the applicant a letter of authorization to conduct BRD testing in the EEZ.

[FR Doc. 99–17372 Filed 7–7–99; 8:45 am]

BILLING CODE 3510–22–F

## DEPARTMENT OF THE INTERIOR

## Minerals Management Service

## 30 CFR Part 227

**RIN 1010–AC51**

## Change to Delegated State Audit Functions

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The Minerals Management Service (MMS) is amending its regulations to allow States which choose to assume audit duties to do so for less than all of the Federal mineral leases within the State or leases offshore of the State.

**EFFECTIVE DATES:** August 9, 1999.

**FOR FURTHER INFORMATION CONTACT:** David S. Guzy, Chief, Rules and Publications Staff, telephone (303) 231–3432, FAX (303) 231–3385, e-Mail David.Guzy@mms.gov.

**SUPPLEMENTARY INFORMATION:** The principal author of this rulemaking is Ms. Shirley Burhop, State and Indian Compliance Division, Royalty Management Program (RMP).

### I. Background

This rule amends regulations governing the delegation of royalty management duties to States. Section 205 of the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA), 30 U.S.C. 1735, gives MMS the authority to delegate audit functions to States. Currently, 10 States have entered into the delegation agreements authorized by Section 205.

Regulations in 30 CFR part 227 implementing the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 (RSFA), Pub. L. 104–185, as corrected by Pub. L. 104–200, expanded the duties that States could assume. Those regulations at 30 CFR 227.101 prescribed that if a State wanted MMS to delegate the audit function to the State, then the State was required to audit all Federal mineral leases within that State and all 8(g) leases offshore of the State. We intended that States perform other delegable functions authorized by RSFA for *all* leases within that State and in all 8(g) leases offshore of the State. However, we do not believe it is either necessary or desirable in the case of the audit function. Typically auditing is done on a sampling basis, *i.e.* not all leases are audited.

This change allows States which are now delegated audit authority under FOGRMA to continue that audit authority without significantly altering their staffing, funding, or other operations. By removing the requirement that they exercise audit authority over all Federal mineral leases within the State, the States will again be able to work with us in those cases where State resources do not allow the State to cover their entire audit universe. Thus, the State will designate the limits of its audit activity each year through an annual audit work plan. This wording change will also enable the MMS to continue to assist a State in its audit efforts when necessary.

### II. Statutory Authority

Authority for this change is granted by FOGRMA, 30 U.S.C. 1735, as amended by RSFA, Pub. L. 104–185, August 13, 1996, as corrected by Pub. L. 104–200. Authority regarding solid mineral leases, geothermal leases, and 8(g) leases is granted by Pub. L. 102–154.

### III. Comments on Proposed Rule

The proposed rulemaking provided a 60-day public comment period which ended April 12, 1999. MMS received comments from one oil and gas trade association commenter during the comment period. We reviewed and analyzed the comments pertaining to this final rulemaking, and did not revise the language of the final rule. The specific comments are addressed below:

*Comment*—Regarding the Analysis section of the proposed rule preamble, the commenter questioned how a State could take on delegated functions without adequate staffing or funding. The commenter stated that ''the language in the proposed rule controverts the Delegation regulations,'' as stated at 30 CFR 227.103.

*Response*—The final rule enables States to perform delegated audit functions for some or all Federal leases within their State rather than being required to assume responsibility for all such leases. Our intent is to enable those States which face staffing and funding limitations to take on delegated audit duties to the extent they can perform such duties with available resources. Current regulations at 30 CFR 227.101 (1998) require a State to have the resources to audit its entire lease universe in order to take on any delegated audit duties.

### IV. Procedural Matters

*Regulatory Planning and Review (E.O. 12866)*

This document is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. Requesting States may incur additional costs for delegation responsibilities. However, these direct costs will be fully reimbursed by the Federal Government in accordance with their annual, approved audit plan each year. This rule change does not require the States to file any additional information or fees.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. States with delegated audit authority must follow the policies of the Department. States will coordinate their audit actions with the Bureau of Land Management and MMS.

(3) This rule does not alter the budgetary effects or entitlements, grants,

user fees, or loan programs or the rights or obligations of their recipients. Audits of Federal leases within State boundaries will be individually budgeted through an annual work plan proposal the State prepares and MMS approves. This is a process we have used effectively since 1985 and will continue under the rule.

