

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 216

Production Accounting and Auditing System; Reporting and Recordkeeping Requirements

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: This final rule prescribes the information collection requirements necessary to verify that mineral production quantities have been correctly reported and used in calculating royalties due from Federal and Indian leases, including the Outer Continental Shelf. This system is called the Production Accounting and Auditing System (PAAS).

EFFECTIVE DATE: April 7, 1986.

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SUPPLEMENTARY INFORMATION: The principal authors of this final rulemaking are Peter Rutledge, John Price, Billie Clark, and Martin Grieshaber of the Minerals Management Service, Lakewood, Colorado.

I. Background

On April 1, 1985 (50 FR 12828), MMS proposed regulations for the implementation of the PAAS.

In January 1982, the Commission on Fiscal Accountability of the Nation's Energy Resources (Commission) made several recommendations to improve internal controls of accounting for royalties due from the Government from Federal and Indian leases. The term "Federal leases" includes Outer Continental Shelf (OCS) lands. One of the primary purposes for which the PAAS was developed by the MMS was to respond to the Commission recommendation:

"That the Royalty Managers incorporate production data into the . . . system in order to cross-check the data for all leases for each payment period."

Section 101(a) of the Federal Oil and Gas Royalty Management Act of 1982 (Act), 30 U.S.C. 1711(a), provides that, "The Secretary shall establish a comprehensive inspection, collection and fiscal and production accounting and auditing system. . . ." In addition, section 103(a) of the Act, 30 U.S.C. 1713, states that:

"A lessee, operator, or other person directly involved in developing, producing, transporting, purchasing, or selling oil or gas subject to this Act through the point of first

sale or the point of royalty computation, whichever is later, shall establish and maintain any records, make any reports, and provide any information that the Secretary may, by rule, reasonably require for the purposes of implementing this Act. . . ."

The Department is implementing similar cross-checks for solid materials in response to the statement of the Commission that, ". . . it appears that the general problems of verifying production, . . . and designing an effective audit program are common to all minerals." Report of the Commission at 181.

The PAAS is an integrated computer system, based upon production and processing reports submitted by lease and facility measurement point operators, designed to track mineral production on Federal and Indian lands, including the Outer Continental Shelf, from the source of production to the point of disposition with emphasis on the point of royalty determination, and/or point of sale, whichever is applicable.

The Auditing and Financial System (AFS), operated by MMS, will provide payment and sales volumes and values reported by payors. These data will be compared to lease-level production and processing volumes reported to PAAS by producers and facility operators. This comparison will enable the MMS to verify that proper royalties are being received for all minerals produced.

The PAAS is based upon an information collection system composed of eight forms of oil and gas. Three forms are needed for solid mineral leases; one form is applicable to all minerals. Some of these forms are one-time reports. However, all lease operators are required to periodically (usually monthly) submit either Form MMS-4054 for oil and gas, or Form MMS-4059 for solid minerals. Other forms are for selected use, such as the Form MMS-4056, which is required monthly only from gas plant operators, and Form MMS-4058, required only from operators of facilities or measurement devices handling commingled production.

The regulations herein prescribe which person is to file each form and when the report is due. They also designate when the rules will become applicable to operators who are not already reporting to the PAAS on the effective date of this rule. All offshore leases and all solid mineral leases issued on or after the effective date of this rule shall be subject to the requirements of this part without any conversion period. The report forms covered by this rule are listed below, together with the applicable section

number that explains the use of the form:

Form No. and Name of form	Section reference
MMS-4050—Mine Information Form (MIF)	216.201
MMS-4051—Facility and Measurement Information Form and Supplement (FMIF and FMIF-S)	216.202 and 216.51
MMS-4052—Well Information Form (WIF)	216.52
MMS-4053—First Purchaser Report (FPR)	216.53
MMS-4054—Oil and Gas Operations Report (OGOR)	216.54
MMS-4055—Gas Analysis Report (GAR)	216.55
MMS-4056—Gas Plant Operations Report (GPOR)	216.56
MMS-4057—Fractionation Plant Operations Report (FPOR)	216.57
MMS-4058—Production Allocation Schedule Report (PASR)	216.58
MMS-4059—Solid Minerals Operations Report (SMOR)	216.203
MMS-4060—Solid Minerals Facility Report (SMFR)	216.204
MMS-4061—API Well Number Change Report (ANCR)	216.61

The Mine Information Form (Form MMS-4050) is required by MMS to identify the mine, the products recovered, the leases that make up the mine, and the mining methods used on each lease.

The Facility and Measurement Information Form (Form MMS-4051) is required by MMS to precisely identify the facilities where oil and gas production is stored or processed and the metering points where production is measured for sale or transfer. The information is used for reference by field operations personnel and auditors to assure that all production is accounted for properly.

The Well Information Form (Form MMS-4052) is required by MMS to obtain data or confirmation of data from each lease operator to assure that all wells are identified. Primary identification is by the American Petroleum Institute (API) number. Each well on a lease is identified by API and operator well number, producing interval, location, well status, date of first production, and producing reservoir or formation name.

The First Purchaser Report (Form MMS-4053) is required by MMS to obtain product prices from selected first purchasers of any product attributable to a Federal or Indian mineral lease. The information is used by MMS auditors to independently verify prices and quantities reported by lease operators.

The Oil and Gas Operations Report (Form MMS-4054) is required by MMS to identify all operations on production and disposition of oil and gas from Federal and Indian lands. Monthly production information will be compared with monthly data on sales and royalty from Form MMS-2014, Report of Sales and Royalty Remittance,

to ensure that proper royalties are paid on the oil and gas reported as produced or sold.

The Gas Analysis Report (Form MMS-4055) is required by MMS to identify the separate components of natural gas production. The information on the GAR is used in conjunction with the GPOR and OGOR to make lease-level AFS/PAAS comparisons on processed and natural gas liquids.

The Gas Plant Operations Report (Form MMS-4056) is required by MMS to identify the disposition and components of natural gas produced from or allocated to Federal and/or Indian leases. MMS uses the data to expected residue gas and natural gas liquids production and to determine royalties due.

The Fractionation Plant Operators Report (Form MMS-4057) is required by MMS to identify the volumes of raw make transferred to the plant and of natural gas liquids produced. MMS uses the information to determine the production of specific components on which royalties are due, in conjunction with data from the Gas Plant Operations Report.

The Production Allocation Schedule Report (Form MMS-4058) is required by MMS to determine whether sales reported by the lessee are reasonable in cases where such sales are from production which has been commingled. Each line identifies a lease or measurement point and its delivered production and allocated sales or transfer volumes.

The Solid Minerals Operations Report (Form MMS-4059) is required by MMS to identify, for each lease and lease product, the beginning inventory, quantity produced, processing losses, net production, quality of production, type of disposition, quantity disposed of, identification of the processing facility, measurement point number at which disposition quantity is determined, and ending inventory. For mines from which production is sold after secondary processing or from remote storage, the form identifies the lease or development contract credited with an allocated part of the production, the product and quantity sold, and the facility from which it was sold.

The Solid Minerals Facility Report (Form MMS-4060) is required by MMS to identify for each mineral processed by a mineral processing facility the mine and measuring point from which a mineral was received, the type of product received, and the quantity and quality of inputs and outputs. The report is also used by MMS to identify, for each product and its source mine, the beginning inventory, raw materials

received during the reporting period, amount of production, type of disposition, quantity sold or transferred, the facility or measuring point to which it is transferred, and ending inventory. MMS uses this information to insure that lease production is accurately tracked from the mine to the point of royalty determination, when royalty is determined after secondary processing. The information obtained is compared with that from the Solid Minerals Operations Report.

