

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 210, 212, 217, 218, 219, 228, 229, and 241

Implementation of the Federal Oil and Gas Royalty Management Act of 1982

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking is intended to implement the Federal Oil and Gas Royalty Management Act of 1982, which was enacted to ensure that all oil and gas originated on the public lands and Outer Continental Shelf are properly accounted for under the direction of the Secretary of the Interior, and for other purposes. This rulemaking applies only to those sections of the Act that affect the responsibilities of MMS.

DATE: Comments by October 20, 1983.

ADDRESS: Send comments to: Deputy Associate Director for Royalty Management (Policy), Minerals Management Service (Mail Stop 660), 12203 Sunrise Valley Drive, Reston, Virginia 22091.

FOR FURTHER INFORMATION CONTACT: Orie L. Kelm (703) 860-7511, (FTS) 928-7511.

SUPPLEMENTARY INFORMATION: The principal author of this proposed rulemaking is Robert E. Boldt, Associate Director for Royalty Management, MMS.

The Federal Oil and Gas Royalty Management Act of 1982 (Pub. L. 87-451, 30 U.S.C. 1701), serves as the culmination of the efforts of the Department of the Interior (DOI) to improve the processes by which it collects and accounts for bonuses, rents, and royalties on Federal and Indian oil and gas leases. In mid-1981, the Secretary of the Interior appointed the Commission on Fiscal Accountability of the Nation's Energy Resources which produced a report in January of 1982, making 60 specific recommendations for improvement to DOI's royalty management effort including improved accounting, more strict penalty provisions for noncompliance, enhanced site security requirements on Federal and Indian leases, and new methods of seeking out and preventing potential oil theft.

The Commission recommended in its final report that the Administration introduce legislation to implement those Commission recommendations which did not have any statutory base and to update those statutory provisions which had become outmoded over the years.

The Federal Oil and Gas Royalty Management Act of 1982 provides the Secretary of the Interior with additional statutory authority to govern the lease management of Federal and Indian oil and gas leases and the collection and accounting for monies produced from those leases.

The purpose of this rulemaking is to establish regulations to implement provisions of the new Act. These regulations deal primarily with the collection, accounting, and distribution of royalty and rental payments from Federal and Indian lands. Other proposed regulations dealing with onshore lease management and site security will be issued by the Bureau of Land Management.

The Department has conducted extensive informal discussions with States, Indian tribes, and industry in the preparation of these regulations. Early drafts of this proposed rulemaking were circulated for general comment and many of the comment obtained from interest groups are incorporated herein.

A brief summary of the most significant provisions of these regulations are as follows:

Part 212. The provisions of Part 212, authorized by Section 103 of the Act, reaffirm required recordkeeping including requirements for the submission of certain data to MMS.

This part outlines the type of records which must be maintained in the lessee/operator's files, indicating that these records must be maintained for a period of 6 years since the Department feels that a 6-year retention period is the intent of Congress. These proposed regulations further indicate that records can be maintained in any reproducible fashion such as microfilm, microfiche, or electronic imagery which is available for inspection and review on a ready basis.

Part 217. This part is authorized by Section 101 of the Act and establishes the authority of the Secretary to carry out audits on all aspects of the conduct of lessees, operators, and other persons with rental, royalty, and other payment obligations, under the terms of Federal and Indian oil and gas leases. The part also establishes priority for the reconciliation of all lease accounts specifically identified by a State or Indian tribe as having a significant potential for underpayment.

Part 218. The provisions of Part 218, which are authorized by Sections 102, 103, and 111 of the Act, deal with the timing of royalty payments and establishment of proposed regulations for the submission of royalty payments under the new Auditing and Financial System (AFS) being operated by MMS

at its Royalty Management Accounting Center (RMAC) in Lakewood, Colorado.

To effectively implement the recommendations of the Commission on Fiscal Accountability of the Nation's Energy Resources, the reporting and paying time is extended to the end of the second month following the end of the production month in order to give adequate time for payors to make accurate reports and payments.

This part also requires the submission of a document disclosing division of interest in the lease within 60 days following the date of the first sale and indicates that only those portions of division orders dealing with Federal or Indian interests or which affect Federal or Indian leases need be submitted.

In addition, this part establishes the provisions for the payment of penalties for late royalty payments and rentals, and identifies the way in which interest charges will be calculated.

For late royalty management reports, a penalty of \$10.00 will be assessed for reports not received by MMS by the designated due date. For the purpose of the penalty assessment, the report is generally defined as each required transaction code identified in the new AFS.

This part further indicates that the States will be exempted from interest or penalties found to be payable by the Department of the Interior to small refiners for failure to comply with the Emergency Petroleum Allocation Act of 1973 with respect to crude oil taken by the Secretary in-kind as royalty oil and then sold to small refiners under the provisions of the Mineral Leasing Act or the Outer Continental Shelf Lands Act.

This part further clarifies, however, that when the Department, as a result of litigation or a negotiated settlement, pays a claim resulting from alleged failure to comply with the Emergency Petroleum Allocation Act of 1973, a certain portion of that claim which may have been paid to the State under the shared royalty provisions of the Mineral Leasing Act of 1920, will be deducted from funds to be paid to the State out of future shared royalties until the State's share of the claim has been satisfied.

Part 219. The proposed regulations for this part, authorized by Sections 104 and 105 of the Act, deal with the timing and payment to States and to Indian tribes of royalties, rents, and bonuses, and establish requirements for those receipts which are subject to the payment of interest under the provisions of the new Act.

This part also describes the types of reports which will be made available under the provisions of the new Act to

States and Indian tribes, identifying the source of and amounts distributed to the States and Indian tribes on a monthly basis.

Part 228. This part, authorized by Section 202 of the Act, establishes provisions by which States and Indian tribes may enter into Cooperative Agreements with DOI to conduct audit activities. Under the provisions of the proposed regulations, 50 percent of the cost of cooperative activities carried out under this Part would be reimbursed by the Department. The 50 percent share provided by the State or Indian tribes can be provided in cash or in the way of in-kind contributions as defined in normal Government accounting practices.

Significant comments concerning Sections 202 and 205 of the Act were received from those States who are already involved in cooperative audit agreements with MMS, some of which have been in existence for over 2 years. Many of the suggestions made by the States have been incorporated into the proposed regulations included in this rulemaking.

Under the proposed regulations, a Cooperative Agreement would be for a period of 3 years with a possible extension or an additional 3 years if mutually agreed to by both parties. The proposed regulations also indicate that a State may carry out activities under both Sections 202 and 205 of the Act.

