



United States Department of the Interior



MINERALS MANAGEMENT SERVICE
WASHINGTON, DC 20240

JAN 15 1993

Dear Payor:

In a December 20, 1991, "Dear Payor" letter, the Minerals Management Service (MMS) identified certain royalty adjustments that are not subject to section 10 of the Outer Continental Shelf Lands Act of 1953, 43 U.S.C. 1339. Section 10 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. The December 20, 1991, letter identified six situations in its enclosure, "Section 10 Refund Request Not Required," where a payor may adjust certain amounts without submitting a refund request.

After additional review of recoupments processed for Outer Continental Shelf (OCS) leases and legal advice from the Solicitor, MMS is advising payors that there are two additional situations involving recoupments on OCS leases that are not subject to section 10 procedures. These are included in the revised enclosure, which now lists eight such situations.

One additional situation is identified in MMS' recently published final rule, Offsetting Incorrectly Reverted Production Between Different Federal or Indian Leases (Cross-Lease Netting) (57 FR 62200, December 30, 1992).

The enclosure to this letter replaces the one provided with the December 20, 1991, "Dear Payor" letter. All other information contained in that letter remains unchanged. If you have any questions, please contact the Technical Compliance Branch, Division of Verification, Royalty Management Program, (303) 231-3316.

Sincerely,

Director

Enclosure

SECTION 10 REFUND REQUEST NOT REQUIRED
January 1993

1. Recoupment of overpayments resulting from underreporting estimated transportation or processing allowances provided the appropriate allowance forms reporting estimated data have been filed with MMS. Once actual allowance data are determined and reported to MMS on the appropriate allowance forms, payors may make the necessary adjustments of the Report of Sales and Royalty Remittance (Form MMS-2014) within 80 days. Subsequent adjustments to actual transportation or processing allowances reported after 90 days that result in a royalty overpayment are subject to section 10.
2. 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. Any net overpayments (after offsets) are subject to section 10.
3. Downward adjustments to estimate balances for royalty payments
4. Excess payments made by an eligible refiner under a royalty-in-kind contract for offshore royalty oil.
5. Overpayments 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 overpayments are amounts which cannot be associated with any lease. This 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 procedures.
6. Royalty payment offsets between different lease products and sales months on a single lease if overpayments and underpayment 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 overpayment (after offsets) is subject to section 10.
7. Adjustments within a lease or unit between sales months by a single payor. The adjustments must be reported beginning with the oldest known overpayment applied against the oldest known underpayment and working forward. If a net overpayment results after adjustments the payor must follow section 10 procedures to claim a credit or refund for the overpayment.
8. Adjustments between leases within a unit in the same sales month by a single payor. If a net overpayment results after adjustments the payor must follow section 10 procedures to claim a credit or refund for the overpayment.