

can use to proceed in the rulemaking. After MMS reviews the comments submitted by May 28, 1997, the comment period may be reopened and additional public meetings may be scheduled to obtain clarifications on the comments submitted.

Dated: April 18, 1997.

Lucy R. Querques,

Associate Director for Royalty Management.

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DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 227, 228, and 229

RIN 1010-AC25

Delegation of Royalty Management Functions to States

AGENCY: Minerals Management Service, Interior.

ACTION: Proposed rulemaking.

SUMMARY: The Minerals Management Service (MMS) proposes to add part 227 which authorizes the delegation of several Federal royalty management functions to States.

Also, MMS proposes to amend its regulations at parts 228 and 229 to remove references to cooperative agreements and delegations for Federal lands under those parts. As a result, those parts would apply only to Indian cooperative agreements and delegation agreements with States for Indian lands within the State.

DATES: MMS will consider all comments received by May 27, 1997. We will begin reviewing comments at that time and may not fully consider comments we receive after May 27, 1997.

ADDRESSES: Comments should be sent to: David S. Guzy, Chief, Rules and Procedures Staff, Royalty Management Program, Minerals Management Service, PO Box 25165, MS 3101, Denver, Colorado 80225-0165, courier delivery to Building 85, Denver Federal Center, Denver, Colorado 80225, or e-Mail David_Guzy@smtp.mms.gov.

FOR FURTHER INFORMATION CONTACT: David S. Guzy, Chief, Rules and Procedures Staff, Royalty Management Program, Minerals Management Service, telephone (303) 231-3432, Fax (303) 231-3194, e-Mail David_Guzy@smtp.mms.gov.

SUPPLEMENTARY INFORMATION: The principal authors of this proposed rulemaking are Larry Cobb, Jim Detlefs, Clare Onstad, Robert Prael, Todd McCutcheon, John Russo, Dave Steiber,

Cecelia Williams, and Sam Wilson, MMS; and Peter Schaumburg and Sarah Inderbitzin of the Office of the Solicitor.

Because section 3(d) of the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 requires the Secretary to promulgate standards and regulations "pertaining to authorities and responsibilities to be delegated [to States] * * *" within 12 months of its enactment, *i.e.* by August 13, 1997, MMS is specifying a deadline for comments that is less than the 60 days recommended in Executive Order 12866. MMS has determined that it is not feasible to allow the 60-day comment period referred to in section 6(a)(1) of Executive Order 12866 because a comment period of that length would make it very difficult to comply with the 12 month statutory deadline. MMS also believes that a 30-day comment period is appropriate in this instance because it previously provided both States and industry with the opportunity to comment during the numerous outreach meetings discussed above. Although MMS will consider late-filed comments to the greatest extent practicable, RSFA's requirement that a final rule be issued within 12 months of enactment will make it extremely difficult for MMS to consider comments received after the 30-day period. Thus, MMS believes that for these reasons, a 30-day comment period is sufficiently long to allow the public a meaningful opportunity to comment on the proposed rule in accordance with Executive Order 12866.

I. General

On August 13, 1996, Congress enacted the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996, Pub. L. 104-185, as corrected by Pub. L. 104-200 (RSFA). The RSFA amends portions of the Federal Oil and Gas Royalty 33 Management Act of 1982 (FOGRMA), 30 U.S.C. 1701 *et seq.* Prior to the RSFA enactment, section 205 of FOGRMA, 30 U.S.C. 1735, provided for the delegation of only audits, inspections, and investigations to the States. The RSFA amendments to section 205 now provide that the MMS may delegate other Federal royalty management functions to requesting States.

The royalty management functions MMS may delegate under the RSFA amendments are:

- (1) Conducting audits and investigations;
- (2) Receiving and processing production and royalty reports;
- (3) Correcting erroneous report data;
- (4) Performing automated verification; and

(5) Issuing demands, subpoenas (except for solid mineral and geothermal leases), orders to perform restructured accounting, and related tolling agreements and notices to lessees or their designees.

The RSFA amendments to section 205(d) also provide that within 12 months after the date of enactment, after consultation with the States, the Secretary must issue standards and regulations pertaining to delegable functions and other relevant responsibilities, including:

- (1) Audits to be performed;
- (2) Records and accounts to be maintained;
- (3) Reporting procedures to be required by the States under this section;
- (4) Receipt and processing of production and royalty reports;
- (5) Correction of erroneous report data;
- (6) Performance of automated verification;
- (7) Issuance of standards and guidelines in order to avoid duplication of effort;
- (8) Transmission of report data to the Secretary; and
- (9) Issuance of demands, subpoenas, and orders to perform restructured accounting, for royalty accounting purposes.

In response to the section 205 RSFA amendments, MMS formed the 205 Consultation Team, comprised of MMS, interested States, representatives from State associations, and a representative of the Bureau of Land Management (BLM) to discuss how to implement the delegation provisions of the RSFA. In 1996, the 205 Consultation Team met on October 2, October 10-11, and October 23-24. The result was the development of an initial regulatory framework that MMS used to discuss the regulation at three outreach meetings with States and to write the proposed regulation. The 205 Consultation Team members agreed to the regulatory framework in a teleconference held on December 2, 1996.