The proposed regulations contain a provision allowing the Secretary to increase funding to a level of 100 percent for Cooperative Agreements with certain Indian Tribes showing extreme need.

The proposed regulations also indicate, as provided in Section 206 of the Act, that 50 percent of any civil penalty collected under the provisions of the Act will be shared with States or Indian tribes. However, the amount of that civil penalty will be deducted from the Federal share of any funding provided for in a Cooperative Agreement with a State or Indian tribe.

The regulations also established that funding under the provisions of Sections 202 and 205 of the Act is subject to the availability of appropriations on an annualized funding basis.

Part 229. This part, authorized by Section 205 of the Act, establishes proposed regulations dealing with the delegation of certain authorities to the States to conduct inspections, audits, and investigations with respect to all Federal lands within a State and to those Indian lands for which the State has received specific Delegation of Authority from the tribe or from individual Indian allottees.

The proposed regulations establish requirements for fact-finding and hearings on the part of the Department before a delegation is made to a particular State. The regulations propose that the term of delegation would be for a period of 3 years with a possible extension for an additional 3 years at the mutual agreement of both parties. Requirements for recordkeeping and reporting from States involved in a delegation are also included as well as a provision for an annual audit of the State's activities carried out under the provisions of the delegation.

As required by the statute, costs incurred by the State under the delegation of Authority will be reimbursed 100 percent by the Federal Government.

Parts 228 and 229. Section 203 of the Act outlines the proposed regulations relative to the type of information to be provided to States and Indian tribes to carry out activities under the provisions of Sections 202 and 205 of the Act. Specific parts of the regulations deal with the restrictions called for by the Act relating to the constraints making proprietary data available to States and Indian tribes.

Part 241. The proposed regulations for Part 241, authorized by Section 109 of the Act, establish the process for the assessment and collection of civil penalties authorized by the new Act.

The MMS intends to use a graduated system of assessing penalties taking into consideration the seriousness of the violation and the previous history of compliance of the lessee/operator, or royalty payor. The primary intent of the process is to elicit, to the greatest extent possible, voluntary compliance with MMS paying and reporting requirements.

Sections of the Act for which proposed regulations have been formulated

There are a number of provisions of the Act for which specific regulations have not been formulated because the statutory language itself is self-explanatory or the language of the statute is advisory and does not require regulatory language to implement it. In other instances, the Department will incorporate by reference its existing regulation or rulemaking as meeting the requirements or provisions of the Act.

Relationships to other statutes and regulations. Regulations are being issued by two separate bureaus of DOI, therefore, certain provisions of the Act will ultimately be implemented by regulations found in 43 CFR (the operating regulations) as well as in new Parts of 30 CFR which, when fully completed, will provide a compendium of

regulations relating in the royalty management process.

In each instance, the regulations pertaining to the new Act will clearly identify if they revise, amend, or add to existing regulations and the Subpart letter designations indicate applicability to onshore, offshore or both. The preamble herein contains references to the authorizing section of the Act for each part or subpart of the regulation.

Executive Order 12291

The Department has determined that this proposed rule is not a major action and does not require the preparation of a regulatory impact analysis under Executive Order 12291. Although the proposed rule establishes certain penalty provisions, the economic effect is minimal so long as there is compliance with the regulations.

Cooperative Agreements and delegations to States have minimal economic effect, as this arrangement only addresses who will perform the functions, the Secretary, State, or Indian tribe.

Regulatory Flexibility Act

The Department has also determined that this rule will not have a significant economic effect on a substantial number of small entities and does not, therefore, require a small entity flexibility analysis under the Regulatory Flexibility Act. Although the proposed rule establishes certain penalties, as long as the lessee complies with the rules, there will be no penalties. The cost or economic effect of this regulation is solely in the hands of the lessee.

Paperwork Reduction Act of 1980

Although information collection requirements are noted in several parts of this rule, it is done so only for reaffirmation. The purpose of the Act is stated to be, in part, to clarify, reaffirm, expand, and to define the responsibilities and obligations of lessees, operators and other persons involved in transportation or sale of oil and gas from the Federal and Indian lands and the Outer Continental Shelf.

The information collection requirements noted in this rule have been previously authorized or there is no need for authorization as discussed by Part/Section as follows:

Sections 210.51, 212.50, and 212.51. The information collection requirements contained in these Sections have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et. seq.* and assigned clearance number 1010-0033.

Section 220.52. The information collection requirement contained in Section 210.52 has been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1010-0022.

Section 218.53. The division of interest documents--division order and sales contract--are industry documents which are required to be issued by State laws to all lease interest holders. The Federal Government receives its copy, which it also has signed, as an interest holder (royalty). For this reason, this is considered to be an information collection document which is received without invoking a Federal authority.

Parts 228 and 229. The information collection requirements contained in these Parts do not require approval by the Office of Management and Budget under 44 U.S.C. 350 *et seq.* because there are fewer than ten respondents.

National Environmental Policy Act of 1969

It is hereby determined that this proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (43 U.S.C. 4332(2)(C)) is required.

List of Subjects

30 CFR Part 210

Government contracts, Reporting and recordkeeping requirements, Mineral royalties, Continental shelf, Public lands--mineral resources, Geothermal energy.

30 CFR Part 212

Coal, Reporting and recordkeeping requirements, Government contracts, Mineral royalties, Public land--mineral resources.

30 CFR Part 217

Coal, Government contracts, Mineral royalties, Reporting and recordkeeping requirements.

30 CFR Part 218

Government contracts, Mineral royalties, Continental shelf, Public lands--Mineral resources, Coal, Geothermal energy.

30 CFR Part 219

Mineral royalties, Intergovernmental relations, Penalties.

30 CFR Part 228

Freedom of information Intergovernmental relations, Investigations, Mineral royalties.

30 CFR Part 229

Intergovernmental relations, Investigations, Mineral royalties.

30 CFR Part 241

Government contracts, Reporting and recordkeeping requirements.

Under the authority of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1751) Chapter II, Title 30 of the Code of Federal Regulations is proposed to be amended as set forth below.

Dated: August 3, 1982.

Wilbert L. Dare,

Acting Assistant Secretary.

1. 30 CFR Part 210 is amended by adding Subpart B consisting of §§ 210.50, 210.51, and 210.52 to read as follows:

PART 210--FORMS AND REPORTS

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Subpart B--Oil and Gas General

Sec.

210.50 Required Recordkeeping.
210.51 Pay or Information Form
210.52 Report of Sales and Royalty Remittance.

Subpart B--Oil and Gas General

§ 210.50 Required recordkeeping.