The API Well Number Change Report (Form MMS-4061) is required when a well with a temporary identification number is assigned a permanent American Petroleum Institute (API) well number or when the API well number and producing interval code combination used in the PAAS is in error and needs to be changed. The report gives the existing well number and producing interval and the new well number and producing interval. MMS uses the information to change the identification of the well in the data base.

The PAAS pilot program was operated with voluntary participants from both the onshore and offshore environment. Subsequent conversions have brought all OCS operators into the system as well as most of the solid mineral operators. These regulations will apply immediately to all reporters currently submitting reports to the PAAS. If, in the future, reporters are to be converted to the PAAS, they will be given notice one year prior to the date of first reporting (the conversion period). This period is intended to provide the reporter with ample time to gather reference data and receive training with respect to the PAAS reporting requirements. The time period between the notification of conversion and the date of first reporting may be less than one year at the request of the reporter being converted to the PAAS reporting guidelines and regulations.

During the conversion period, the reporter is required by the rules to file the Facility and Measurement Information Form (Form MMS-4051), the Well Information Form (Form MMS-4052), or the Mine Information Report (Form MMS-4050), as applicable. The provisions on applicability are in § 216.20 of the rules.

MMS will specifically notify each reporter being converted to the PAAS of the startup schedules for reporting under the PAAS. Simultaneously with startup notification, MMS will provide each reporter with a schedule to discontinue reporting using existing production reports 3160-6 (formerly 9-329 and 9-329-1), 9-152, 9-373A, 9-128, 9-128a, 9-

128b, 9-128c, 9-128d, 9-368, 9-1146, etc. For some reporters there may be a short period of overlap of the old and new reporting systems to assure a smooth transition. These regulations will apply to newly converted reporters as MMS directs during the conversion period. Following the completion of the conversion to the PAAS, the Department will promulgate regulations removing the regulatory requirements for submission of existing production reporting forms from the regulations in 43 CFR Part 3160. This rulemaking amends 30 CFR Part 216 by adding Subparts A, B, and E containing §§ 216.1, 216.2, 216.6, 216.10, 216.20, 216.25, 216.30, 216.40, 216.50, 216.51, 216.52, 216.53, 216.54, 216.55, 216.56, 216.57, 216.58, 216.61, 216.200, 216.201, 216.202, 216.203, and 216.204.

II. Summary of Rules Adopted

The rule being adopted is substantially the same as the proposed rule. Therefore, much of the discussion in the preamble to the proposed rule applies to the final rule. Where significant changes are being made to the final rules, they are discussed in the preamble.

The provisions of Part 216 establish the reporting requirements for the PAAS. This part indicates the types of reports which must be filed in order for the PAAS to accomplish its stated goal of tracking mineral production on Federal and Indian lands from the source of production to the point of disposition with emphasis on the point of royalty determination and/or point of sale, whichever is applicable.

III. Comments Received on Proposed Rule—General

The proposed rulemaking published April 1, 1985 (50 FR 12828), provided for a 60-day public comment period which ended May 31, 1985, and was extended to June 17, 1985. All comments received during that time period are addressed in this section, and the text of these regulations has been changed to reflect comments as appropriate.

Six commenters thought the conversion of onshore operations to the PAAS should be delayed until the system can be reevaluated and a decision reached on the final scope and design of the PAAS. Two commenters stated that the onshore conversion should never occur and that current reporting requirements are adequate. Seven commenters said the design and reporting requirements of the system exceeded the information reasonably required and that the system would be

overburdened by details concerning the amount and type of data being collected.

The Royalty Management Action Plan recently issued by DOI, calls for a study of the PAAS, including the advantages and disadvantages of proceeding with the conversion of the remaining onshore Federal and Indian leases to the PAAS. At present, 2.5 percent of onshore leases are in the PAAS as a result of the pilot program effort. To date, two reporters participating in the pilot program have requested to convert the remainder of their onshore leases to PAAS to eliminate the need for maintaining two separate production reporting systems—one automated and one manual. MMS is allowing these conversions to take place on a case-by-case basis to reduce reporting burden and also to obtain additional information about the feasibility of large-scale onshore lease PAAS reporting.

As part of the Department's Lease Management Information Study, a report will be prepared and issued in late fall 1986. Among the specific aspects of onshore reporting to be studied are:

- Experiences of offshore reporters that affect large onshore operators.
- The problems associated with developing and maintaining a large reference data base for onshore leases.
- Alternatives for PAAS reporting for small operators with few leases or minimal production.
- Industry burden associated with extension of PAAS into the onshore environment.
- The feasibility of obtaining some or all of the PAAS data requirements from other sources.
- The feasibility of a less frequent reporting cycle for onshore Federal and Indian leases.

Four commenters stated that the PAAS implementation should be delayed until the valuation guidelines have been finalized.

The PAAS is a production accounting system. The current valuation guidelines, as well as any future revisions, will not affect the reporting requirements in the PAAS nor will the PAAS affect the valuation guidelines.

Four commenters said that MMS should delay further expansion of the PAAS until the AFS is correct and fully operational.

The PAAS collects production volume, well status, and disposition information which is then compared with volumes reported to the AFS. Functionally, the PAAS does not depend on the AFS which is undergoing conversion to the new mainframe computer purchased by MMS.

Two commenters said that MMS should test and prove the capability of the AFS/PAAS exception processing subsystem.

The complete exception processing subsystem of the PAAS, including the AFS/PAAS comparison, has been tested. The system has proven its capability to make accurate comparisons of PAAS and AFS data using information from pilot companies and data being collected from all offshore reporters.

Six commenters stated that, based upon experience gained during the PAAS pilot and subsequent offshore conversion, the proposed 180-day notice of conversion was too short.

MMS agrees and has changed this time interval to one year, allowing a shorter period if requested by the reporter.

One commenter thought that the PAAS would be limited by hardware capacity if further conversion efforts were not delayed.

The acquisition of a new mainframe computer by Royalty Management and the conversion of the AFS to the more sophisticated and larger computer will make available the hardware which currently houses the AFS data bases. This additional computer capacity should alleviate any concerns about the potential expansion of the PAAS to onshore operations.

One commenter stated that the PAAS Reporter Handbook should be included in the regulations because it contains the complex and sophisticated requirements of the PAAS.

The purpose of the regulations is to outline which forms and what data are required by the PAAS. The various codes, field by field explanations, and edits are part of the implementation of the PAAS, not the regulatory requirements.

Numerous commenters questioned the necessity of reporting more than operations and production data at the lease level. They thought the reporting should end with the OGOR and corroborative reporting was not warranted; therefore, the GAR, GPOR, FPOR, and PASR forms should be eliminated.

The information contained on the GAR, GPOR, and FPOR is necessary to meet the stated objective of the PAAS which is to track the product from the source to the point of sale or royalty determination. In the case of gas, this may be the tailgate of the gas or fractionation plant. Volumes for which royalties are due are reported to the AFS at this level. Because of the nature of the comments received, we intend to establish a nine-month trial period to

assess the effectiveness of the data being collected on these forms. One year from the effective date of these regulations, MMS will report the results of this analysis. If the reporting requirements for these forms change, based upon this analysis, the appropriate regulatory action will be pursued. Until such time, pursuant to the regulations, reporting is required on these forms.

