

published on December 29, 1997 is adopted as a final rule without change.

Dated: August 27, 1999.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

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DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 290

RIN 1010-AC21

Appeal Procedures; Correction

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Correcting amendments.

SUMMARY: MMS is correcting an amendment to rules governing the appeal of Royalty Management Program and Delegated States Orders. This correction results from a technical error made in a recent final rule.

EFFECTIVE DATE: Effective on May 13, 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:

Background

MMS is making corrections to a final rule published in the **Federal Register** on May 13, 1999 (64 FR 26240). The final rule, effective May 13, 1999, amended among other things, 30 CFR part 290, Subpart B—Appeals of Royalty Management Program and Delegated States Orders. Subpart B applies to all Federal and Indian mineral leases onshore and on the Outer Continental Shelf regardless of the statutory authority under which the lease was issued or maintained. This correction adds two sections to 30 CFR part 290, subpart B. Before May 13, 1999, these sections were found in 30 CFR 243.3 Exhaustion of administrative remedies, and in 30 CFR 243.4 Service of official correspondence. These sections were inadvertently omitted from the May 13, 1999, final rule.

Amendments to these sections were proposed in the **Federal Register** on January 12, 1999 (64 FR 1986), under part 242, subpart D—Appeals and Service, sections 242.302 through 242.305. However, we are not adopting those amendments at this time. Rather, we simply are replacing former sections 30 CFR 243.3 and 243.4 with minor

modifications to reflect changes in the final rule published May 13, 1999, and other changes to conform to the plain language of part 290.

Need for Correction

As published, the final regulations in 30 CFR part 290, subpart B, inadvertently omitted the provisions regarding exhaustion of administrative remedies and service of official correspondence. Without these provisions, it is unclear where recipients of orders should seek resolution to royalty disputes and how those orders must be served. Therefore, because this was an administrative error, MMS determines under 5 U.S.C. 553(b) that notice and comment are unnecessary and contrary to public interest. Thus, good cause exists to issue this final rule. MMS also determines for the same reasons to make this rule effective immediately. Further, to avoid any gap in coverage, we are adding those provisions in this correction, effective retroactively to the date of the final rule, i.e., May 13, 1999.

Although we received public comments on sections 242.302 through 242.305 of the proposed rule, we are not addressing those comments at this time because we are not finalizing those sections of the proposed rule in this correction. We will address those comments at the same time we address all the remaining matters from the January 12, 1999, proposed rule.

List of Subjects in 30 CFR Part 290

Administrative practice and procedure.

Dated: September 10, 1999.

Sylvia V. Baca,

Acting Assistant Secretary—Land and Minerals Management.

Accordingly, 30 CFR part 290, subpart B, is corrected by making the following correcting amendments:

PART 290—APPEALS PROCEDURES

1. The authority citation for part 290 remains as follows:

Authority: 5 U.S.C. 301 *et seq.*; 43 U.S.C. 1331 *et seq.*

2. Add §§ 290.110 and 290.111 to Subpart B—Appeals of Royalty Management Program and Delegated State Orders to read as follows:

* * * * *

§ 290.110 How do I exhaust administrative remedies?

(a) To exhaust administrative remedies, you must appeal an MMS Royalty Management Program (RMP) or delegated State order:

(1) To the MMS Director (or the Deputy Commissioner of Indian Affairs when Indian lands are involved); and
(2) Subsequently to the Interior Board of Land Appeals under 30 CFR part 290, subpart B, and 43 CFR part 4.

(b) This section does not apply if an order was made effective by:

- (1) The Director;
- (2) The Assistant Secretary for Land and Minerals Management;
- (3) The Assistant Secretary for Indian Affairs; or
- (4) The Interior Board of Land Appeals under 43 CFR part 4.

§ 290.111 How will MMS and delegated States serve official correspondence?

(a) *Method of service.* The Royalty Management Program (RMP) or a delegated State will serve official correspondence by sending the document by certified or registered mail, return receipt requested, to the addressee of record established in paragraph (b) of this section. Instead of certified or registered mail, RMP or a delegated State may deliver the document personally to the addressee of record and obtain a signature acknowledging the addressee's receipt of the document. Official correspondence includes all orders that are appealable under this subpart.

(b) *Addressee of record.* (1) The addressee of record for administrative correspondence for refiners participating in the Government's Royalty-in-Kind (RIK) Program is the position title, department name and address, or individual name and address identified in the executed royalty oil sale contract. The refiner/purchaser may identify, in writing, a different position title, department name and address, or individual name and address for billing purposes. The refiner must notify MMS, in writing, of any addressee changes.

(2) The addressee of record for serving official correspondence on anyone required to report energy and mineral resources removed from Federal and Indian leases to the RMP Production Accounting and Auditing System is the most recent position title, department name and address, or individual name and address that RMP has in its records for the reporter/payor. The reporter/payor is responsible for notifying RMP, in writing, of any addressee changes.

(3) The addressee of record for serving official correspondence concerning onshore Federal leases is the current lessee of record with the Bureau of Land Management. For Indian leases, the addressee of record is the current lessee of record with the Bureau of Indian Affairs. For offshore leases, the addressee of record is the current lessee

of record with the MMS Offshore Minerals Management Program. The lessee is responsible for notifying the appropriate Government office of any addressee changes.