(4) This rule does not raise novel legal or policy issues. We have had authority to delegate audit duties to States since 1983. Historically, States have audited as much of the Federal lease universe as practical for each State and MMS audited the remainder. We expect these circumstances of operation to continue under this rule.

*Regulatory Flexibility Act*

The Department of the Interior 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 major impact of the rule will be on State governments, which are not small entities. There will be some effect on the oil and gas companies which are subject to audit, as various audit staffs, including MMS's Compliance Divisions, State delegations, and Indian Tribal delegations, may now audit Federal and Indian leases located within a particular State's boundaries. This is no change from the way in which MMS and delegated States and Tribes have audited companies in the past. As has been done in the past, MMS will continue to coordinate audit efforts of the various entities which might be involved in any particular audit in order to minimize disruptions to the companies being audited.

*Small Business Regulatory Enforcement Fairness Act (SBREFA)*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million or more. States would initially incur the expense of delegated audit functions and MMS would later reimburse them. The maximum economic impact for audit delegation is estimated to be $5.5 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The audit of Federal leases is not a function which generates impacts on costs or prices to individuals or areas. States will review royalty calculation and payments to enforce existing Federal lease terms and royalty policies. States will conduct the audits as efficiently and economically as possible in accordance with Departmental policies.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. The laws providing for the delegation of audit duties, FOGRMA and RSFA, do not provide for any other entity, except tribal governments, to conduct these duties.

*Unfunded Mandates Reform Act of 1995*

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. The rule does not change valuation requirements, impose additional royalty collections or require new reporting forms. This rule merely gives State governments the option to conduct audits and investigations on less than all of the Federal mineral leases within State boundaries or section 8(g) leases on the OCS. The Federal Government will fully reimburse States for the costs they incur to conduct the audits and investigations in accordance with the State's annual, approved audit plan. We expect those costs to be no more than $5.5 million per year. County, local, or tribal governments will not perform the delegable audit functions on behalf of State governments; therefore, they will not be impacted by this rule.

A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

*Takings (E.O. 12630)*

In accordance with Executive Order 12630, the rule does not have a significant takings implication. States seeking audit delegation from year to year will propose the level of effort they can expend auditing Federal leases. This method of operation will give States first choice in cooperatively planning annual work with MMS. This rule does not represent a governmental action capable of interference with constitutionally protected property rights. A takings implication assessment is not required.

*Federalism (E.O. 12612)*

In accordance with Executive Order 12612, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This rule allows States to continue to audit selected leases within legal boundaries. It does not alter roles, rights or responsibilities of States conducting delegated audits. A Federalism Assessment is not required.

*Civil Justice Reform (E.O. 12988)*

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

*Paperwork Reduction Act*

This regulation does not require an additional information collection approval under the Paperwork Reduction Act of 1995. There is currently in place an approved information collection titled Delegation of Authority to States, OMB Control Number 1010–0088, which expires on June 30, 2000.

*National Environmental Policy Act of 1969*

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required.

*Clarity of This Regulation*

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following:

(1) Are the requirements in the rule clearly stated?

(2) Does the rule contain technical language or jargon that interferes with its clarity?

(3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?

(4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (A ''section'' appears in bold type and is proceeded by the symbol ''§'' and a number heading; for example:

**§ 227.101 What royalty management functions may MMS delegate to a State?**

(5) Is the description of the rule in the ''Supplementary Information'' section of this preamble helpful in understanding the rule?

(6) What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule

easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street NW, Washington, DC 20240. You may also E-mail your comments to this address: Exsec@ios.doi.gov.

**List of Subjects in 30 CFR Part 227**

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

Dated: June 19, 1999.

**Sylvia V. Baca,**

*Acting Assistant Secretary—Land and Minerals Management.*

For the reasons set out in the preamble, 30 CFR part 227 is amended as follows:

## PART 227—DELEGATION TO STATES

1. The authority citation for part 227 continues to read as follows:

**Authority:** 30 U.S.C. 1735; 30 U.S.C. 196; Pub. L. 102–154.

2. Revise § 227.101 to read as follows:

**§ 227.101 What royalty management functions may MMS delegate to a State?**

(a) If there are oil and gas leases subject to the Act on Federal lands within your State, MMS may delegate the following royalty management functions for all such Federal oil and gas leases to you under this part:

(1) Receiving and processing production or royalty reports;

(2) Correcting erroneous report data; and

(3) Performing automated verification.