The PASR provides the PAAS with corroborative data pertaining to the allocation of sales back to the individual lease/agreements involved in commingling situations. Upon recommendations from industry representatives, following the pilot phase, the form was extensively redesigned to more accurately reflect actual operations. It is the opinion of MMS that PASR reporting is essential to the integrity of the PAAS.

Fifteen commenters questioned the accuracy of the \$1.5 million cost burden of the proposed regulations. One main reason given for doubting the estimated cost was that the development and implementation of a PAAS reporting system had already been costly considerable sum.

In general, commenters failed to understand the basis for the \$1.5 million estimate associated with additional burden on industry. The \$1.5 million figure included only the estimated cost of *additional* burden hours over and above estimated burden associated with existing manual production reporting. The figure did not include costs associated with the development of automated systems or acquired or developed software which industry may have chosen to purchase to comply with the PAAS requirements. The choice to automate was not a requirement of the PAAS reporting. Currently, nine of the one hundred ninety-seven operators providing PAAS reports submit OGOR information via magnetic tape.

It is the opinion of MMS that the costs of systems purchased by industry should not be included in burden cost analysis for the following reasons:

- Trends in industry over the last ten years have led to the development of automated production accounting systems to meet industry needs. Some of those systems have been enhanced or modified to allow a company to comply with the PAAS reporting requirements. These incremental costs are minimal when compared to the sunk costs of systems development which was initiated voluntarily by industry.
- Many of the software programs acquired by industry at considerable

expense are not required by MMS to meet the PAAS reporting requirements. They are primarily aimed at allowing industry to test report data prior to submission to MMS against replicated PAAS edits to determine the extent of compliance with lease management requirements and potential liability for noncompliance.

Hence, when looked at in the proper context, MMS still maintains that the \$1.5 million figure is a good estimate of the increased burden hours associated with the PAAS reporting.

Four commenters thought training should be provided to any "Reporter" required to submit a PAAS report to MMS. They questioned the intent of the wording "the MMS provides special training and assistance to small organizations" under the heading of Regulatory Flexibility Act in the preamble to the proposed rule.

The PAAS, since its inception, has relied heavily on contact with the industry. Through the American Petroleum Institute (API), Council of Petroleum Accountant Societies (COPAS), and several major oil and gas company representatives, a good working relationship with industry has been maintained. This cooperation continued during the Pilot Phase and the conversion of all OCS operators. From the beginning of the conversion effort, PAAS personnel have been available to assist the reporter through conversion training sessions and necessary follow-up visits. The knowledge gained from these experiences will continue with all future PAAS conversions.

One commenter questioned the statement made under the heading Paperwork Reduction Act of 1980 in the preamble to the proposed rule that "Information collection under provisions of § 216.30 will affect less than 10 respondents annually . . ."

Since the inception of the PAAS, no requests for information under these provisions have been made. The 10 respondents estimate appears reasonable.

One commenter believes that some of the proposed requirements under §§ 216.201, 216.202, 216.203, and 216.204 are not needed to determine royalty payments for its Federal leases and, therefore, wants to avoid the time and cost involved in reporting information not required.

For MMS to ensure that proper royalties are being received for all minerals produced and sold, the PAAS is needed to track production and sales prior to royalty determination. Therefore, the reporting guidelines for

solid minerals are necessary and appropriate.

IV. Comments Received on Proposed Rules—Specific by Section

Section 216.1 Purpose

Three commenters stated that the purpose as outlined in the proposal was broader than that enumerated in section 101(a) of the Federal Oil and Gas Royalty Management Act and, therefore, the PAAS would be expanded into a broader data collection system than was contemplated by Congress.

MMS believes that the scope of PAAS conforms with section 101(a) of the Act in that it sets up a comprehensive production accounting system that will provide the capability to accurately determine if proper royalties are being paid. The Department's Lease Management Information Study will reassess lease information data currently being received by the Department and the industry burden in supplying these data. This reassessment will include the relationship of current and future data requirements and the PAAS.

One commenter wondered if the term "agreement" used in this section is the same as "agreement" as defined in § 216.6.

Yes, the term "agreement" as used in this section is the same as defined in § 216.6.

One commenter stated that the purpose should consider the future possibility that comparisons between the PAAS and AFS can be done at the First Purchaser Division Order level.

The PAAS is designed to collect data from operators at the lease/agreement or facility level. The First Purchaser Report is included in the PAAS to be responsive to recommendations of the Linowes Commission. It provides a mechanism for collection of data for audit purposes at the request of the Royalty Compliance Division and, as such, will not be required for all reporters.

One commenter stated that the purpose should address the full implementation of the PAAS for both onshore and offshore.

The decision concerning any further implementation of the PAAS will be made as part of the Department's Lease Management Study. The regulations are appropriate for complete and accurate production reporting for both onshore and offshore operations.

Section 216.2 Scope

One commenter stated that the scope was too broad without the issuance of formal valuation guidelines because the

point of royalty determination could not be conclusively identified.

The PAAS has the ability to modify the royalty determination point data so that it will be consistent with the applicable valuation guidelines.

One commenter felt that all conversion data from the calendar year in which conversion to the PAAS is being done should be loaded into the system.

The PAAS is not intended to collect historical data that has previously been supplied but simply to begin accepting reports on a monthly basis, beginning with the first month of conversion.

One commenter questioned whether leases, as mentioned in this section, include sand and gravel permits on which royalties are also paid.

Yes, sand and gravel permits are included in the intent of this section. The change in definitions in § 216.6 reflects this intent.

Section 216.6 Definitions

The commenters stated that the definition of "operator" should be identical to the definition used in the Federal Oil and Gas Royalty Management Act of 1982. They believed that the expanded definition would cause problems because it is too broad.

The PAAS definition of "operator" is meant to include all entities who have a reporting responsibility under the PAAS data collection formats. Operators of gas plants, for example, are required to submit the appropriate reports but lease-level reporting by operators of plants or facilities is not the intention of the PAAS. The definition of operator in the PAAS was expanded to include the wording found in section 103(a) of the Act. MMS believes no change is necessary.

Five commenters agreed with the definition of "first purchaser" as long as a sale between affiliates is considered a first sale for royalty purposes.

MMS does not consider a sale between affiliates to be a first sale for most royalty purposes. However, for purposes of the PAAS reporting requirements only, a transfer between affiliates falls within the definition of "first purchaser."

Four commenters stated that the definition of "raw make" should not include the phrase "and transferred to a fractionation plant for further processing" because not all raw make is transferred but is sometimes sold "as is."

The word "and" in the fourth line of the definition has been changed to "which sometimes" in order to address

all situations involving the disposition of raw make.

One commenter stated that the definition of "facility" may cause invalid information to be supplied on the FMIF and FMIF-S without formal valuation guidelines being in effect. This would result in an additional cost to industry in the event much of the data base would need to be redeveloped.

MMS believes that the final valuation guidelines, when ultimately published, will not seriously affect the PAAS in regard to the data submitted on the FMIF and FMIF-S. No comprehensive changes are anticipated to be necessary.

One commenter stated that the definition of "oil or gas" did not reflect condensate.

The proposed definition has been changed to explicitly cover condensate.

One commenter noted that the definition of "measurement device" was silent as to industry-recognized metering standards.

