supplement reflecting compliance with the conclusions of the NAS/NRC DESI review was published April 8, 1972 (37 FR 7079). The new approval is based on the prioneer product meeting the U.S.P. standards. The NADA is approved and 21 CFR 522.480 is amended to reflect the approval. The section is also amended to reflect that the therapeutic indications for use have been reviewed by NAS/NRC and found to be effective. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 522 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

2. Section 522.480 is amended by redesignating existing paragraphs (a), (b), (c), (d), (d) (1), (2), and (3) as paragraphs (a) (1), (2), (3), (4), (4) (i), (ii), and (iii), respectively, by revising "ACTH" to read "corticotropin (ACTH)" appearing in the first sentence of newly redesignated paragraph (a)(4)(i), and by adding new paragraphs (b) and (c) to read as follows:

§ 522.480 Repository corticotropin injection.

* * * * *

(b)(1) *Specifications.* The drug conforms to respository corticotropin injection U.S.P. It contains 40 or 60 U.S.P. units per milliliter.

(2) *Sponsor.* See No. 000864 in § 510.600(c) of this chapter.

(3) *Conditions of use.* (i) For intramuscular injection in dogs as a diagnostic aid to test for adrenal dysfunction. For intramuscular or subcutaneous injection in dogs and cats for stimulation of the adrenal cortex where there is a general deficiency of ACTH.

(ii) For diagnostic use: Administer at one unit per pound of body weight intramuscularly. For therapeutic use: Administer at one unit per pound of body weight intramuscularly or subcutaneously, initially, to be repeated as indicated.

(iii) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(c) *National Academy of Sciences/ National Research Council (NAS/NRC) status.* The therapeutic indication for use has been reviewed by NAS/NRC and found to be effective. Applications for this use need not include effectiveness data as specified in § 514.111 of this chapter, but may require bioequivalency and safety information.

Dated: November 3, 1988.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 88-26159 Filed 11-10-88; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 206

Correction of Oil and Gas Royalty Valuation Regulations

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: The Minerals Management Service (MMS) is amending its final revised oil and gas product valuation regulations that were published in the **Federal Register** on January 15, 1988 (53 FR 1184 and 53 FR 1230) for technical corrections and clarification. Since adoption of the final regulations, it was discovered that several provisions were worded in a manner such that they were inconsistent with MMS's intent as discussed in the preamble to the final rules. Consequently, MMS is amending the language of those provisions to clarify MMS's intent.

EFFECTIVE DATE: November 14, 1988.

FOR FURTHER INFORMATION CONTACT: Dennis C. Whitcomb, Chief, Rules and Procedures Branch, Royalty Management Program, Minerals Management Service, P.O. Box 25165, MS-662, Building 85, Denver Federal Center, Denver, Colorado 80225, telephone (303) 231-3432, (FTS) 326-3432.

SUPPLEMENTARY INFORMATION: The principal author of this final rule amendment is John L. Price of the Royalty Valuation and Standards Division of the Royalty Management Program, MMS.

I. Introduction

During a subsequent review of the revised regulations governing oil and gas product valuation that were adopted on January 15, 1988, it was discovered that several provisions were worded in a manner such that they were inconsistent with MMS's intent as discussed in the preamble to the final rules. Consequently, MMS is amending the language of those provisions with this final rulemaking action to clarify MMS's intent. The amendments are not consistent substantive and are therefore being implemented as a final rule without an opportunity for comment.

II. Section-by-Section Discussion of Amendments

Section 206.102 Valuation Standards (Oil)

In the final rule adopted at § 206.102(c)(1), MMS included the provision that if the lessee made arm's-length purchases or sales at different postings or prices, then the volume-weighted average price for the purchases or sales for the production month reported on Form MMS-2014 would be used. During discussions with industry subsequent to the publication of the final rules, it became apparent that the inclusion of the words "reported on Form MMS-2014" was confusing as to MMS's intent. Some parties questioned whether those words applied to prices reported on the Form MMS-2014 or whether they applied to the production month reported on the Form MMS-2014.

The intent, as discussed at 53 FR 1202, was that the volume-weighted average price for all purchases or sales made by the lessee during the month of production were to be used in paying its royalty. It was not intended that the lessee use the volume-weighted average of only those prices reported on the Form MMS-2014 in valuing its oil. Therefore, in an effort to remove any ambiguity in the final rules, MMS is

removing the words "reported on Form MMS–2014" from the final rule at § 206.102(c)(1).

