

OCT 22 1990

MMS/RCD
MS 3600

CERTIFIED MAIL --
RETURN RECEIPT REQUESTED

See Distribution:

Re: Notice on Record Retention Requirements for Federal Potash Leases

Dear Payor:

Pursuant to the Mineral Leasing Act of 1920, 30 U.S.C. 181 et seq., Minerals Management Service (MMS) regulations in 30 CFR 212.200 (1990), and Bureau of Land Management (BLM) regulations in 43 CFR 3597.1 (1989), the purpose of this letter is to provide notice on record retention requirements for Federal potash leases (Notice).

The Notice is to remind the lessee/payor/record holder of the Federal record retention requirements. The records must be maintained for at least 6 years after the records are generated.

The applicable regulations are summarized below for your reference.

The MMS regulations governing records and file maintenance at 30 CFR 212.200 (1990) provide the following:

Maintenance of and access to records.

(a) All records pertaining to Federal and Indian solid minerals leases shall be maintained by a lessee, operator, revenue payor, or other person for 6 years after the records are generated unless the record holder is notified, in writing, that records must be maintained for a longer period. When an audit or investigation is underway, records shall be maintained until the record holder is released by written notice of the obligation to maintain records.

(b) The MMS shall have access to all records of the operator/lessee pertaining to compliance to Federal royalties, including, but not limited to:

AMAX Potash Corporation

- (1) Qualities and quantities of all products mined, processed, sold, delivered, or used by the operator/lessee.
- (2) Prices received for mined or processed products, prices paid for like or similar products, and internal transfer prices.
- (3) Costs of mining, processing, handling, and transportation.

The BLM regulations governing production records at 43 CFR 3597.1 (1989) provide the following:

Books of Account

- (a) Operators/lessees shall maintain records which show a correct account of all ore and rock mined, of all ore put through the processing plant, of all mineral products produced and of all ore and mineral products sold. The records shall show all relevant quality analyses of ore mined, processed or sold and the percentage of the mineral products recovered or lost.
- (b) Production records shall be made available for examination by the authorized officer during regular business hours. For the purpose of production verification, the authorized office may request, and the operator/lessee shall submit a copy of any portion of the production records not submitted to MMS as part of the operator's/lessee's production reporting.

The terms governing lessee responsibilities under the Notice provide in part the following:

Weights. To determine accurately the weight or quantity and quality of all leased deposits mined, and to enter accurately the weight or quantity and quality thereof in due form in books to be kept and preserved by the lessee for such purposes.

Inspection. To permit at all reasonable times (1) inspection by any duly authorized officer of the Department, of . . . all books and records pertaining to operations . . . under these lease; and (2) the lessor to make copies of and extracts from any or all books and records pertaining to operations under this lease, if desired.

Finally, MMS regulations governing civil penalties at 30 CFR 241.20 (1990) provide in part the following:

- (a) Whenever a lessee, operator, revenue payor, or other authorized person fails to comply with any regulations, orders or notices, the appropriate MMS official shall give the lessee, operator, revenue payor, or other authorized person notice in writing to remedy any violations.

(b) Failure by the lessee, operator, revenue payor, or other authorized person, or other party to complete the necessary remedial action within the time and in the manner prescribed by the notice may subject the lease to cancellation proceedings pursuant to 43 CFR Subpart 3163 and 3108 for Federal onshore leases. or provisions of 25 CFR for Indian Leases.

(c) The lessee, operator, revenue payor, or other authorized person, shall be subject to a penalty of not more than \$500 per day for each day the violation specified in the notice continues beyond the date specified in the notice, not to exceed 60 days. In addition to this penalty or in lieu thereof, MMS can take steps to cancel the lease.

Enclosed, for your reference, is a list of the records we believe are required to be maintained by the regulations and lease terms stated above.

This Notice is being provided to all leaseholders of Federal potash leases. If you have any questions concerning this Notice, please contact Dennis Whitcomb, Chief, Rules and Procedures Branch, at (303) 231-3432.

Sincerely,


Kenneth M. Moyers
Chief, Royalty Compliance Division

Enclosure

Enclosure

Federal Potash Leases Record Retention Guidelines

In accordance with regulations at 30 CFR § 212.200 (1990) and 43 CFR § 3597.1 (1989), the minimum records required to be maintained for at least 6 years would include, but not limited to, the following:

1. Computer programs and reports.
2. Automated files.
3. Supporting systems documentation.
4. Mine crew shift reports detailing the height, width and feet of ore mined by lease. (Section shift report)
5. Hoisting reports detailing the amount of ore hoisted from the mine to the surface and the number of skips.
6. Mine production summary reports.
7. Dispatch sheet reports detailing the quantity of ore entering the processing plant and the quantity of finished products leaving the processing plant.
8. Lab analysis worksheets and reports detailing the quality (K_2O , K, and H_2O analysis) of the area ore samples.
9. Area ore samples by mine crew.
10. Lab analysis of ore processed detailing the quality of the ore at the various stages within the processing facility and the amount of K loss in the tailings.
11. Control room logs detailing the amount of ore entering the processing plant.
12. Meter charts on scales detailing the quantity of ore mined, of ore put through the processing plant, of mineral products produced, and of ore and mineral products sold.
13. Daily sales analysis.
14. Production report worksheets (report of operations).
15. Reports showing the percentage of the mineral products recovered and the percentage of mineral products lost.
16. Inventory reports of raw ore at solid mineral storage facilities, of raw ore at underground storage facilities, and of finish products, by type and by lease.
17. Mine tonnage reports.
18. Maps of areas mined.
19. Reports of sales and royalty remittance (MMS-4014).
20. Solid minerals operation report, Part A and Part B (MMS-4059).
21. Solid minerals facility report, Part A and B (MMS-4060).
22. Production allocation schedule report (MMS-4058).
23. Mine information form (MMS-4050).
24. Facility and measurement information form (MMS-4051).
25. Payor information form (MMS-4030).
26. Sales invoices of ore and mineral product sales.

27. Bill of lading of shipments of ore and mineral product sales.
28. Weight scale tickets with imprinted weight of empty container (rail or truck) and imprinted weight of full container (rail car or truck).
29. Mill reports and analysis.
30. Sale contracts.
31. Freight invoices and contracts from transportation companies.
32. Dock station logs detailing the rail car number, truck license plate, trailer license plate, seal numbers of attached seals and weight of empty container and full container, of all ore and mineral products sold.
33. Price bulletin.
34. Price lists.
35. Sales reports.
36. Sales deviation reports showing reasons for price discounts.
37. Reports detailing digital readout of any meter between the Federal lease and the point of first sale.
38. Annual audited financial statements.
39. Qualities and quantities of all products mined, processed, sold, delivered, and used by the operator/lessee.
40. Prices received for mined or processed products.
41. Prices paid for like or similar products.
42. Internal transfer prices.
43. Costs of mining, processing, handling, transportation and bagging.
44. Bank statement deposits representing sale proceeds and cancelled checks representing costs of mining, processing, handling, transportation and bagging.
45. Internal memorandums relating to mining, processing and sales.
46. Underground belt meter charts.
47. Above-ground belt meter charts.
48. Digital readout reports on scales.
49. K₂O ore grade analyzer chart.
50. Flotation report.
51. Concentrate dewatering report.
52. Tails dewatering & CCD circuit report.
53. Ore tons report.
54. Mill report of operations.
55. Scale station log book.
56. Daily loading report.
57. Skip report by month.
58. Hoisting report.
59. Lab daily report of operations.
60. Lab report of operations.
61. Export/domestic cargos report.
62. Workload distribution report.
63. Production cycle report.
64. Daily production report.
65. Daily sales invoice report.
66. Scale tickets.

67. Bill of lading.
68. Invoice register.
- 69.. Sales invoices.
70. Mill schematic.
71. Analysis showing volume of skips, storage facilities, and other containers used to store, transport, and move ore from the lease to the point of first sale.
72. General ledger.
73. Accounts receivable ledger.
74. Internal prepared financial statements.
75. Supporting documentation for customer rebates and for freight allowance requests.

Distribution:

Identical letters were sent to the following:

New Mexico Potash Basin Payors
- For U. S. Government Use Only -

1. MA031
AMAX Potash Corporation
P.O. Box 279
Carlsbad, NM 88221
2. MA320
IMC Fertilizer, Inc.
P.O. Box 71
Carlsbad, NM 88220
3. MX338 / MA514
Mississippi Chemical Corporation
P.O. Box 101
Carlsbad, NM 88220
4. MX344 / MA557
National Potash Company
P.O. Box 731
Carlsbad, NM 88220
5. MA652
Western A. G. - Mineral Corporation
P.O. Box 511
Carlsbad, NM 88220
6. MA265
Eddy Potash,, Inc.
P.O. Box 31
Carlsbad, NM 88220
7. MA562
New Mexico Potash Corporation
P.O. Box 610
Hobbs, NM 88240
8. MX346 / MA569
Noranda Exploration, Inc.
P.O. Box 15638
Denver, CO 80215
9. MA118
Salado Incorporated
P.O. Drawer A
Jal, NM 88252
10. MA642 / MX355
Permian Potash Company
P.O. Box 9940
Amarillo, TX 79105

New Mexico Potash Basin Payors
For U. S. Government Use Only -

11. MA869
C. W. Trainer Operating Account
P.O. Box 755
Hobbs, NM 88241
12. MX412
I & W Incorporated
P.O. Box 176
Artesia, NM 88210
13. MA412
I & W Incorporated
P.O. Box 98
Loco Hills, NM 88255-0098