For PAAS purposes, a "measurement device" is the mechanism (meter, scale, tank gauging) by which the volume to be reported is determined. The authority for approval of such devices is contained in 43 CFR 3162.7-2 and 3162.7-3 for onshore Federal and Indian leases and 30 CFR 250.60 and 250.61 for offshore Federal leases.

Section 216.10 Information collection

One commenter stated that a reference should be made to the comparison of production data with revenue data.

There are references made to the AFS/PAAS comparison in the final regulations.

One commenter thought that § 210.10 should be amended to reflect that the forms, together with their documentation and instructions, should have been published for public comment as a proposed rule.

The forms and their documentation have in fact been made available for public comment in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35) (PRA) and the implementing regulations. We have issued information collection notices regarding the PAAS forms in the *Federal Register* (48 FR 31473) and (50 FR 25335). These notices referenced the availability of the forms and explanatory materials for public comment. The PRA provides a mechanism for commenting of forms.

Section 216.20 Applicability

A new § 216.20 Applicability, has been added to the final rule to state clearly when the PAAS rules will become applicable to a reporter.

Section 216.21 General obligations of the reporter

Five commenters questioned the reference made to the PAAS Reporter Handbook as a source of specific guidance on the use of the forms. They thought it was possible that the Handbook could become a vehicle for changing the existing rules and regulations.

As stated above, the Handbook is intended to be an instructional tool which provides guidelines and reference data (including examples) to assist the reporter in completing the appropriate forms.

One commenter thought that the regulations should require a reporter to give notice to the lessor that reporting under the PAAS was to begin with a certain report period.

MMS believes that the one-year notification of conversion included in the regulations will provide sufficient time for contact between reporters and lessors concerning PAAS reporting.

Section 216.25 Confidentiality

Eight commenters noted that the proposed regulations made no reference to "tight hole" data and test production nor mentioned how the PAAS was going to treat such data.

The PAAS gathers production data. After acceptance of the information into the system, reports are supplied to the BLM in the case of onshore reporters and the MMS in the case of offshore reporters. Because these are the agencies that classify wells as tight holes, it is their responsibility to keep operations and test production information confidential until such time as the data is available for public inspection. Royalty Management has no facilities for the public inspection of PAAS data. If, in the future, the necessity arises for the PAAS to keep particular information confidential, a method and procedure for doing so will be developed and the reporter notified.

Seven commenters questioned the reference to geologic geophysical information and whether the PAAS intended to collect this data.

The only geologic and geophysical data collected by the PAAS is the reservoir/formation name gathered on the Well Information Form. This data is provided back to the individual reporters and the BLM on the appropriate confirmation reports. The PAAS will not collect any other geologic or geophysical information.

One commenter stated that § 216.25(a)(1) should be expanded to include references to the Tribal Leasing Act of 1938 (25 U.S.C. 396a et seq.) and

the Allotted Indian Land Leasing Act of 1909 (25 U.S.C. 396).

The references have been included in the regulations.

One commenter urged the MMS to expand the confidentiality provisions of § 216.25 to also include coal quality information.

Information collected by the PAAS on the solid minerals reporting forms is regarded as confidential and all monthly activity reports supplied to the Bureau of Land Management are marked as such.

Section 216.30 Special forms and reports

Six commenters stated that this section was too vague. They thought that if special reports were required, the reports should be subject to public comment via proposed rulemaking procedures prior to implementation.

The first sentence of the regulation has been eliminated. The term "MMS" in the second sentence has been replaced with "Associate Director." The regulation has been reworded so that it will conform more closely with 30 CFR 210.105 and 250.96. Section 216.30 is included in the regulations to establish the rule referenced in section 103(a) of the Act, which empowers the Secretary to collect data determined to be necessary.

MMS disagrees that forms always must be issued through rulemaking. When MMS has the authority to collect the information, the form for doing so does not require rulemaking unless the form substantially affects the rights or obligations of the reporter.

Section 216.40 Assessments for incorrect or late reports and failure to report

Twelve commenters requested a further clarification of "incorrectly completed" because the term is so vague that assessment of penalties would be arbitrary. Nine comments contended that the proposed penalty system was excessive and made no provisions for reporters who were making a good faith effort as compared to habitually bad reporters. Two comments concerned the complexity of the system and the inability to submit 100 percent correct data. Two commenters thought the reporter should not be penalized for errors caused by typographical or footing problems or errors attributable to problems within the PAAS data base.

It is the opinion of MMS that an incorrectly completed report is one that fails to pass the system edits. The edits, as outlined in the Reporter Handbook, are designed to prevent the acceptance

of erroneous data. All late or incorrect reports, regardless of the cause, are detrimental to the PAAS and the efficient operation of the Royalty Management Program; thus, MMS wants PAAS reporting to be as accurate and timely as possible. However, MMS recognizes that some reporting problems are beyond the control of the reporters. MMS will not make assessments for those types of problems (e.g., reports delivered late because of bad weather).

Incorrect reporting may be penalized under the provisions of § 216.40 of these regulations. Assessments made under the provisions of § 216.40 do not preclude the issuance of civil penalties under 30 CFR Part 241 for habitual misreporting. Failure to report could also result in the imposition of civil penalties.

Seven commenters took exception to the interpretation of a report as being an individual line of production information.

MMS believes that for the purpose of determining accurate assessments for incorrect reporting, each line of production information on the stated forms constitutes a report. This also is consistent with the MMS definition of reports relating to assessments for reporting errors in the AFS, 30 CFR 218.56.

One commenter stated that this section should be deleted because any civil penalty authority of the Secretary related to production accounting has been subsumed into and/or preempted by section 109 of the Act.

MMS disagrees with this interpretation of the Act. Section 304(a) of the Act provides that the penalties and authorities of the Act are supplemental to, and not in derogation of, any penalties or similar authorities in other laws. The Secretary's authority for the assessments provided by § 216.40 is derived not from the Act but from the Secretary's responsibilities to administer the Mineral Leasing Act, the Outer Continental Shelf Lands Act, and other mineral leasing laws.

One commenter asked if there would be a grace period on assessments after conversion to PAAS, recommending that no assessments be made until the system is fully operational and all conversions have been made.

Assessments will not be considered until an appropriate period of time has passed following an operator's conversion to the PAAS. This time period could be as many as four report periods.

Section 216.50 [Reserved]

Section 216.51 Facility and Measurement Information Form and Supplement (FMIF and FMIF-S)

One commenter stated that the second "of" in line 19 of § 216.51(a) should be "or".

The change has been made in the final regulations.

One commenter suggested a clarification of the word "party" referenced in line 11 of § 216.51(b).

The word "party" has been changed to "person."

One commenter thought the regulations should require the operator to certify that the measurement device meets recognized standards, that a flow chart referencing measurement location with respect to the wellhead be provided; and that the regulations should provide guidance as to proper placement of the metering loop.

All these comments fall under the auspices of the appropriate operations agency and are not within the scope of the PAAS functions. No changes will be made to the proposed regulations.

One commenter was concerned about the use of zeroes and alpha o's in the same fields. He thought it was "only asking for trouble" within an already complex system.

MMS realizes that some problems may arise from allowing these two characters in the same fields. If the system is redesigned in the future, consideration will be given to not allowing these two characters in the same field.

One commenter requested a clarification as to who was responsible for submittal of the FMIF subsequent to conversion.