Section 206.104 Transportation Allowances—General (Oil)

Section 206.104(a)(2) includes a reference to a contract between a Royalty-In-Kind purchaser of OCS royalty oil and "Indian lessor." Because Indians are not lessors of OCS leases, MMS is removing the words "or Indian lessor" from the end of the sentence in § 206.104(a)(2).

Section 206.105 Determination of Transportation Allowances (Oil)

As a result of comments received from States, Indians and Congress, MMS included two provisions that outline those circumstances under which values and/or transportation costs under arm's-length contracts would not be acceptable. (See §§ 206.102(b)(1)(ii) and (iii) and 206.105(a)(ii) and (iii)). As stated in the preamble to the final rules at 53 FR 1209, these provisions were to be applied to transportation allowances in essentially the same manner as they were to be applied in the determination of oil values.

Section 206.102(b)(1)(iii) includes the requirement that MMS give a lessee an opportunity to respond to preliminary determinations that its value under an arm's-length contract may be unacceptable for royalty purposes. While the provisions in § 206.105(a) were intended to be essentially identical, the requirement that MMS give a lessee an opportunity to respond before MMS made a determination that its transportation costs under an arm's-length contract were unacceptable was inadvertently omitted. The change being made adds this requirement to § 206.105(a)(1)(iii).

The final rule adopted at § 206.105(b)(5) includes the provision that allows the lessee to use as its transportation allowance, with approval, its tariff for the transportation system approved by the Federal Energy Regulatory Commission (FERC) or a State regulatory agency. The approval by MMS constitutes an exception to the requirement that the lessee compute actual costs under § 206.105(b)(1) through (b)(4). This provision was adopted in an effort to reduce the unnecessary burden to recompute costs for another government agency. However, certain protections against unreasonable high tariffs were included in the final rule.

In carrying this rationale throughout the final rules, MMS provided in § 206.105(c)(2)(viii) that a lessee authorized to use its tariff as its transportation cost would follow the same reporting requirements used in reporting transportation allowances under arm's-length contracts. However, the final rules only specified the use of these reporting requirements when MMS approves the use of FERC-approved tariffs. It was MMS's intent that approval of the use of a State regulatory agency-approved tariff would also provide for the use of the same reporting requirements as under arm's-length contracts. Thus, § 206.105(c)(2)(viii) is being changed accordingly.

The MMS is modifying § 206.105(c)(1) to clarify MMS's intent that an allowance must be deducted on a monthly basis even though the allowance form reporting period is based on a longer period. It was not MMS's intent that a lessee could deduct the total of a yearly allowance on the January Form MMS–2014 report, deduct no allowances on the February through December Form MMS–2014 reports, and meet the requirements of the regulations. A lessee may only deduct the allowance that is applicable to the monthly volume upon which royalty is due as reported on Form MMS–2014.

Section 206.157 Determination of Transportation Allowances (Gas)

As discussed above, MMS included in the final oil valuation rules at § 206.105(b)(5) a provision allowing the use of the lessee's tariff, with certain limitations, as its transportation costs. A similar provision was also included in the final gas valuation rules at § 206.157(b)(5). However, the conditions under which MMS would deny the use of a tariff were not properly worded. The correct wording should have been identical to the wording contained in § 206.105(b)(5), as explained in the preamble to the final gas valuation regulations at 53 FR 1261. Consequently, MMS is amending § 206.157(b)(5) to reflect the provision that MMS stated that it was adopting.

The MMS is modifying § 206.157(c)(2)(viii) in the same manner and for the same reason as it modified § 206.105(c)(2)(viii), as discussed above.

The MMS is modifying § 206.157(e)(1) in the same manner and for the same reasons that it modified § 206.105(e)(1), as discussed above.

Section 206.159 Determination of Processing Allowances (Gas)

The MMS is modifying § 206.159(a)(1)(iii) by making grammatical corrections only. Two sentences will be created out of the existing one by inserting a period, and four duplicative words will be removed.

The MMS is also adding the requirement that a Schedule 1 be submitted with the Form MMS–4109 required under § 206.159(c)(1)(iii). This change conforms to the instructions contained on actual copies of Form MMS–4109.