Information required by the Minerals Management Service (MMS) shall be filed using the forms prescribed in this Subpart, copies of which are available from MMS. Records may be maintained in microfilm, microfiche, or other recorded media that is readily available and readable.

§ 210.51 Payor information form.

The Payor Information Form (Form MMS 4025) must be filed for each Federal or Indian lease on which royalties are paid. Form MMS 4025 is also required for all Federal leases on which rent is due. The completed form must be filed by the party who is making the rent or royalty payment (Payor) for each revenue source. Form MMS 4025 must be filed no later than 30 days after issuance of a new lease or a change to an existing lease which changes the paying responsibility of the lease.

§ 210.52 Report of sales and royalty remittance.

A completed Report of Sales and Royalty Remittance (Form MMS-2024) must accompany all payments for rents and royalties. Completed Form MMS-2024's for royalty payments including those made by electronic funds transfer, are due at the end of the second month following the production month. Where

applicable, completed Form MMS-2014's for rental payments are due no later than the anniversary date of the lease.

2. 30 CFR Part 212 is amended by adding Subpart B consisting of §§ 212.50 and 212.51 to read as follows:

PART 212--RECORDS AND FILES MAINTENANCE

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Subpart B--Oil and Gas General

Sec.

212.50 Required Recordkeeping and reports.
212.51 Records and files maintenance.

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Subpart B--Oil and Gas General

§ 212.50 Acquired recordkeeping and reports.

Records required with respect to Federal and Indian oil and gas leases shall be maintained for 6 years after the records are generated unless notified, in writing, that such records must be maintained for a longer period. When an audit or investigation is underway, records shall be maintained until the record holder is released by written notice of the obligation to maintain records.

§ 212.51 Records and files maintenance.

(a) *Records.* Each lessee, operator or other person subject to this subpart shall make and retain accurately and completely such records necessary to demonstrate that payments of rentals, royalties, net profit shares and other payments related to Federal and Indian oil and gas leases are in compliance with lease terms, regulations and orders. Records required include those under the lease terms and those which have been previously authorized by NTL-1, 1A and 5, as well as by Parts 210 and 223, of this chapter.

(b) *Period for keeping records.*

Lessees, operators or other persons required to keep records under this Section shall maintain and preserve those records for 6 years after the day in which the relevant transaction or other events recorded in that record occurred, whichever is later, unless the Secretary notifies the record holder of an audit or investigation involving such records and that such records must be maintained for a longer period. When an audit or investigation is underway, records shall be maintained until the Secretary releases the record holder from the obligation to maintain such records. Lessees, operators or other persons shall be required to maintain records only for the period for which they have paying or operating responsibility on the lease,

except that lessees may be required to preserve records for a longer period as required by the Secretary.

(c) *Inspection.* The lessee, operator or other person required to keep records shall be responsible for and shall make available for inspection any records required to be kept in accord with this Section. Records shall be available at the business location of the lessee, operator or other person during normal business hours upon the request of any officer, employee or other party authorized by the Secretary.

3. 30 CFR Part 217 is amended by adding Subpart B consisting of §§ 217.50 and 217.51 to read as follows:

PART 217—AUDITS AND INSPECTIONS

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Subpart B—Oil and Gas, General

Sec.
217.50 Audits of records.
217.51 Lease account and reconciliation.

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Subpart B—Oil and Gas, General

§ 217.50 Audits of records.

The Secretary, or his authorized representative, shall initiate and conduct audits relating to the scope, nature and extent of compliance of lessees, operators and other persons with rental, royalty, net profit share and other payment requirements pursuant to Federal and Indian oil and gas lease terms, regulations and orders.

§ 217.51 Lease account and reconciliation.

Specific lease account audits and reconciliations shall be performed by the Secretary, or his authorized representative, with due priority being given to auditing those lease accounts specifically identified by a State or Indian tribe as having significant potential for underpayment.

4. 30 CFR Part 218 is amended by adding Subpart B consisting of §§ 218.50, 218.51, 216.52, 218.53, 218.54, 218.55, 218.56 and by adding §§ 218.103 and 218.104 to Subpart C to read as follows:

PART 216—COLLECTION OF ROYALTIES, RENTALS, BONUSES AND OTHER MONIES DUE THE FEDERAL GOVERNMENT

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Subpart B—Oil and Gas, General

Sec.
218.50 Timing of payment.
218.51 Method of payment.
218.52 Designated payor.
218.53 Division of interests.

218.54 Late payments and underpayments.
218.55 Interest payments to Indians.
218.56 Penalties for late reports and failure to report.

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Subpart B—Oil and Gas, General

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§ 218.50 Timing of payment.

(a) Royalty payments are due at the end of the second month following the month during which the oil or gas is produced and sold unless otherwise specified by the lease terms. Rental payments are due as specified by the lease terms. Payments made on a Bill for Collection are due as specified by the Bill. Bills for collection will be issued and payable as final collection actions.

(b) Payments for Federal leases shall be segregated from payments for Indian leases. Payments shall be made with the following information on the check, check stub, or Electronic Funds Transfer (EFT) deposit message:

(1) For Indian allotted leases, each payment shall be identified by each respective Bureau of Indian Affairs (BIA) agency office having jurisdiction over the lease(s) for which the payment is made.

(2) For Indian tribal leases, each payment shall be identified by each respective Indian tribe to whom the royalty is owed.

(3) When payments are made on an aggregated single check basis, the data shall be provided in format to be specified by MMS. When lease specific checks are presented for payment, the data shall accompany each check.

§ 218.51 Method of payment.

(a) Any remittance of \$50,000 or more in payment to the Minerals Management Service at the Royalty Management Accounting Center (RMAC), Lakewood, Colorado, for royalties and rents (OCS bonuses and first year's rentals are separately considered in § 218.155 of this Part) must be made by EFT, utilizing the Treasury Financial Communications System (TFCS), unless otherwise directed by MMS. The RMAC will provide detailed instructions to each payor individually, when it is notified by the RMAC to begin remitting by EFT.

(b) Each payor for those items in paragraph (a) of this Section whose remittance on any given day is less than \$50,000; or who is otherwise directed to use an alternative payment method may use the following payment instruments made payable to the Department of the Interior--MMS:

- (1) Federal Reserve check.
- (2) Commercial check.
- (3) Money Order.

- (4) Bank Draft.
- (5) Cashier's check.
- (6) Certified check.

§ 218.52 Designated payor.

The lessee shall notify MMS within 60 days of its assignment of paying responsibility or of any change in payment responsibility if any individual or company, other than the lessee, is to be responsible for paying the rentals or royalties, except for OCS assignments which are treated separately in Part 256 of this Title.