After conversion, Form MMS-4051 must be filed by the operator with MMS/RMP for all new, or changes to, facilities or measurement devices which are under the administrative control of the Bureau of Land Management. Updates to the PAAS data base for MMS OCS approved facilities and measurement devices will be made by the appropriate MMS office. The regulation has been rewritten to reflect this understanding.

Section 216.52 Well Information Report (WIF)

One commenter stated that because the producing interval is assigned by MMS, MMS should bear the responsibility of change and notification of industry.

MMS provides confirmation reports to the operator of the well when changes are made to the API well number and/or producing interval code.

One commenter stated that the regulation requires the submittal of a WIF on a one-time-only basis. He questioned subsequent changes to the API well number, well status, and producing interval code and who was required to file these forms.

Only the initial WIF is to be submitted by the operator prior to conversion. Subsequent additions of wells or changes to existing wells will be made by the appropriate BLM or MMS/OCS office.

One commenter thought that the following data items should be required on the WIF: purchaser name and number, purchaser assigned lease/property number, windfall profit tax tier, and Natural Gas Policy Act certification category.

The items that the commenter requested to be added to the WIF are not necessary for the accurate reporting of production. They are royalty/valuation related items and as such do not belong in the PAAS. MMS believes that including these items would be inappropriate.

Section 216.53 First Purchaser Report (FPR)

One commenter stated that a more reasonable time limit for record retention than six years should be applicable to first purchasers.

The six-year recordkeeping requirement is provided by section 103(b) of the Act. A lesser time limitation would be impractical and incompatible with statute of limitation requirements found in Federal and State law.

Two commenters questioned the usefulness of the report, considering the additional review work necessary by the audit program which this report serves.

The FPR the result of a Linowes Commission recommendation, is intended as a preliminary mechanism for data gathering for audit activities. MMS believes that the report will serve a useful purpose when deemed necessary.

One commenter requested that the wording in the proposed regulation be changed so that all first purchasers file the report monthly.

It is not the intent of the report to gather all purchaser data on a monthly basis but only when a specific request is necessary in relation to audit activities. The wording is not changed.

Two commenters stated that the FPR should be eliminated from the PAAS as the system should not require information beyond the OGOR.

Although the report need only be filed as directed by MMS, it is still important because it enables MMS to perform its data gathering function more efficiently.

Section 216.54 Oil and Gas Operations Report (OGOR)

Five commenters thought the words "and sold" should be added after the word "produced" in line 10 of the regulation because royalty is paid on quantities produced and sold.

The wording has been changed to "produced or sold." The wording is meant to include the intention of the regulations in 30 CFR 202.100, 202.150, 206.151, and 206.152.

Four commenters stated that the third sentence should be clarified to create a separate reporting requirement for each operator on Federal or Indian lease, unit, or communitization agreement.

The third sentence has been changed to "The report must be filed by every operator of the lease or agreement . . ." The term "operator" is defined in § 216.6.

One commenter stated that all volumes reported on the OGOR should be metered, specifically flared/vented volumes.

The PAAS will allow reporting of estimated or calculated volumes when no actual measurement has occurred. The requirements of determining which volumes are to be measured is an operational function and beyond the scope of the PAAS.

One commenter stated the PAAS should be reevaluated to determine if quarterly or semiannual reporting is feasible.

The study currently underway within the Department will cover all options concerning future PAAS reporting.

Section 216.55 Gas Analysis Report (GAR)

Nine commenters thought that § 216.55 should be amended so that reporting frequency outlined in the regulations corresponds to that in the Reporter's Handbook.

The fifth sentence of this section has been changed to read "The form is due monthly or as specified by the gas sales contract terms but no less frequently than semiannual, and must be submitted on or before the 15th day of the second month following the end of the reporting period to which the information applies."

Seven comments received stated that the GAR should be eliminated from the PAAS reporting requirements.

The GAR provides necessary data which is used in association with the

GPOR and OGOR. MMS can then make lease-level AFS/PAAS comparisons on processed gas and its related liquids.

Section 216.56 Gas Plant Operations Report (GPOR)

All twelve comments received on this specific section recommended that the GPOR reporting requirements be eliminated from the PAAS because the data being collected will result in numerous errors in the AFS/PAAS comparison. This, in turn, would cause the reporters to spend time answering inquiries from MMS. The commenters thought that MMS would be better served by audit procedures.

As previously stated, MMS requires additional time to assess the value of this report. Reporters will be notified if the reporting requirements change at a later date.

Section 216.57 Fractionation Plant Operations Report (FPOR)

The twelve comments received concerning the FPOR were identical to those in the previous section. The need for this report will be assessed simultaneously with the GPOR.

Section 216.58 Production Allocation Schedule Report (PASR)

Twelve commenters thought that the PASR should be eliminated from the PAAS reporting requirements. They believe that the PAAS reporting should end at the lease and no corroborative reports should be required.

The PASR provides MMS with a mechanism for verifying the allocation of sales from the onshore or offshore commingled sales point to the individual leases or agreements which produce to that point. The information is currently being provided by the sales point operator. The PASR organizes the data in a readily useful manner.

Two commenters stated that the requirements of who is required to file a PASR should be included in the regulations.

The section has been reworded to include the criteria of who must file a PASR.

One commenter stated that in line 14, the word "of" should be "or."

The requested change has been made.

One commenter wanted the regulations to require a certification as to the accuracy of all allocation meters and, upon initial submittal of a PASR, the reporters to include a flow chart detailing product flow lines, metering, and gathering points.

The information which these recommendations would require is

unnecessary for the PAAS to accomplish its purpose. The proposed requirements are of an operational nature and will not be included in the PAAS.

Section 216.61 API Well Number Change Report (ANCR)

One commenter stated that the form should be redesigned to include the operator's internal assigned well number in addition to the API well number.

The API well number provides a unique identifier and as such is a key to the PAAS. An operator's internally assigned well number would not necessarily be unique to all operators. The operator's internally assigned well number does provide a convenient mechanism for identifying each individual operator. The comments field of the form can be used for these data.

One commenter stated that, because MMS assigns the producing interval code, it was the responsibility of MMS to notify industry of subsequent changes.

The PAAS provides a confirmation report of each ANCR processed to the appropriate operator.

Section 216.202 Facility and Measurement Information Form (FMIF)

One commenter pointed out that the FMIF is not submitted on a one-time-only basis and that the statement is confusing.

MMS agrees with this comment and will clarify this section by eliminating "on a one time only basis."

Section 216.203 Solid Minerals Operation Report (SMOR)

One commenter requested that the SMOR be submitted only for those operations that are producing mines.

MMS agrees that if a mine is not producing, is not expected to produce in the next twelve months, and has no outstanding inventory, then the SMOR is not required. MMS will eliminate "or inactive mines" from this section.

V. Procedural Matters

Executive Order 12291

The Department of the Interior has considered all comments received on the proposed rule and has determined that this document is not a major rule and does not require a regulatory analysis under Executive Order 12291.

Although the final rule establishes certain assessments for improper reporting, there is no economic effect so long as there is compliance with the regulations.

The increased regulatory burden on industry due to the information collection requirements for establishing production quantities is estimated to be approximately \$1.5 million. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

Some portion of the approximately \$1.5 million cost burden to the public will fall on the small businesses that are among the potential respondents. Since the total cost to the public is relatively small, and because the MMS provides special training and assistance to small organizations, there will be no significant economic effect on small entities. Although the rule establishes certain penalty assessments for improper reporting, as long as there is compliance with the regulations, there is no cost. Consequently, it does not require a Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) analysis.