(b) If there are oil and gas leases subject to the Act on Federal lands within your State, MMS may delegate the following royalty management functions for some or all of the Federal oil and gas leases to you under this part:

(1) Conducting audits and investigations; and

(2) Issuing demands, subpoenas, and orders to perform restructured accounting, including related notices to lessees or their designees, and entering into tolling agreements under section 115(d)(1) of the Act, 30 U.S.C. 1725(d)(1).

(c) If there are oil and gas leases offshore of your State subject to section 8(g) of the Outer Continental Shelf Lands Act, 43 U.S.C. 1337 (g), or solid mineral leases or geothermal leases on Federal lands within your State, MMS may delegate authority to conduct audits and investigations for some or all such Federal leases.

[FR Doc. 99–17238 Filed 7–7–99; 8:45 am]

BILLING CODE 4310–MR–P

## DEPARTMENT OF THE INTERIOR

## Office of Surface Mining Reclamation and Enforcement

## 30 CFR Part 920

**[MD–043–FOR]**

## Maryland Regulatory Program

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

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** OSM is approving a proposed amendment to the Maryland regulatory program (''Maryland program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Maryland proposed revisions to its statutes pertaining to the Land Reclamation Committee to satisfy a required program amendment at 30 CFR 920.16(l). The amendment is intended to revise the Maryland program to be consistent with the corresponding Federal regulations and SMCRA.

**EFFECTIVE DATE:** July 8, 1999.

**FOR FURTHER INFORMATION CONTACT:** George Rieger, Program Manager, OSM, Appalachian Regional Coordinating Center, 3 Parkway Center, Pittsburgh, PA 15220. Telephone: (412) 937–2153. E-Mail: grieger@osmre.gov.

**SUPPLEMENTARY INFORMATION:**



### I. Background on the Maryland Program

On December 1, 1980, the Secretary of the Interior conditionally approved the Maryland program. You can find background information on the Maryland program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the December 1, 1980, **Federal Register** (45 FR 79449). You can find later actions on conditions of approval and program amendments at 30 CFR 920.12, 920.15, and 920.16.

### II. Submission of the Proposed Amendment

By letter dated August 22, 1997 (Administrative Record No. MD–578.00), Maryland submitted a proposed amendment to its program pursuant to SMCRA in response to a required amendment at 30 CFR 920.16(l). Maryland is revising the 1997 Laws of Maryland, Chapter 223 (House Bill 245), at section 15–204(a)(4) to require that Land Reclamation Committee (LRC) members recuse themselves from proceedings that may affect their direct or indirect financial interests.

We announced receipt of the proposed amendment in the September 19, 1997, **Federal Register** (62 FR 49183), and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on October 20, 1997.

During our review of the amendment, we identified concerns with Maryland's submission. In a letter dated January 29, 1998 (Administrative Record No. MD–578–06), we informed Maryland that it must amend its program to require that LRC members file a statement of employment and financial interests. Since Maryland did not take further action, it was not necessary to reopen the comment period.

### III. Director's Findings

Following, according to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are our findings concerning the proposed amendment. Any revisions we do not specifically discuss below concern nonsubstantive wording changes and paragraph notations to reflect organizational changes resulting from this amendment.

30 CFR 920.16(l) required Maryland to amend its program to require members of the LRC to: (1) recuse themselves from proceedings that affect their direct financial interest and (2) file a statement of employment and financial interest. In response, Maryland proposed to revise Chapter 223, 1997 Laws of Maryland, at section 15–204(a)(4) to require that LRC members recuse themselves from proceedings that may affect their direct or indirect financial interests. We find that the proposed revision is no less effective than the Federal regulation at 30 CFR 705.4(d) and satisfies the first part of the required amendment at 30 CFR 920.16(l).

In its submittal letter, Maryland stated that it is presently requiring that LRC members file a Federal OSM employment and financial interest statement. Maryland did not, however, provide supporting documentation. We find that Maryland's program is less effective than the Federal regulations at 30 CFR 705.11(a) and 705.17(a).