§ 218.53 Division of interests.

(a) The lessee or designated agent shall submit to MMS a copy of all division of interest documents such as division orders, related to contracts for sale of products from leased land at the end of the second month following the date of the contract. The division of interest document sets forth the interest of each owner and serves as the basis on which the purchasing company pays each owner's respective share of the proceeds of the products sold. Only those portions of division of interest documents dealing with Federal or Indian interests or which directly or indirectly affect Federal or Indian leases need be submitted. MMS will review, approve, and reconcile all division of interest documents affecting Federal and Indian interests.

(b) Copies of such division of interest documents are presently required by the State laws to be issued to each interest holder. The Federal Government will receive its copy as an interest holder under the authority of the State laws.

§ 218.54 Late payments and underpayments.

(a) An interest charge shall be assessed on accounts due and unpaid on the date such payments are due.

(b) The interest charge on such late payments and underpayment shall be at the rate applicable under Section 6621 of the Internal Revenue Code of 1954.

(c) The interest shall be computed and charged only on the amount of the deficiency and not on the total amount due and only for the number of days the payment is late.

(d) The interest charge collected shall, be shared with the State that shares in the respective royalty payment and in the same pro-rata share.

§ 218.55 Interest payments to Indians.

(a) All interest charges collected on Indian tribal or allotted leases because of nonpayment, late payment, or underpayment of royalties due and owing an Indian tribe or an Indian allottee shall be processed in the same

manner as are Indian royalties under the provisions of § 219.103 of this chapter.

(b) Any transfer to the appropriate Indian account of royalties and related monies received on Indian leases which are not made by the day required in § 219.103 of this chapter shall include an interest charge, payable to the appropriate Indian account.

(c) The interest charge shall be computed daily at the rate applicable under Section 6621 of the Internal Revenue Code of 1954.

(d) The interest shall be charged only for the number of days the payment is late.

§ 218.56 Penalties for late reports and failure to report.

(a) A penalty of \$10.00 may be assessed for monthly reports not received by MMS by the designated due date.

(b) For purposes of this penalty assessment, a report is generally defined as each required transaction code for each Accounting Identification Number (AID), Product Code and Selling Arrangement.

(c) This penalty assessment will not be shared with the State, Indian tribe or Indian allottee that shares in the respective royalty payment.

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Subpart C—Oil and Gas, Onshore

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§ 218.103 Payments to States.

(a) Any amount that is payable by MMS to a State but is not paid on the due date, as specified in § 219.100 of this chapter, or that is held in a suspense account pending resolution of a dispute as specified in § 218.101(a) of this chapter, shall include an interest charge payable to the State.

(b) The interest charge shall be computed daily at the rate applicable under Section 6621 of the Internal Revenue Code of 1954.

(c) The interest shall be computed only for the number of days a payment is late. In the case of suspended amounts subject to interest, it shall be computed beginning with the calendar day that the monies normally would have been paid to the State had they not been in dispute.

§ 218.104 Exemption of States from certain interest and penalties.

(a) States are exempt from being assessed for any interest or penalties found to be due against the Department of the Interior for failure to comply with the Emergency Petroleum Allocation Act of 1973, as amended, or any regulation of the Secretary of Energy thereunder

with respect to crude oil taken by the Secretary in-kind as royalty.

(b) Any State's share of an overcharge, resulting from failure to comply with the Emergency Petroleum Allocation Act of 1973 as amended, shall be deducted from monies owed the State as part of the disbursement of royalties due the State under the provisions of the Mineral Leasing Act as amended. State liability for payment shall exist for any damages assessed against the Secretary as the result of civil suit or as the result of settlement of a claim through a negotiated agreement. Such damages would be offset against future distributions to the State.

5. 30 CFR Part 219 is added consisting of Subpart C which contains §§ 219.100 219.101, 219.102, 219.103 and 219.104 to read as follows:

PART 219—DISTRIBUTION AND DISBURSEMENT OF ROYALTIES, RENTALS AND BONUSES

Subpart A—General Provisions [Reserved]

Subpart B—Oil and Gas, General [Reserved]

Subpart C—Oil and Gas, Onshore

Sec.

219.100 Timing of payment to States.

219.101 Receipts subject to an interest charge.

219.102 Method of payment.

219.103 Payments to Indian accounts.

219.104 Explanation of payments to States and Indian tribes.

Authority: The Federal Oil and Gas Royalty Management Act of 1982 (Pub. L. 97-451, 30 U.S.C. 1701).

Subpart A—General Provisions [Reserved]

Subpart B—Oil and Gas, General [Reserved]

Subpart C—Oil and Gas Onshore

§ 219.100 Timing of payment to States.

(a) The State's share of royalty and related monies shall be paid to the State not later than the last business day of the month in which the United States Treasury issues a warrant authorizing the disbursement.

(b) Unless otherwise specified by the Secretary, the last business day of the month is the last calendar day of the month except when that day falls on a Saturday, Sunday, or holiday, in which case the last business day will be the next succeeding regularly scheduled work day in the following calendar month.

§ 219.101 Receipts subject to an interest charge.

(a) The MMS shall pay the State its proportionate share of any interest charge for royalty and related monies that are placed in a suspense account pending resolution of matters which will allow distribution and disbursement. Rules for computation of the interest charge are prescribed in § 218.55 of this chapter.

(b) Upon resolution, the suspended monies found due in paragraph (a) of this section, plus interest, shall be disbursed to the State under the provisions of § 219.100.

§ 219.102 Method of payment.

The MMS shall disburse monies to the State either by Treasury check or by EFT. Should the State desire to receive its payment by EFT, it should request this payment method in writing to the Minerals Management Service, Accounting Operations Division, P.O. Box 5760, Denver, Colorado 80217.

§ 219.103 Payments to Indian accounts.

Royalties and other monies received on Indian leases shall be transferred to the appropriate Indian accounts which are managed by BIA for allotted and tribal royalties. These accounts are specifically-designated Treasury accounts. Monies shall be transferred to the Indian accounts at the earliest practicable date after such funds are received, but in no case later than the last business day of the month in which such monies are warranted by the U.S. Treasury.

§ 219.104 Explanation of payments to States and Indian tribes.

(a) Payments to States and BIA on behalf of Indian tribes or Indian allottees discussed in §§ 219.100 and 219.103, shall be described in Explanation of Payment reports. These reports shall include a description of the type of payment being made, the period covered by such payment, the source of such payment, production amounts upon which the payment is based, the royalty rate, and the unit value.

(b) Explanation of Payment reports shall disclose, at the lease level, the information required under paragraph (a) of this section.

