



of staffing, funding, or other limitations. It will enable other States which might desire to take on the delegated audit function to do so without being fully staffed to the extent necessary were they required to audit all Federal mineral and 8(g) leases in or offshore of that State.

#### 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 any additional information or fees to be filed by the States.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The States' delegated audit authority will follow the policies of the Department. State actions will be coordinated 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 prepared by the State and approved by MMS. This is a process which has been used effectively since 1985 and will continue under the proposed rule.

(4) This rule does not raise novel legal or policy issues. The authority to delegate audit duties to States has been available to MMS since 1983. The operational history has been one where the States covered as much of the Federal lease universe as practical for each State and MMS covered the remainder. We expect these circumstances of operation to continue under the proposed 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, prior to the passage of RSFA. 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. The expense of delegated audit functions would be initially incurred by the States and later reimbursed by MMS. 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 be reviewing 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 State and 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, FOGPMA and RSFA, do not provide for any other entity, except tribal governments, to conduct these duties.

*Your comments are important.* The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman

will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions in this proposed rule, call 1-888-734-3247.

##### *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. The costs incurred to conduct the audits and investigations will be fully reimbursed by the Federal Government 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 preceded 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](mailto: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: January 26, 1999.

**Sylvia V. Baca,**

*Acting Assistant Secretary, Land and Minerals Management.*

For the reasons set out in the preamble, 30 CFR part 227 is proposed to be 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 only may delegate authority to conduct audits and investigations for some or all such Federal leases.

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#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 165**

[OPP-250126; FRL-6025-3]

#### **Standards for Pesticide Containers and Containment; Notification to the Secretary of Agriculture**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notification to the Secretary of Agriculture.

**SUMMARY:** Notice is given that the Administrator of EPA has forwarded to the Secretary of Agriculture a proposed regulation under section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The proposed rule partially reopens the comment period for a previously issued proposed regulation that would require container design and residue removal requirements for refillable and nonrefillable pesticide containers and standards for pesticide containment structures. This action is required by FIFRA section 25(a)(2).

**FOR FURTHER INFORMATION CONTACT:** By mail: Nancy Fitz, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 1103, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, 703-305-7385, e-mail: [fitz.nancy@epamail.epa.gov](mailto:fitz.nancy@epamail.epa.gov).

**SUPPLEMENTARY INFORMATION:** Section 25(a)(2) of FIFRA provides that the Administrator shall provide the Secretary of Agriculture with a copy of any proposed regulation at least 60 days before signing it for publication in the **Federal Register**. If the Secretary comments in writing regarding the proposed regulation within 30 days after receiving it, the Administrator shall issue for publication in the **Federal Register**, with the proposed regulation, the comments of the Secretary and the response of the Administrator concerning the Secretary's comments. If the Secretary does not comment in writing within 30 days after receiving the proposed regulation, the Administrator may sign the regulation for publication in the **Federal Register** anytime thereafter. As required by FIFRA section 25(a)(3), a copy of the proposed regulation has been forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.