The MMS is modifying § 206.159(e)(1) in the same manner and for the same reasons that it modified § 206.105(e)(1), as discussed above.

III. Procedural Matters

Administrative Procedure Act

The changes included in this rulemaking are technical corrections only and not substantive changes. Accordingly, pursuant to 5 U.S.C. 553(b), it has been determined that it is unnecessary to issue proposed regulations before the issuance of this final rule amendment. For the same reason, it has been determined that in accordance with 5 U.S.C. 553(d), there is good cause to make these amendments effective upon publication in the Federal Register.

Executive Order 12291

The Department of the Interior (Department) has hereby determined that this document is not a major rule and does not require a regulatory analysis under Executive Order 12291. This final rulemaking is to correct certain technical inaccuracies in the Federal and Indian oil and gas royalty valuation regulations that were issued on January 15, 1988 (53 FR 1184 and 53 FR 1230), and to clarify the intent of the Department under a few of the provisions of those final rules.

Regulatory Flexibility Act

Because these amendments primarily clarify existing regulations, there are no additional requirements or burdens placed upon small business entities as a result of implementation of this rule. Therefore, the Department has hereby determined that this rulemaking will not have a significant economic effect on a substantial number of small entities and does not require a regulatory flexibility analysis under the Regulatory Flexibility Act. (5 U.S.C. 601 et seq.)

Paperwork Reduction Act of 1980

This rulemaking does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

National Environmental Policy Act of 1969

It is hereby determined that this rulemaking does not constitute a major

Federal action significantly affecting the quality of the human environment and a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is not required.

List of Subjects in 30 CFR Part 206

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

Dated: October 19, 1988.

William D. Bettenberg,

Director, Minerals Management Service.

For the reasons set out in the preamble, 30 CFR Part 206 is amended as follows:

PART 206—PRODUCT VALUATION

1. The authority citation for Part 206 is revised to read as follows:

Authority: 25 U.S.C. 396 et seq.; 25 U.S.C. 396a et seq.; 25 U.S.C. 2101 et seq.; 30 U.S.C. 181 et seq.; 30 U.S.C. 351 et seq.; 30 U.S.C. 1001 et seq.; 30 U.S.C. 1701 et seq.; 31 U.S.C. 9701; 43 U.S.C. 1301 et seq.; 43 U.S.C. 1331 et seq.; and 43 U.S.C. 1801 et seq.

2. Paragraph (c)(1) of § 206.102 under Subpart C is amended by removing the words "reported on Form MMS–2014" from the last sentence. The revised last sentence reads as follows:

§ 206.102 Valuation standards.

* * * * *

(c) * * *

(1) * * * If the lessee makes arm's-length purchases or sales at different postings or prices, then the volume-weighted average price for the purchases or sales for the production month will be used;

* * * * *

3. Paragraph (a)(2) of § 206.104 under Subpart C is amended by removing the words "or Indian lessor" from the end of the sentence. The revised sentence reads as follows:

§ 206.104 Transportation allowances—general.

(a) * * *

(2) Transport oil from an offshore lease to the point off the lease; provided, however, that for oil taken as RIK, a transportation allowance shall be provided for the reasonable actual costs incurred to transport that oil to the delivery point specified in the contract between the RIK oil purchaser and the Federal Government.

* * * * *

4. Section 206.105 under Subpart C is amended by adding a new last sentence to paragraph (a)(1)(iii), and revising paragraphs (c)(2)(viii) and (e)(1). The revised paragraphs read as follows:

§ 206.105 Determination of transportation allowances.

(a) * * *

(1) * * *

(iii) * * * When MMS determines that the value of the transportation may be unreasonable, MMS will notify the lessee and give the lessee an opportunity to provide written information justifying the lessee's transportation costs.

* * * * *

(c) * * *

(2) * * *

(viii) If the lessee is authorized to use its FERC-approved or State regulatory agency-approved tariff as its transportation cost in accordance with paragraph (b)(5) of this section, it shall follow the reporting requirements of paragraph (c)(1) of this section.