(c) Should any State or Indian tribe desire additional or more specific information pertaining to royalty payments, the State or tribe may request such information from MMS upon a specific request delineating the type of information requested.

(d) Explanation of Payment reports shall be provided to the States not later

than the last business day of the month in which MMS disburses the State's share of royalties and related monies. The last business day of the month is defined in § 219.100(b).

(e) Explanation of Payment reports shall be provided to BIA on behalf of tribes and Indian allottees not later than the last business day of the month in which distribution accounting is accomplished. Monies that cannot be distributed for the tribes or Indian allottees because the Payor/lessee provided incorrect, inadequate, or incomplete information, that prevents MMS from properly identifying the payment to the proper recipient, shall not be included in such reports until the problem is resolved.

6. 30 CFR Part 228 is added consisting of Subpart A which contains §§ 228.1, 228.2, 228.4, 228.5, 228.6, 228.10 and Subpart C which contains §§ 228.100, 228.101, 228.102, 228.103, 228.104, 228.105, 228.106, 228.107 and 228.108 to read as follows:

PART 228—COOPERATIVE ACTIVITIES WITH STATES AND INDIAN TRIBES

Subpart A—General Provisions

Sec.

228.1 Purpose.

228.2 Policy.

228.4 Authority.

228.5 Delegation of authority.

228.6 Definitions.

228.10 Information collection requirements.

Subpart B—Oil and Gas, General [Reserved]

Subpart C—Oil and Gas, Onshore

Sec.

228.100 Terms of agreement.

228.101 Establishment of standards.

228.102 Maintenance of records.

228.103 Availability of information.

228.104 Entering into an agreement.

228.105 Funding of Cooperative Agreements.

228.106 Funding of Cooperative Agreements for certain Indian tribes.

228.107 Eligible cost of activities.

228.108 Deduction of civil penalties accruing to the State or tribe from the Federal share of a Cooperative Agreement.

Authority: Federal Oil and Gas Royalty Management Act of 1982. (Pub. L. 97-451, 30 U.S.C. 1701).

Subpart A—General Provisions

§ 228.1 Purpose.

It is the express purpose of Cooperative Agreements to effectively utilize the capabilities of the States and Indian tribes in developing and maintaining an efficient and effective Federal royalty management system as contemplated under Section 2(b)(5) of

the Federal Oil and Gas Royalty Management Act of 1982.

§ 228.2 Policy.

It shall be the policy of DOI to enter into Cooperative Agreements with States and Indian tribes to carry our eligible activities whenever a State or tribe initiates a request to enter into such an agreement and a finding is made that a State or tribe has the ability to carry out such cooperative activities in a timely and efficient manner.

§ 228.4 Authority.

Under Section 202 of Title II of the Federal Oil and Gas Royalty Management Act of 1982, the Secretary of the Interior is authorized to enter into Cooperative Agreements with States and Indian tribes to share oil or gas royalty management information, and to carry out auditing, investigation or enforcement activities in cooperation with the Secretary, and to carry out any other activity described in Section 108 of the Act.

§ 228.5 Delegation of Authority.

(a) Authority to enter into Cooperative Agreements to carry out audit and related investigation and enforcement activities with State and tribal Governments has been delegated to the Director of MMS.

(b) Authority to enter into Cooperative Agreements with State and tribal Governments to carry out inspection and related investigation and enforcement activities has been delegated to the Director of BLM and is not covered by this Part.

(c) The entry into a Cooperative Agreement with either MMS or BLM will not affect the ability of a State or Indian tribe to choose to enter into such an agreement with the other agency. A State may enter into a Delegation Agreement under Section 205 of Title II of the Federal Oil and Gas Royalty Management Act of 1982 to perform certain functions without affecting such State's ability to enter into a Cooperative Agreement with either MMS or BLM, or both, to cooperate in the performance of those functions which are not delegated.

§ 228.6 Definitions.

For the purposes of this part, the following definitions are adopted in addition to those definitions included in Section 3 of the Act.

Act means the Federal Oil and Gas Royalty Management Act of 1982.

Audit means an examination of the financial accounting and lease related records of the lessee and other interest holders, who by lease or contract pay

royalties, rents or bonuses on Federal or Indian leases. Such examination is to be conducted in accordance with generally accepted audit standards as adopted by the American Institute of Certified Public Accountants. Activities to be examined which are considered to be an audit function include reconciliation of lease accounts under the Royalty Accounting System (RAS), lease activities related to Federal leases located within the boundaries of the State entering into this Cooperative Agreement, lease activities related to leases located on Indian lands, and the review and resolution of exceptions processed by the AFS and PAAS, the official accounting system for royalty reporters and payors maintained by MMS.

§ 228.10 Information collection requirements.

The information collection requirements contained in this Part do not require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*, because there are fewer than ten respondents annually.

Subpart B—Oil and Gas, General [Reserved]

Subpart C—Oil and Gas, Onshore

§ 228.100 Terms of agreement.

(a) Agreements entered into under this part shall be valid for a period of 3 years and shall be renewable for additional consecutive 3-year periods upon request of the State or Indian tribe which is a party to the agreement.

(b) An agreement maybe terminated at any time and upon any terms and conditions as mutually agreed upon by the parties.

(c) A State or Indian tribe may terminate an agreement by giving a 120 day written notice of intent to terminate.

(d) The MMS may terminate an agreement by giving a 120 day written notice of intent to terminate. MMS shall provide the State or Indian tribe with the reasons for the proposed termination in writing if termination is proposed because of alleged deficiencies by the State or Indian tribe in carrying out the provisions of the agreement. The State or Indian tribe will be given 60 days to respond to the notice of deficiencies and to provide a plan for correction of those deficiencies. No final action on termination shall be taken until the submission of the State or Indian tribe has been reviewed by MMS for content or merit.

(e) Termination of a Cooperative Agreement shall not bar a later request

by a State or Indian tribe to enter into a subsequent Cooperative Agreement.

§ 228.101 Establishment of standards.

The MMS, after active consultation with States and Indian tribes, shall establish uniform minimum acceptable standards for carrying out the activities under the provisions of this part. The standards shall be no more stringent than those applicable to similar activities of MMS. Standards shall be promulgated within 60 days of the date of final issuance of these regulations. The States and Indian tribes shall coordinate their planned auditing activities with MMS.

§ 228.102 Maintenance of records.

The State and Indian tribe entering into a Cooperative Agreement under this Part must retain all records, reports, working papers, and any backup materials for a period as specified by MMS. All records and support materials must be available for inspection and review by appropriate personnel of DOI including the Office of the Inspector General.

§ 228.103 Availability of information.