(4) The addressee of record for serving official correspondence in connection with reviews and audits of payor records is the position title, department name and address, or individual name and address designated, in writing, by the company at the initiation of the audit, or the most recent addressee that was specified, in writing, by the payor.

(5) The addressee of record for serving official correspondence relating to reporting on the "Report of Sales and Royalty Remittance" (Form MMS-2014) is the most recent position title, department name and address, or individual name and address specified, in writing, by the payor. The payor is responsible for notifying RMP, in writing, of any addressee changes.

(6) The addressee of record for serving official correspondence in connection with remittances pertaining to rental and bonuses from nonproducing Federal leases is the most recent position title, department name and address, or individual name and address maintained in RMP records. The payor is responsible for notifying RMP, in writing, of any addressee changes.

(7) The addressee of record for serving official correspondence including orders, demands, invoices, or decisions, and other actions identified with payors reporting to the RMP Auditing and Financial System not identified above is the position title, department name and address or individual name and address for the payor identified on the most recent Payor Confirmation Report (Report No. RPI140R1) of a Payor Information Form (PIF) (Form MMS-4025 or Form MMS-4030) returned by RMP to the payor for the Federal or Indian lease (see 30 CFR 210.51 and 210.201).

(8) If correspondence applies to more than one category identified in paragraphs (b)(1) through (7) of this section, MMS may serve the official correspondence in accordance with the requirements of any one paragraph.

(c) *Dates of service.* Except as provided in paragraph (d) of this section, MMS considers official correspondence as served on the date that it is received at the address of record established under paragraph (b) of this section. A receipt signed by any person at that address is evidence of service. If official correspondence is served both personally and by registered or certified mail, the date of service is the earlier of the two dates, if they are different.

(d) *Constructive service.* (1) If delivery cannot be made after reasonable effort at the address of record established under paragraph (b) of this section, MMS deems official correspondence as constructively served 7 days after the date that the document is mailed.

(2) This provision covers such situations as nondelivery because the addressee has moved without filing a forwarding address, the forwarding order had expired, delivery was expressly refused, or the document was unclaimed where the attempt to deliver is substantiated by U.S. Postal Service authorities.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 904

[SPATS No. AR-029-FOR]

Arkansas Abandoned Mine Land Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.
ACTION: Final rule; approval of amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is approving an amendment to the Arkansas abandoned mine land reclamation plan (Arkansas plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Arkansas proposed revisions to its plan concerning definitions, purposes of the reclamation program, identification of eligible lands and water, ranking and selection procedures, coordination of reclamation work, acquisition management and disposition of land and water, reclamation on private land, rights of entry, public participation, organizational structure, personnel and staffing policies, purchasing and procurement systems, management accounting, and AML problem description. Arkansas intends to revise its plan to be consistent with the corresponding Federal regulations and SMCRA.

EFFECTIVE DATE: September 20, 1999.

FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 470, Tulsa, Arkansas 74135-6547. Telephone: (918) 581-6430. Internet: mwolfrom@tokgw.osmre.gov.

SUPPLEMENTARY INFORMATION:

- I. Background on the Arkansas Plan
- II. Submission of the Proposed Amendment
- III. Director's Findings
- IV. Summary and Disposition of Comments
- V. Director's Decision
- VI. Procedural Determinations

I. Background on the Arkansas Plan

On May 2, 1983, the Secretary of the Interior approved the Arkansas plan. You can find background information on the Arkansas plan, including the Secretary's findings, the disposition of comments, and the approval of the plan in the May 2, 1983, **Federal Register** (48 FR 19710). You can find later actions on the Arkansas plan at 30 CFR 904.25 and 904.26.

II. Submission of the Proposed Amendment

By letter dated June 16, 1999 (Administrative Record No. AAML-27), Arkansas sent us an amendment to its plan pursuant to SMCRA. Arkansas sent the amendment in response to our letter dated September 26, 1994, that we sent to Arkansas under 30 CFR 884.15(d). The amendment also included changes Arkansas made at its own initiative.

We announced receipt of the amendment in the July 9, 1999, **Federal Register** (64 FR 37067). In the same document, we opened the public comment period and provided an opportunity for a public hearing on the adequacy of Arkansas' amendment. The public comment period closed on August 9, 1999. Because no one requested a public hearing or meeting, we did not hold one.

III. Director's Findings

Following, under SMCRA and the Federal regulations at 30 CFR 884.14 and 884.15, are our findings concerning the amendment. Any revisions that we do not discuss below are about minor wording changes, or revised cross-references and paragraph notations to reflect organizational changes resulting from this amendment.

A. Arkansas proposed to add to the reclamation plan a table of contents with numbered headings and lettered sub-headings. We are approving this addition.

B. Arkansas proposed to add Part III—"Definitions," to the reclamation plan. We are approving the addition of this part because it complies with Federal definitions found at 30 CFR 870.5.

C. Part IV—"Policies and Procedures for the State Abandoned Mine Land Reclamation Program."

1. Arkansas proposed to change the name of section 884.13(c)(1) from "Introduction" to "Purposes of the State