



United States Department of the Interior



MINERALS MANAGEMENT SERVICE
WASHINGTON, DC 20240

DEC 20 1991

Dear Payor:

Section 10 of the Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. 1339, requires that requests for refunds or credits of excess payments on Federal offshore leases be authorized only if, 1) a request for refund or credit is filed within 2 years after the making of the payment, and 2) 30 days expires after both Houses of Congress are notified of the refund request. This letter is to inform you that the Minerals Management Service (MMS) is enhancing its Auditing and Financial System to automatically detect recoupments made by payors on the Report of Sales and Royalty (Form MMS-2014) without following Section 10's requirements. Although this module will not be in place until March 1992, MMS currently is reviewing Form MMS-2014 submissions to determine compliance with the procedures mandated by Section 10.

If MMS determines that an unauthorized recoupment was taken by a payor on a Form MMS-2014 report beyond the 2-year limit prescribed in the OCSLA, MMS will require these credits be refunded to the U.S. Treasury with interest. If it is determined that a credit was taken by a payor within the 2-year limit but without submitting a refund request, the payor will be required to repay the amount recouped with interest and complete the request as required by law and as described in Volume II of the MMS Oil and Gas Payor Handbook. Reporters who fail to comply with Section 10 may also be subject to civil penalties.

There are certain credits that may be reported that are not subject to Section 10. The enclosure, "Section 10 Refund Request Not Required," identifies those situations where a payor may recoup certain amounts without submitting a refund request. In all other situations payors must submit a complete refund request to MMS for review and approval prior to recouping the overpayments. MMS has proposed that some credit adjustments, such as those resulting from certain cross-lease netting adjustments as described in the proposed rule, "Offsetting Incorrectly Reported Production Between Different Federal or Indian Leases," 56 F.R. 31891 (July 12, 1991), not be subject to Section 10 procedures. These adjustments would require a refund request for administrative review however. If the proposed rule is adopted as a final rule, then MMS would allow the cross-lease netting adjustments without compliance with Section 10's procedures.

It should also be noted that a refund resulting from a successful appeal of a payment received by MMS in response to an order to pay is also subject to Section 10 procedures. The notice of appeal, however, serves as a refund request and tolls the 2-year period.

The information in this letter supersedes all previous instructions or guidance provided by MMS. Refund requests should be submitted in accordance with instructions provided in Volume II of the MMS Oil and Gas Payer Handbook. Your compliance with the requirements of Section 10 of the OCSLA is encouraged. If you have any questions, please contact your Lessee Contact Branch representative or (303) 231-3288.

Sincerely,

A handwritten signature in black ink that reads "Scott Sewell". The signature is written in a cursive, slightly slanted style.

Director

Encl

Enclosure

SECTION 10 REFUND REQUEST NOT REQUIRED

Recoupment of overpayments resulting from underreporting estimated transportation or processing allowances provided the appropriate allowance forms reporting estimated data have been filed with the Minerals Management Service (MMS). Once actual allowance data are determined and reported to the MMS on the appropriate allowance forms, payors may make the necessary adjustments on the Report of Sales and Royalty Remittance (Form MMS-2014) within 90 days. Subsequent adjustments to actual transportation or processing allowances that result in a further credit are subject to Section 10.

Payment offsets across leases resulting from the approval or revision of a unit agreement. These are one time adjustments that must be made within 90 days of the revision or approval of the unit agreement. Credit adjustments for any net excess payments (after offsets) are subject to Section 10.

Downward adjustments to estimate balances.

Excess payments made by an eligible refiner under a royalty-in-kind contract for offshore royalty oil.

Amounts resulting from paying more than the total amount reported as due on the accompanying Form MMS-2014 where all the reported amounts are correct. These payments are amounts which cannot be associated with any lease. This exception does not apply to situations where a payor pays royalty-in-value for a lease for which it has paid its royalty-in-kind refund or credit of the royalty-in-value amount requires compliance with Section 10's procedures.

Royalty payment offsets between different lease products and sales months on a single lease if overpayments and underpayments subject to such offsets are discovered during the period of an audit performed by MMS or other persons delegated the responsibility to perform an audit for MMS, or during the performance of a restructured accounting order issued by any Division of MMS. Any net excess payment (after offsets) is subject to Section 10.