(a) Under the provisions of this part, information necessary to carry out the activities authorized under the terms of a Cooperative Agreement will be provided by DOI to the States and Indian tribes entering into such agreements. The information will consist of data provided from all relevant sources on a lease level basis for leases located within the boundaries of the State and Indian tribe who has entered into the agreement. This information will include any records or data that are not submitted to MMS, but that affect Federal lease interests and could be required to be submitted under the lease terms of Federal regulations.

(b) None of the provisions in this regulation should be construed as limiting information already being provided to Indian tribes and allottees regarding their lease interests.

(c) The information will be provided by DOI on a monthly basis and will include data on royalties, rents, and bonuses collected on the lease, volumes produced, sales made, value of products disposed of as a sale and used as a basis for royalty calculation, history of site inspection activities on a lease, and other information necessary to allow the State or tribe to carry out its responsibilities under the Cooperative Agreement.

(d) Proprietary data will be made available to a State or tribe under the provisions of Section 203 of the Act

within the constraints of 18 U.S.C. 1905. To receive proprietary data, the State or tribe must:

(1) Demonstrate what audit, investigation or litigation under Section 204 of the Act is planned for or underway for which this data is essential;

(2) Demonstrate why this particular data is necessary; and

(3) Agree to safeguard proprietary data as provided.

§ 228.104 Entering into an agreement.

(a) A State of Indian tribe may request the Department to enter a Cooperative Agreement by sending a letter from the governor, tribal chairman, or other appropriate official with delegation of authority, to the Director of MMS.

(b) A request for an agreement should include at a minimum the following information:

(1) Type of eligible activities to be undertaken.

(2) Proposed term of the agreement.

(3) Evidence that the State or Indian tribe meets, or can meet by the time the agreement is in effect, the standards established by the Secretary for the types of activities to be conducted under the terms of the agreement.

(4) If the State is proposing to undertake activities on Indian lands located within the State, a resolution from the appropriate tribal council indicating their agreement to delegate to the State responsibilities under the terms of the Cooperative Agreement for activities to be conducted on tribal or allotted land.

§ 228.105 Funding of Cooperative Agreements.

The Federal share of funding of eligible activities under a Cooperative Agreement will be limited to not more than 50 percent share of the cost of eligible activities under the terms of the Cooperative Agreement either in cash or in-kind. In-kind contributions must be found eligible under the terms of the agreement and are subject to examination and evaluation by the Department. Agreements are subject to annual funding and the availability of appropriations specifically designated for the purpose of this part.

§ 228.106 Funding of Cooperative Agreements for certain Indian tribes.

(a) The Secretary, at his discretion and upon a showing of financial need by an Indian tribe, may increase the Federal share of activities funded under Section 202 of the Act to a level of up to 100 percent if it appears that full Federal

funding is required to accomplish the purposes of this section.

(b) The need for continuation of such funding will be reviewed at the end of a 3-year period and before any extension of an agreement is approved by the Secretary.

§ 228.107 Eligible cost of activities.

(a) Only costs directly associated with the activities undertaken by the State or Indian tribe under the terms of a Cooperative Agreement will be eligible for sharing. Cost of services or activities which cannot be directly related to the support of the Cooperative Agreement will not be eligible for Federal funding or for inclusion in the State's 50 percent share.

(b) Eligible activities shall include the cost of salaries and benefits associated with technical, support, and clerical personnel engaged in eligible activities; direct cost of travel, rentals, and other normal administrative activities in direct support of the project or projects, basic and specialized training for State or tribal participants; and cost of any contractual services which can be shown to be in direct support of the activities covered by the agreement. Each Cooperative Agreement shall contain detailed schedules identifying those activities and costs which qualify for funding and the procedures, timing and mechanics for implementing Federal funding.

§ 228.108 Deduction of civil penalties accruing to the State or tribe from the Federal share of a Cooperative Agreement.

As provided in Section 206 of the Act, 50 percent of any civil penalty collected under the provisions of the Act will be shared with the State or Indian tribe; however, the amount of the civil penalty shared will be deducted from the Federal share of any funding provided for a Cooperative Agreement. MMS shall maintain records of civil penalties collected and distributed to the States and tribes involved in Cooperative Agreements. Each quarterly payment of the 50 percent Federal share of a Cooperative Agreement will be reduced by the amount of the civil penalties paid to the State or tribe during the prior quarter.

7. 30 CFR Part 229 is added consisting of Subpart A which contains §§ 229.1, 229.2, 229.4, 229.6, 229.10, and Subpart C which contains §§ 229.100, 229.101, 229.102, 229.103, 229.104, 229.105, 229.106, 229.107, 229.108, 229.109, 229.110, and 229.120 to read as follows:

PART 229—DELEGATION TO STATES**Subpart A—General Provisions**

Sec.

229.1 Purpose.

229.2 Policy.

229.4 Authority.

229.6 Definitions.

229.10 Information collection requirements.

Subpart B—Oil and Gas, General [Reserved]**Subpart C—Oil and Gas, Onshore**

229.100 Petition for delegation.

229.101 Fact-finding and hearings.

229.102 Hearings.

229.103 Terms of delegation.

229.104 Evidence of Indian agreement to delegation.

229.105 Recordkeeping requirements.

229.106 Standards for carrying out delegated authority.

229.107 Reports from States.

229.108 Examination of the State activities under delegation.

229.109 Reimbursement for costs incurred by the State under the delegation of authority.

229.110 Deduction of civil penalties accruing to the State or tribe under the delegation of authority.

229.120 Withdrawal of Indian lands from delegated authority.

Authority: The Federal Oil and Gas Royalty Management Act of 1982 (Pub. L. 97-451, 30 U.S.C. 1701).

Subpart A—General Provisions**§ 229.1 Purpose.**

It is the express purpose of a Delegation of Authority to effectively utilize the capabilities of the States in developing and maintaining an efficient and effective Federal royalty management system as contemplated under Section 2(b)(5) of the Federal Oil and Gas Royalty Management Act of 1982.

§ 229.2 Policy.

It shall be the policy of DOI to honor any properly made petition from the Chief Executive or other appropriate official of a State to seek delegation of Authority under the provisions of this Section of the Act and to make such delegation when the Secretary finds that the provisions of Section 205 (b), (c), (d), and (e) of the Act have been complied with or can be complied with by the State seeking the delegation.

§ 229.4 Authority.

Section 205 of Title II of the Federal Oil and Gas Royalty Management Act of 1982 authorizes the Secretary of DOI to delegate authority to States to conduct audits and investigations with respect to all Federal lands within a State and to those Indian lands to which a State has received a delegation from the

respective Indian tribe or tribes to carry out activities under a delegation from the Secretary.