* * * * *

(e) *Adjustments.* (1) If the actual transportation allowance is less than the amount the lessee has taken on Form MMS–2014 for each month during the allowance form reporting period, the lessee shall be required to pay additional royalties due plus interest computed pursuant to 30 CFR 218.54, retroactive to the first day of the first month the lessee is authorized to deduct a transportation allowance. If the actual transportation allowance is greater than the amount the lessee has taken on Form MMS–2014 for each month during the allowance form reporting period, the lessee shall be entitled to a credit without interest.

* * * * *

5. Section 206.157 under Subpart D is amended by revising paragraphs (b)(5), (c)(2)(viii), and (e)(1). The revised paragraphs read as follows:

§ 206.157 Determination of transportation allowances.

* * * *

(b) * * *

(5) A lessee may apply to the MMS for an exception from the requirement that it compute actual costs in accordance with paragraphs (b)(1) through (b)(4) of this section. The MMS will grant the exception only if the lessee has a tariff for the transportation system approved by the Federal Energy Regulatory Commission (FERC) (for both Federal and Indian leases) or a State regulatory agency (for Federal leases). The MMS shall deny the exception request if it determines that the tariff is excessive as compared to arm's-length transportation charges by pipelines, owned by the lessee or others, providing similar transportation services in that area. If there are no arm's-length transportation charges, MMS shall deny the exception request if: (i) No FERC or State regulatory agency cost analysis exists and the FERC or State regulatory agency, as applicable, has declined to investigate pursuant to MMS timely objections upon filing; and (ii) the tariff significantly exceeds the lessee's actual costs for transportation as determined under this section.

(c) * * *

(2) * * *

(viii) If the lessee is authorized to use its FERC-approved or State regulatory agency-approved tariff as its transportation cost in accordance with paragraph (b)(5) of this section, it shall follow the reporting requirements of paragraph (c)(1) of this section.

* * * * *

(e) *Adjustments.* (1) If the actual transportation allowance is less than the amount the lessee has taken on Form MMS–2014 for each month during the allowance form reporting period, the lessee shall be required to pay additional royalties due plus interest computed pursuant to 30 CFR 218.54, retroactive to the first day of the first month the lessee is authorized to deduct a transportation allowance. If the actual transportation allowance is greater than the amount the lessee has taken on Form MMS–2014 for each month during the allowance form reporting period, the lessee shall be entitled to a credit without interest.

* * * * *

6. Section 206.159 under Subpart D is amended by revising paragraphs (a)(1)(iii) and (e)(1), and adding the words "and Schedule 1" after MMS–4109 in paragraph (c)(1)(iii). The revised paragraphs read as follows:

§ 206.159 Determination of processing allowances.

(a) * * *

(1) * * *

(iii) If MMS determines that the consideration paid pursuant to an arm's-length processing contract does not reflect the reasonable value of the processing because of misconduct by or between the contracting parties, or because the lessee otherwise has breached its duty to the lessor to market the production for the mutual benefit of the lessee and lessor, then MMS shall require that the processing allowance be determined in accordance with paragraph (b) of this section. When MMS determines that the value of the processing may be unreasonable, MMS will notify the lessee and give the lessee an opportunity to provide written

information justifying the lessee's processing costs.

* * * * *

(c) * * *

(1) * * *

(iii) After the initial reporting period and for succeeding reporting periods, lessees must submit page 1 of Form MMS-4109 (and Schedule 1) within 3 months after the end of the calendar year, or after the applicable contract or rate terminates or is modified or amended, whichever is earlier, unless MMS approves a longer period (during which period the lessee shall continue to use the allowance from the previous reporting period).

* * * * *

(e) *Adjustments.* (1) If the actual gas processing allowance is less than the amount the lessee has taken on Form MMS-2014 for each month during the allowance form reporting period, the lessee shall be required to pay additional royalties due plus interest computed pursuant to 30 CFR 218.54, retroactive to the first day of the first month the lessee is authorized to deduct a processing allowance. If the actual processing allowance is greater than the amount the lessee has taken on Form MMS-2014 for each month during the allowance period, the lessee shall be entitled to a credit without interest.