Paperwork Reduction Act of 1980

The information collection requirements contained in Subparts B and E of this proposed rule have been approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3504(h), and granted OMB Clearance Number 1010-0040 and 1010-0063, respectively. Information collection under provisions of § 216.30 will affect less than 10 respondents annually and does not require OMB approval.

National Environmental Policy Act of 1969

This action is categorically excluded (40 CFR 1508.4) from the requirements of the National Environmental Policy Act 42 U.S.C. 4321 *et seq.*, and has been so designated by the Department. (516 DM 2 appendix 1.6; and 516 DM 6, appendix 2.4 (B)(1)(k).)

List of Subjects in 30 CFR Part 216

Mineral production, Mineral royalties, Reporting and recordkeeping requirements, Oil and gas, Solid minerals.

Under the authority of the Secretary of the Interior contained in 30 U.S.C. 1751, 30 CFR is amended by the addition of a new Part 216.

Dated: January 17, 1986.

J. Steven Griles,

Assistant Secretary for Land and Minerals Management.

Title 30 of the Code of Federal Regulations is amended by adding Part 216 to read as follows:

SUBCHAPTER A—ROYALTY MANAGEMENT

PART 216—PRODUCTION ACCOUNTING

Subpart A—General Provisions

- Sec.
- 216.1 Purpose.
 - 216.2 Scope.
 - 216.6 Definitions.
 - 216.10 Information collection.
 - 216.20 Applicability.
 - 216.21 General obligations of the reporter.
 - 216.25 Confidentiality.
 - 216.30 Special forms and reports.
 - 216.40 Assessments for incorrect or late reports and failure to report.

Subpart B—Oil and Gas, General

- Sec.
- 216.50 [Reserved]
 - 216.51 Facility and Measurement Information Form and Supplement.
 - 216.52 Well Information Form.
 - 216.53 First Purchaser Report.
 - 216.54 Oil and Gas Operations Report.
 - 216.55 Gas Analysis Report.
 - 216.56 Gas Plant Operations Report.
 - 216.57 Fractionation Plant Operations Report.
 - 216.58 Production Allocation Schedule Report.
 - 216.61 API Well Number Change Report.

Subpart C—Oil and Gas, Onshore [Reserved]

Subpart D—Oil, Gas, and Sulphur, Offshore [Reserved]

Subpart E—Solid Minerals, General

- Sec.
- 216.200 [Reserved]
 - 216.201 Mine Information Report.
 - 216.202 Facility and Measurement Information Form.
 - 216.203 Solid Minerals Operations Report.
 - 216.204 Solid Minerals Facility Report.

Subpart F—Coal [Reserved]

Subpart G—Other Solid Minerals [Reserved]

Subpart H—Geothermal Resources [Reserved]

Subpart I—Indian Land [Reserved]

Authority: The Act of February 25, 1920 (30 U.S.C. 181 *et seq.*) as amended; the Act of May 21, 1930 (30 U.S.C. 301-306); the Minerals Leasing Act for Acquired Lands (30 U.S.C. 351-359), as amended; the Act of March 3, 1909 (25 U.S.C. 396), as amended; the National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*) as amended; the Act of May 11, 1938 (25 U.S.C. 396a-396q), as amended; the Act of February 28, 1891 (25 U.S.C. 397), as amended; the Act of May 29, 1924 (25 U.S.C. 398); the Act of March 3, 1927 (25 U.S.C. 398a-398e); the Act of June 30, 1919 (25 U.S.C. 399), as amended; R.S. § 441 (43 U.S.C. 1457), see also Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41); the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471, *et seq.*), as amended; the Act of December 12, 1980

(Pub. L. 96-514, 94 Stat. 2964); the Combined Hydrocarbon Leasing Act of 1981 (Pub. L. 97-78, 95 Stat. 1070); the Outer Continental Shelf Lands Act (43 U.S.C. 1331, *et seq.*), as amended; Section 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262); Secretarial Order No. 3071 of January 19, 1982, as amended; Secretarial Order 3087, as amended; The Indian Mineral Development Act of 1982 (25 U.S.C. 2101, *et seq.*); and the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701, *et seq.*).

Subpart A—General Provisions

§ 216.1 Purpose.

The purpose of this part is to ensure that the Federal Government receives proper information regarding energy and mineral resources removed from Federal and Indian leases and federally approved agreements, including the Outer Continental Shelf (OCS).

§ 216.2 Scope.

This part governs the reporting of oil, gas, and solid minerals operations information on Federal and Indian leases or federally approved agreements including the OCS. This part also governs the reporting of other operational information associated with production from Federal and Indian leases or federally approved agreements when such operations occur prior to the point of sale or royalty determination, whichever is applicable. Reporters are required to continue to submit existing production reports (3160-6 (formerly 9-329 and 9-329-1), 9-152, 9-373A, 9-128, 9-128a, 9-128b, 9-128c, 9-128d, 9-368, 9-1146, etc.) until conversion to PAAS. The appropriate MMS official will notify reporters being converted to PAAS of the proper schedules for start-up of reporting under PAAS and for discontinuing reporting using the existing production report forms.

§ 216.6 Definitions.

For purposes of this part:

(a) "Agreement" means a binding arrangement between two or more parties purporting to the act of agreeing or of coming to a mutual arrangement that is accepted by all parties to a transaction (e.g., communitizations, unitization, gas storage, or compensatory royalty agreements.).

(b) "Alaska Native Corporation" means a corporation created pursuant to the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*).

(c) "Approved mining plan" as used in this part means an approved resource recovery and protection plan (43 CFR 3480.5) or approved mining plan (43 CFR 3572.1).

(d) "Associate Director" means the Associate Director for Royalty Management of the MMS.

(e) "Conversion period" means that period of time between the date an operator not subject to the rules of this part is notified that the rules are to be made applicable to that operator, and the effective date of applicability. The conversion period will not be less than one year unless the operator requests a shorter period.

(f) "Facility" means a structure(s) used to store or process Federal or Indian mineral production prior to or at the point of royalty determination.

(g) "Federal lease" means a lease concerning minerals owned by the United States and includes a lease where an Alaska Native Corporation receives all or part of the royalties accruing from that lease, and the MMS has not waived administration of that lease.

(h) "First purchaser" means any entity receiving the lease production in a first transfer for value transaction.

(i) "Gas" means any fluid, either combustible or noncombustible, which is extracted from a reservoir and which has neither independent shape nor volume, but tends to expand indefinitely; a substance that exists in a gaseous or rarefied state under standard temperature and pressure conditions.

(j) "Indian lease" means a lease concerning lands or interest in lands of an Indian Tribe or an Indian allottee, his heirs or devisees, held in trust by the United States or which is subject to Federal restriction against alienation, including mineral resources and mineral estates reserved to an Indian Tribe or an Indian allottee, his heirs or devisees thereto in the conveyance of a surface or non-mineral estate, except that such term does not include any lands subject to the provisions of section 3 of the Act of June 28, 1906 (34 Stat. 539).

(k) "Lease" means any contract, profit-share arrangement, joint venture, permit, or other agreement issued or approved by the United States under a mineral leasing law that authorizes exploration for, extraction of, or removal of oil, gas, or solid minerals—or the land area covered by that authorization, whichever is covered by the context.