§ 229.6 Definitions.

The definitions contained in Section 3 of the Act and in Part 228 of this chapter apply to the activities carried out under the provisions of this Part.

§ 229.10 Information collection requirements.

The information collection requirements contained in this Part do not require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et. seq.*, because there are fewer than ten respondents annually.

Subpart B—Oil and Gas, General [Reserved]**Subpart C—Oil and Gas, Onshore****§229.100 Petition for delegation.**

(a) The governor or other authorized officials of any State which contains Federal oil and gas leases or Indian oil and gas leases, wherein the Indian tribe or tribal allottees have given the State an affirmative indication of their desire for the State to undertake certain royalty management related activities on their lands, may petition the Secretary to assume responsibilities to conduct audits and investigations of royalty related matters affecting Federal or Indian oil and gas leases within the State.

(b) A State may enter into a Delegation of Authority under this Part without affecting such State's ability to enter into a Cooperative Agreement under Section 202 of the Act and Part 228 of this chapter.

(c) The Secretary shall have 120 days from the date of receipt of the petition from the State to carry out all fact-finding and hearings he may decide are necessary in order to approve or disapprove the petition.

(d) The Secretary must grant or deny the application within 120 days after the date of receipt of the petition. In the event that the Secretary denies the petition, the Secretary must provide the State with the specific reasons for denial of the petition. The State will then have an additional 60 days to either contest or correct said deficiencies and to reapply for a Delegation of Authority.

§ 229.101 Fact-finding and hearings.

(a) Upon receipt of the petition for delegation from the State, the Secretary shall appoint a representative to conduct a hearing or hearings to carry out fact-finding and determine the ability of the petitioning State to carry

out the delegated responsibilities requested in accordance with the provisions of this part.

(b) The Secretary's representative, after proper notice in the **Federal Register** and other appropriate media within the State, shall hold one or more public hearings to determine whether:

(1) The State has an acceptable plan for carrying out delegated responsibilities and if it is likely that the State will provide adequate resources to achieve the purposes of the Act;

(2) The State has the ability to put in place a process within 60 days of the grant of delegation which will assure the Secretary that the functions to be delegated to the State can be effectively carried out;

(3) The State has demonstrated that it will effectively and faithfully administer the rules and regulations of the Secretary under the Act in accordance with the requirements of Section 205(c) and (d) thereof;

(4) The State's plan to carry out the delegated authority will be in accordance with MMS standards; and

(5) The State's plan to carry out the delegated authority will be coordinated with MMS audit efforts to eliminate added burden on any lessee or group of lessees operating Federal or Indian oil and gas leases within the State.

§ 229.102 Hearings.

A State petitioning for a Delegation of Authority shall be given the opportunity to present evidence and argument at a public hearing.

§ 229.103 Terms of delegation.

(a) Delegations of Authority shall be valid for a period of 3 years and shall be renewable for an additional consecutive 3-year period upon request of the State. Delegations are subject to annual funding and the availability of appropriations specifically designated for the purpose of this Part.

(b) A Delegation of Authority may be terminated at any time and upon any terms and conditions as mutually agreed upon by the parties.

(c) A State may terminate a Delegation of Authority by giving a 120-day written notice of intent to terminate.

(d) The Department may terminate a Delegation of Authority when it is determined, after opportunity for a formal hearing on the record, that the State has failed to substantially comply with the provisions of the Delegation of Authority. Any such hearing shall be conducted before an independent hearing officer appointed by the Secretary or his delegate.

(e) No action to initiate formal hearing proceedings shall be taken until the Department has notified the State in writing of alleged deficiencies and allowed the State 120 days to correct the noted deficiencies.

(f) Termination of a delegation shall not bar a subsequent request by a State to regain a Delegation of Authority.

§ 229.104 Evidence of Indian agreement to delegation.

In the case of a State seeking a Delegation of Authority to Indian lands as well as Federal lands, the State petition to the Secretary shall be supported by an appropriate resolution or resolutions of tribal councils joining the State in petitioning for delegation and evidence of the agreement of individual Indian allottees whose lands would be involved in a delegation. Such evidence shall specifically speak to having the State assume delegated responsibility for specific functions related to royalty management activities.

§ 229.105 Recordkeeping requirements.

The State shall maintain all records, working papers, reports and correspondence of individual leases, operators, and interest holders for review and inspection by representatives of the Secretary including the Office of the Inspector General. Under the provisions of Section 203(c) of the Act, all materials must be maintained for a period specified by the Department and shall be maintained by the State in a separate record or file maintenance system in a safe and secure fashion.

§ 229.106 Standards for carrying out delegated authority.

The Department, after active consultation with the States, shall establish uniform minimum acceptable standards for carrying out activities under the provisions of this Part. The standards shall be no more stringent than those applicable to similar activities of the Department. Standards shall be promulgated within 60 days of the effective date of final issuance of these regulations.

§ 229.107 Reports from States.

The State, acting under the authority of the Secretarial Delegation, shall submit quarterly reports which will summarize activities carried out by the State during the preceding quarter of the year the provisions of the delegation. The report shall include:

(a) A statistical summary of the activities carried out, e.g., number of audits performed, accounts reconciled,

inspections made on a lease by lease basis;

(b) A narrative of all specific enforcement action taken and the status of those actions;

(c) A summary of costs incurred during the previous quarter for which the State is seeking reimbursement; and

(d) A schedule of changes which the State proposes to make from its approved plan.

§ 229.108 Examination of the State activities under delegation.

The Department will carry out an annual examination of the State's delegated activities undertaken under the Delegation of Authority. The examination will consist of a management review and a fiscal examination and evaluation determine:

(a) That activities being carried out by the State under the Delegation of Authority meet the standards established by the Department and in particular the provisions of Section 205(a) and Section 205(b) of the Act; and

(b) That costs incurred by the State under the Delegation of Authority are eligible for reimbursement by the Department.

§ 229.109 Reimbursement for costs incurred by the State under the Delegation of Authority.

(a) The Department shall reimburse the State for 100 percent of the direct cost associated with the activities undertaken under the Delegation of Authority. The State shall maintain books and records in accordance with the standards established by the Department and will provide the Department, on a quarterly basis, a summary of costs incurred for which the State is seeking reimbursement. Only costs as defined under the provisions of Section 205 of the Act are eligible for reimbursement.

(b) The State shall submit a voucher for reimbursement of costs incurred within 30 days of the end of each calendar quarter.

§ 229.110 Deduction of civil penalties accruing to the State or tribe under the Delegation of Authority.