* * * * *

[FR Doc. 88-26175 Filed 11-10-88; 8:45 am]

BILLING CODE 4310-MR-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3474-2]

Approval and Promulgation of State Implementation Plan; North Dakota; Stack Height Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is today approving stack height regulations for the State of North Dakota which were submitted by the Governor on January 26, 1988. The State submittal is in response to EPA's July 8, 1985, stack height regulation promulgation. The July 8, 1985, stack height regulations were challenged by the Natural Resource Defense Council (NRDC) and resulted in the remand of three provisions of the regulations to EPA for reconsideration. The remand is not believed to significantly affect the North Dakota submittal. EPA's approval is given with the understanding that should EPA promulgate revisions to the stack height regulations as a result of the remand, the State will and has agreed to modify its regulations accordingly.

DATES: This action will be effective on January 13, 1989, unless notice is received by December 14, 1988, that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the revision are available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at the following offices:

Environmental Protection Agency, Region VIII, Air Programs Branch, 999 18th Street, Suite 500, Denver, Colorado 80202-2405.

Environmental Protection Agency, Public Information Reference Unit, Waterside Mall, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Laurie Ostrand, Air Programs Branch, Environmental Protection Agency, 999 18th Street, Suite 500, Denver, Colorado 80202-2405, (303) 293-1764, (FTS) 564-1764.

SUPPLEMENTARY INFORMATION:

Background

On February 8, 1982 (47 FR 5864), EPA promulgated final regulations limiting stack height credits and other dispersion techniques as required by section 123 of the Clean Air Act (CAA). These regulations were challenged in the Courts for the next two years and resulted in revisions to the stack height regulations. The revisions were promulgated on July 8, 1985 (50 FR 27892), and redefined a number of specific terms including "excessive concentrations", "dispersion techniques", "nearby", and other important concepts. The Federal regulations also modified some of the bases for determining good engineering practice (GEP) for stack height.

The July 8, 1985, promulgation required the State to (1) review and revise, as necessary, its State Implementation Plan (SIP) to include provisions that limit stack height credit and dispersion techniques in accordance with the revised regulations, and (2) review all existing emission limitations to determine whether any of these limitations have been affected by stack height credits above GEP or any other dispersion techniques. This action only pertains to item (1) above, revised regulations.

Stack Height Regulations

On April 18, 1986, Mr. Dana Mount, Division Director of Environmental Engineering, North Dakota Department of Health, submitted a letter of commitment to comply with the July 8, 1985, regulation requirement in all future State actions, new source reviews, and PSD actions.

In 53 FR 3052 (February 3, 1988), EPA acknowledged the commitment from North Dakota to comply with the Federal stack height regulations until the State adopted the required regulations and such revisions were approved by EPA.

On January 26, 1988, the Governor of North Dakota submitted "Revisions to the Implementation Plan for the Control of Air Pollution for the State of North Dakota". The submittal included the addition of and revision to several Air Pollution Control Rules and Regulations. This action pertains only to the addition of Chapter 33-15-18, Stack Heights.

Chapter 33-15-18 was added to North Dakota's rules and regulations effective October 1, 1987. This Chapter meets all the requirements of 40 CFR Part 51.118 and contains all necessary definitions relating to stack heights found in 40 CFR Part 51.100 (i.e., stack in existence, dispersion technique, excessive concentration, good engineering practice, nearby and stack) except "emission limitation/emission standard". North Dakota's definition of "emission standard" can be found in the North Dakota Air Pollution Control law, North Dakota Century Code (NCC), Chapter 23-25, Air Pollution Control. Although the definition of "emission standard" in NCC, Chapter 23-25, is not identical to that found in 40 CFR Part 51.100, it has the same intent. That is North Dakota has regulations that limit the emissions of air contaminants into the ambient air:

Chapter

33-15-03 Restriction of Emission of Visible Air Contaminants;
33-15-04 Open Burning Restrictions;
33-15-05 Emissions of Particulate Matter Restricted;
33-15-06 Emissions of Sulfur Compounds Restricted;
33-15-07 Control of Organic Compounds Emissions;
33-15-08 Control of Air Pollution from Vehicles and Other Internal Combustion Engines;
33-15-09 Emission of Certain Settleable Acids and Alkaline Substances Restricted; and
33-15-10 Control of Pesticides;
33-15-12 Standards of Performance for New Stationary Sources; and
33-15-13 Emission Standards for Hazardous Air Pollutants.

Immediately following promulgation, the July 8, 1985, regulations were challenged by the NRDC. On January 22, 1988, the U.S. Appeals Court for the D.C.