(l) "Lessee" means any person to whom the United States, an Indian Tribe, or an Indian allottee, issues a lease, or any person who has been assigned an obligation to make royalty or other payments required by the lease.

(m) "MMS/RMP" means the Royalty Management Program of the Minerals Management Service.

(n) "Measurement device" means a mechanical or electrical device that is

used to measure production of oil, gas, or solid minerals for sales, transfers, and/or royalty determination.

(o) "Mine" means an underground or surface excavation or series of excavations and the surface or underground support facilities that contribute directly or indirectly to mining, production, preparation, and handling of coal or other solid minerals.

(p) "Mineral Leasing Law" means any Federal law administered by the Secretary authorizing the disposition under lease of oil, gas, or solid minerals.

(q) "Oil" means any fluid hydrocarbon substance other than gas which is extracted in a fluid state from a reservoir and which exists in a fluid state under the existing temperature and pressure conditions of the reservoir. Oil includes liquefiable hydrocarbon substances such as drip gasoline or other natural condensates recovered in a liquid state from gas.

(r) "Operator" means any person, including a lessee who has control of, or who manages operations on, any oil and gas or solid minerals lease site on Federal (including the OCS) or Indian lands. "Operator" also means any entity engaged in the business of developing, drilling for, producing, transporting, purchasing, selling, or processing oil, gas or solid minerals and/or which has the responsibility of reporting production from a lease or a portion thereof.

(s) "Outer Continental Shelf (OCS)" has the same meaning as provided in section 2 of the Outer Continental Shelf Lands Act, 43 U.S.C. 1331.

(t) "Person" means any individual, firm, corporation, association, partnership, consortium or joint venture.

(u) "Production Accounting and Auditing System (PAAS)" means an integrated system of manual and automated processes for minerals production reporting, accounting, and auditing. Based upon production reports submitted by reporters, the PAAS will track oil, gas, and solid minerals produced from or allocated to Federal and Indian leases, including the OCS, from the source of production to the point of disposition with emphasis on the point of royalty determination, or point of sale, whichever is applicable.

(v) "Raw make" means natural gas liquids (NGL's) that are extracted from the wet gas stream at a gas plant (e.g., ethane through natural gasoline) which sometimes is transferred to a fractionation plant for further processing.

(w) "Reporter" means any reporting entity required to submit a PAAS report or form to the MMS.

(x) "Secretary" means the Secretary of the Interior or his/her designee.

(y) "Solid minerals" means those minerals including but not limited to coal, potash, sodium, phosphate, sulfur, lead, zinc, copper, silica sands, sand and gravel, and other minerals under mineral leasing laws originating from or allocated to Federal or Indian leases, excluding oil or gas, oil shale, and geothermal resources.

§ 216.10 Information collection.

(a) The information collection requirements contained in Subpart B require the filing of forms which have been approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507, and assigned clearance number 1010-0040. The information is being collected for Federal and Indian royalty accounting purposes. The information collection requirements contained in Subpart E also require the filing of forms which have been approved under 44 U.S.C. 3507 and assigned clearance number 1010-0063.

(b) The information collected will be used to permit accounting and auditing of production information submitted by the reporter for mineral production from Federal and Indian leases and federally approved agreements. Information reporting forms are available from the MMS. Requests shall be addressed to: Minerals Management Service, Royalty Management Program, Box 17110, Denver, Colorado 80217.

§ 216.20 Applicability.

(a) The requirements of this part shall apply to all operators already reporting to the PAAS on April 7, 1986.

(b) The requirements of this part shall not apply to any operator not included in subsection (a) until MMS notifies the operator in writing, certified mail, return receipt requested, at least one year in advance of the date the rules are to be applicable to that operator, except such operators shall be required during the conversion period to file the reports required by § 216.51, § 216.52a, § 216.201, or § 216.202 as applicable.

(c) Notwithstanding subsection (b), any operator may request and MMS may approve a conversion period of less than one year.

(d) Notwithstanding any of the provisions of this section, operators on all offshore leases and all solid mineral leases issued on or after April 7, 1986, shall be subject to the requirements of this part without any conversion period.

§ 216.21 General obligations of the reporter.

The reporter shall submit accurately, completely and timely, pursuant to the requirements of this part, all information

forms and other information required by MMS. Specific guidance on the use of the required forms is contained in the *Production Accounting and Auditing System Reporters Handbook*. Copies of the handbook are available from the MMS.

§ 216.25 Confidentiality.

(a) Information obtained by MMS pursuant to the rules of this part shall be open for public inspection and copying during regular office hours upon a written request, pursuant to rules at 43 CFR Part 2, except that:

(1) Notwithstanding any other provision of this part, information obtained from a reporter under this part relating to a minerals agreement approved pursuant to the Indian Mineral Development Act of 1982, 25 U.S.C. 2101 *et seq.*, the Tribal Leasing Act of 1938 (25 U.S.C. 396a *et seq.*), or the Allotted Indian Mineral Development Act of 1909 (25 U.S.C. 396), shall not be released without the written consent of the Indian Tribe(s) or individual Indian(s) who are parties to the mineral agreement.

(2) Information obtained from a reporter pursuant to this part that constitutes a trade secret and/or commercial or financial information which is privileged or confidential, or other information that may be withheld under the Freedom of Information Act (5 U.S.C. 552(b)), such as geologic and geophysical data concerning wells, shall be available for public inspection in accordance with 43 CFR Part 2. When such information is related to Indian lands, consent to release the information must also be obtained from the cognizant Tribe or allottee.

(b) If any geologic and/or geophysical data is submitted under this part, these shall be made available to the public only in accordance with the provisions of 30 CFR 250.3, 250.4 and 252.7, if these relate to an offshore lease, and in accordance with 43 CFR 3162.8 if these relate to an onshore Federal or Indian lease.

§ 216.30 Special forms and reports.

When special forms or reports other than those referred to in the regulations in this part are necessary, instructions for the filing of such forms or reports will be provided by the Associate Director. Such requests will be made in conformity with the requirements of the Paperwork Reduction Act of 1980, and are expected to involve less than 10 respondents annually.

§ 216.40 Assessments for incorrect or late reports and failure to report.

(a) An assessment of \$10.00 per day may be charged for each report not received by MMS by the designated due date.

(b) An assessment of \$10.00 per day may be charged for each report received by the designated due date but which is incorrectly completed.

(c) For purposes of oil and gas reporting under the PAAS, a report is defined as each line of production information required on the Oil and Gas Operations Report (Form MMS-4054), Gas Analysis Report (Form MMS-4055), Gas Plant Operations Report (Form MMS-4056), Fractionation Plant Operations Report (Form MMS-4057), and Production Allocation Schedule Report (Form MMS-4058).

(d) For purposes of solid minerals reporting under PAAS, a report is defined as each line of production information required on the Solid Minerals Operation Report (Form MMS-4059) and Solid Minerals Facility Report (Form MMS-4060).

(e) The MMS will not make assessments for reporting problems which are beyond the control of the reporter (e.g., reports received late because of bad weather). The reporter shall have the burden of proving that a reporting problem was unavoidable.

(f) An assessment under this section shall not be shared with a State, Indian tribe, Indian allottee, or Alaska Native Corporation.

Subpart B—Oil and Gas, General

§ 216.50 [Reserved]

§ 216.51 Facility and Measurement Information Form and Supplement.