As provided in Section 206 of the Act, 50 percent of any civil penalty collected under the provisions of the Act will be shared with the State or Indian tribe; however, the amount of the civil penalty shared will be deducted from the Federal share of any funding provided for delegated authority under the provisions of Section 205 of the Act. MMS shall maintain records of civil penalties collected and distributed to the States and Indian tribes involved in delegations from Section 205 of the Act.

Each quarterly payment will be reduced by the amount of the civil penalties paid to the State or tribe during the prior quarter.

§ 229.120 Withdrawal of Indian land from delegated authority.

If at any time an Indian tribe or an individual Indian allottee determines that they wish to withdraw from the State Delegation of Authority in relation to their lands, they may do so by sending a petition of withdrawal to the State. Once the petition has been received, the State shall within 30 days cease all activities being carried out under the Delegation of Authority on the lands covered by the petition for the tribe or allottee.

8. 30 CFR Part 241 is amended by adding Subpart B consisting of § 241.50, and by adding 241.101, and 241.102 to Subpart C to read as follows:

PART 241—PENALTIES

* * * * *

Subpart B—Oil and Gas, General

Sec.

241.50 Civil penalties.

* * * * *

Subpart B—Oil and Gas, General

§ 241.50 Civil penalties.

(a) Whenever a lessee, operator, or other authorized person fails to comply with any provisions of the applicable lease regulations, applicable orders or notices, or any other appropriate orders of the authorized officer or his representative, the authorized officer shall give the lessee, operator, or other authorized person notice in writing to remedy any violations. Failure by the lessee, operator, or other authorized person, or other party, to complete the necessary remedial action within the time and in the manner prescribed by the notice, may subject the lease to cancellation proceedings pursuant to 43 CFR Subpart 3108 for Federal leases, or provisions of 25 CFR for Indian leases. The lessee, operator, or other authorized person, shall be subject to a penalty of not more than \$500 per day for each day the violation continues beyond the date specified in the notice, or to both penalty and lease cancellation. No penalty under this paragraph (a) shall be assessed until the person charged with a violation has been given the opportunity for a hearing. Hearings under this paragraph (a) shall be held by the appropriate MMS official whose findings shall be conclusive unless appeal is taken pursuant to 433 CFR Part

4, 25 CFR Part 2, or Part 290 of this chapter.

(b) Whenever the lessee, operator or other authorized person fails or refuses to comply with any requirements of the Federal Oil and Gas Royalty Management Act of 1982 (Pub. L. 97-451), any mineral leasing law, any rule or regulation thereunder, or the terms of any lease or permit issued thereunder, the appropriate MMS official shall notify the lessee, operator, or other party in writing of the violation, unless the violation was discovered and reported to the appropriate MMS official by the liable person. If action is not taken to correct the violation within 20 days of such notice or report, the operator shall be liable for a penalty of up to \$500 per violation for each day such violation continues, dating from the date of such notice of report. If the violation is not corrected within 40 days of such notice or report, or a longer period as the Secretary may agree to, the operator or other authorized person shall be liable for a civil penalty of not more than \$5,000 per violation for each day the violation continues, dating from the date of such notice or report.

(c) Any person who:

(1) Knowingly or willfully fails to make any royalty payment by the date as specified by statute, regulations, order or terms of the lease;

(2) Knowingly or willfully submits false, inaccurate or misleading data to MMS in support of a royalty, rental, or bonus payment; or

(3) Knowingly or willfully prepares, maintains, or submits false, inaccurate, or misleading reports, notices, affidavits, records, data, or other written information shall be liable for a penalty up to \$10,000 per violation for each day such violation continues.

(d) No civil penalty under this Subpart shall be assessed until the person charged with a violation has been given the opportunity for a hearing on the record. Notice shall be by personal service by an authorized officer or by registered mail. Any person may, in the

manner prescribed by the Secretary, designate a representative to receive such notice. A person charged with a violation under this Subpart shall have 30 days after receipt of notice to request a hearing. Hearings shall be held by the appropriate MMS official whose findings shall be conclusive unless appeal is taken pursuant to 43 CFR Part 4, 25 CFR Part 2, or Part 290 of this chapter,

(e) On a case-by-case basis the Secretary may compromise or reduce civil penalties under this Subpart. In determining the amount, the Secretary shall state on the record the reasons for his determinations. The amount of any penalty under this Subpart, as finally determined, may be deducted from any sums owing by the United States to the person charged.

(f) Any person who has requested a hearing in accordance with paragraph (d) of this section within the time the Secretary has prescribed for such a hearing and who is aggrieved by a final order of the Secretary under this Part may seek review of such order in the United States District Court for the judicial district in which the violation allegedly took place. Review by the District Court shall be only on the administrative record and not *de novo*. Such action shall be barred unless filed within 90 days after Secretary's final order.

(g) If any person fails to pay an assessment of a civil penalty under this part after the order making the assessment has become a final order, and if such person does not file a petition for judicial review in accordance with this Subpart, or, after a court, in an action brought under this Subpart, has entered a final judgement in favor of the Secretary, the Court shall have jurisdiction to award the amount assessed plus interest under this Part. In determining the amount, the Secretary shall state on the record the reasons for his determinations. The amount of any penalty under this Part, as finally determined, may be deducted from any

sum owing by the United States to the person charged.

(h) Penalties provided by this Section shall be supplemental to, and not in derogation of, any other penalties or assessments for noncompliance provided by law or regulation.

Subpart C—Oil and Gas, Onshore

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§ 241.101 Calculation of shared civil penalties.

(a) An amount equal to 50 per centum of any civil penalty, as defined in § 241.50, collected by MMS and resulting from activities conducted by a State or Indian tribe pursuant to a Cooperative Agreement, as defined in Section 202 of the Act and Part 228 of this chapter, or by a State under a Secretarial Delegation, as defined in Section 205 of the Act and Part 229 of this chapter, shall be payable to such State or tribe to the extent it is offset by Federal compensation for such agreements and delegations.

(b) The amount of the State or tribal share of the civil penalties shall offset any such compensation paid or due such State or tribe as defined in paragraph (a) of this section for the quarter following the quarter in which the penalties are collected.

(c) Civil penalties, collected by MMS, not resulting from activities conducted by a State or Indian tribe pursuant to a Cooperative Agreement or by a State under a Secretarial Delegation shall not be shared with the State or tribe.

§ 241.102 Timing of payment of shared civil penalties.

The payment of the State or tribal share of the civil penalties shall be made pursuant to the procedures for disbursement of royalties in § 219.100 and § 219.103 of this chapter, respectively.

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