(a) The Facility and Measurement Information Form (Form MMS-4051) must be filed for each facility or measurement device which handles production from any Federal or Indian lease, or federally approved agreement, through the point of first sale or the point of royalty computation, whichever is later. The completed form must be filed by the operator of the facility or measurement device initially at the request of MMS during the conversion of facility and measurement device operators to the PAAS. After conversion, Form MMS-4051 must be filed with MMS/RMP no later than 30 days after establishment of a new facility or measurement device, or a change to an existing facility or measurement device which is not approved by the MMS/OCS.

(b) The Facility and Measurement Information Form-Supplement (Form MMS-4051 Supplement) must be filed

for each facility or measurement device that handles production from any Federal or Indian lease, or federally approved agreement, through the point of first sale or the point of royalty computation, whichever is later, when such facility or measurement device is operated by any party other than the operator(s) of the lease(s) or approved agreement(s) served by said facility or measurement device. The completed form must be filed by each operator of the lease(s) or federally approved agreement(s) served by said facility or measurement device if that operator is not the same person that operates said facility or measurement device. Form MMS-4051 Supplement must be filed at the request of the MMS initially during the conversion of lease and agreement operators to PAAS.

§ 216.52 Well Information Form.

The Well Information Form (Form MMS-4052) must be filed at the request of MMS for each Federal or Indian lease, or federally approved agreement, on which there exists at least one well that is not permanently plugged and abandoned. The completed form must be filed by the operator of the lease or agreement initially during the conversion of lease and agreement operators to the PAAS.

§ 216.53 First Purchaser Report.

The First Purchaser Report (Form MMS-4053) must be filed by first purchasers only upon the specific request of MMS.

§ 216.54 Oil and Gas Operations Report.

The Oil and Gas Operations Report (Form MMS-4054) must be filed by every operator of the lease or agreement for each Federal or Indian lease, or federally approved agreement, on which there exists at least one well that is not permanently plugged and abandoned. Completed Form MMS-4054 must be filed for each calendar month, beginning with the month in which drilling operations are initiated, and must be filed on or before the 15th day of the second month following the month being reported until the lease or agreement is terminated or the last well is permanently plugged or abandoned or until omission of the report is authorized by the MMS.

§ 216.55 Gas Analysis Report.

The Gas Analysis Report (Form MMS-4055) must be filed for each Federal or Indian lease, or federally approved agreement from which gas is transferred for processing prior to the point of royalty computation. The completed form must be filed by the

operator of the lease or approved agreement. The form is due monthly or as specified by the gas sales contract terms but no less than semiannually, and must be submitted on or before the 15th day of the second month following the end of the reporting period to which the information applies.

§ 216.56 Gas Plant Operations Report.

The Gas Plant Operations Report (Form MMS-4056) must be filed for each gas plant that processes gas that originates from a Federal or Indian lease, or federally approved agreement, prior to the point of royalty computation, by the operator of the gas plant. Completed Form MMS-4056 must be filed for each calendar month, beginning with the month in which processing of gas originating from a Federal or Indian lease or federally approved agreement is initiated, and must be filed on or before the 15th day of the second month following the month being reported.

§ 216.57 Fractionation Plant Operations Report.

The Fractionation Plant Operations Report (Form MMS-4057) must be filed for each fractionation plant that fractionates raw make attributable to a Federal or Indian lease, or federally approved agreement, prior to the point of royalty computation for such lease or agreement. The completed form must be filed by the operator of the fractionation plant. Form MMS-4057 must be filed for each calendar month, beginning with the month in which fractionation of raw make originating from a Federal or Indian lease, or federally approved agreement is initiated, and must be filed on or before the 15th day of the second month following the month being reported.

§ 216.58 Production Allocation Schedule Report.

The Production Allocation Schedule Report (Form MMS-4058) shall be filed for each facility or measurement device where the production from a Federal or Indian lease or agreement is commingled with the production from one or more other Federal, Indian or non-Federal leases or agreements prior to measurement for royalty computation purposes. A report is not required whenever the leases/agreements involved are all Federal or all Indian; all have the same fixed royalty rate; all are operated by the same person; and the

facility/measurement device is operated by the same person as the leases/agreements. The completed form must be filed by the operator of such facility or measurement device. Form MMS-4058 must be filed for each calendar month, beginning with the month in which handling or production covered by this section is initiated, and must be filed on or before the 15th day of the second month following the month being reported.

§ 216.61 API Well Number Change Report.

The API Well Number Change Report (Form MMS-4061) must be filed whenever there is a change to an existing API well number and/or the MMS assigned producing interval code within the PAAS, on which an Oil and Gas Operations Report (Form MMS-4054) have been filed. The completed form must be filed by the operator of the Federal or Indian lease, or federally approved agreement, with which the well is associated. Form MMS-4061 must be filed at least 10 days prior to the submission of an Oil and Gas Operations Report containing the new API well number and/or the MMS assigned producing interval code.

Subpart C—Oil and Gas, Onshore [Reserved]

Subpart D—Oil, Gas, and Sulfur, Offshore [Reserved]

Subpart E—Solid Minerals, General

§ 216.200 [Reserved]

§ 216.201 Mine Information Report.

The Mine Information Form (Form MMS-4050) must be filed for each mine that includes Federal or Indian leases in its approved mining plan. The completed form must be filed by the operator of the mine/lease(s). Form MMS-4050 must be filed at the request of the MMS initially during the conversion of the mine/lease(s) to the PAAS.

§ 216.202 Facility and Measurement Information Form.

The Facility and Measurement Information Form (Form MMS-4051) must be filed for each facility or measurement device which handles solid mineral production from any Federal or Indian lease, or federally approved agreement, through the point of first sale or the point of royalty

computation, whichever is applicable. The completed form must be filed by the operator of the facility or measurement device. Form MMS-4051 must be filed initially at the request of the MMS during the conversion of facility and measurement device operators to the PAAS. Subsequent to conversion, Form MMS-4051 must be filed with MMS/RMP no later than 30 days after establishment of a new facility or measurement device, or a change to any existing facility or measurement device that handles production attributable to any Federal or Indian lease, or federally approved agreement, through the point of first sale or royalty computation, whichever is applicable.

§ 216.203 Solid Minerals Operations Report.

The Solid Minerals Operation Report (Form MMS-4059) must be submitted by all Federal and Indian lease operators of producing mines that are part of an approved mine plan. Form MMS-4059 must be filed for the same period established for payment for royalties in the lease terms, unless a different reporting frequency is established by an MMS authorized official, and on or before the 15th day of the second month following the period being reported until all the leases within a mine are terminated or until omission of the report is authorized by the MMS.

§ 216.204 Solid Minerals Facility Report.

The Solid Minerals Facility Report (Form MMS-4060) must be filed by operators of secondary processing facilities that handle production attributable to Federal or Indian leases where royalty is determined after processing. The report period is monthly, unless a longer period is specified in the lease document, or otherwise approved by the MMS. The Form MMS-4060 must be filed on or before the 15th day of the second month following the period being reported.

Subpart F—Coal [Reserved]

Subpart G—Other Minerals [Reserved]

Subpart H—Geothermal Resources [Reserved]

Subpart I—Indian Land [Reserved]

[FR Doc. 86-4998 Filed 3-6-86; 8:45 am]
BILLING CODE 4310-MR-M