During the initial meetings with the 205 Consultation Team, State representatives sought delegated functions in addition to those provided in RSFA. These additional functions included collecting and disbursing funds, processing and deciding appeals, and issuing civil penalties. However, the Act does not allow MMS to delegate these functions. Thus, MMS has reserved such functions because they are necessary for uniform administration of the applicable statutes, regulations, and policies and therefore are reserved, among other

reasons, to "assure[] that a uniform and effective royalty management system will prevail among the States." 30 U.S.C. 1735(d).

At the initial meeting with the 205 Consultation Team, State representatives also asked MMS to delegate royalty management functions for solid mineral leases, geothermal leases, and offshore leases subject to section 8(g) of the Outer Continental Shelf Lands Act, 43 U.S.C. 1337(g). In this rulemaking, the MMS Director proposes to delegate royalty management functions to States for such leases under Pub. L. 102-154. This 1991 law provides authority for MMS to delegate its royalty management functions to States for these leases. However, because MMS does not have statutory authority to issue subpoenas for solid mineral or geothermal leases, it cannot delegate to the States the authority to issue subpoenas for such leases.

After its meetings with the 205 Consultation Team, MMS held outreach meetings for the States in 1996 on December 11 in New Orleans, LA., on December 12 in Denver, CO., and on December 13 in Oakland, CA. At those meetings, MMS representatives explained the delegation regulatory framework, discussed the concepts of the proposed regulation with the State attendees, answered questions, and received feedback.

MMS also held outreach meetings for industry in early 1997, in Houston, TX on January 7, in Albuquerque, NM on January 8, in Denver, CO on January 9, and in Casper, WY on January 10. MMS again explained the delegation regulatory framework, discussed the concepts of the proposed regulation with the industry attendees, responded to questions, and received feedback.

In addition, MMS will hold several outreach meetings in the spring of 1997 at various locations to discuss the *MMS Standards for Delegation (Standards)* document which will contain the detailed standards that States must follow when performing delegated functions.

II. Indian Lands

MMS proposes to amend 30 CFR parts 228 and 229 to remove references to cooperative agreements and delegations for Federal lands under those parts. As a result, those parts would apply only to Indian cooperative agreements and delegation agreements for audits, inspections, and investigations with States for Indian lands within the State.

Section 8 of the Act provides that as of the Act's effective date, § 202 of FOGDMA, 30 U.S.C. 1732, which

authorizes cooperative agreements with Indian tribes and States to carry out audits and related investigation and enforcement activities, no longer applies to Federal lands. Thus, the proposed new section would limit the rules in 30 CFR part 228 to cooperative agreements with Indian tribes and States to perform audits, inspections, and investigations for Indian lands. Under those rules, any cooperative agreement with a State requires the consent of the responsible Indian tribe or allottee.

Section 9 provides that the amendments made in § 205 of the Act, 30 U.S.C. 1735, do not apply to Indian lands. For those lands, the original FOGDMA § 205 provisions for delegating audits, inspections, and investigations will continue to apply. Therefore, MMS proposes to keep the existing part 229 delegation rules but limit their applicability to Indian lands. Under those rules, any delegation to a State to perform audit and related investigative activities for Indian lands within the State requires the consent of the affected Indian tribe or allottee, and that provision is unaffected.

In a final rule, MMS may make some changes to parts 228 and 229 to conform the language to principles of "plain English" that MMS is implementing for all rules. These changes would not be substantive except to remove any unnecessary references to Federal lands.

As an alternative proposal, MMS would like comment on whether it should remove part 229 completely and incorporate delegations to States for audits, inspections, and investigations on Indian lands into new part 227.

Under this approach, only the new procedural provisions for that delegation process would apply for Indian lands to the same extent as for Federal lands. However, the additional delegable activities for Federal lands added in the Act, such as issuing demands and subpoenas and performing error correction, would not apply for Indian lands. In addition, MMS would continue to require the concurrence of the affected Indian tribe or allottee before any delegation would occur.

To aid public participation in this rulemaking, MMS will post comments received on this proposed rule on the Internet at <http://www.rmp.mms.gov>.

III. Section-by-Section Analysis

Section 229.1 What is the purpose of this part?

This section would explain that the purpose of this rule is to provide procedures to delegate Federal royalty management functions to States under section 205 of the Federal Oil and Gas

Royalty Management Act of 1982 (the Act), 30 U.S.C. 1735, as amended by the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996, Pub. L. 104-185, August 13, 1996, as corrected by Pub. L. 104-200. Further, it would explain that this part also provides procedures to delegate similar functions to States for solid mineral leases, geothermal leases, and leases subject to section 8(g) of the Outer Continental Shelf Lands Act, 43 U.S.C. 1337(g), under Pub. L. 102-154. This section also would explain that this part does not apply to any inspection or enforcement responsibilities of BLM for onshore leases or the MMS Offshore Minerals Management office for leases on the Outer Continental Shelf. The respective agencies will issue any regulations for those activities separately.

Section 227.100 What States may request delegation?

This section would explain which States may request a delegation of royalty management functions under this rule.

Paragraph (a) would provide that States may request a delegation of royalty management functions under this rule if the State has oil and gas leases subject to the Act on Federal lands within that State.

Paragraph (b) would provide that States may request a delegation of royalty management functions under this rule if the State has oil and gas leases offshore of that State subject to section 8(g) of the Outer Continental Shelf Lands Act, 43 U.S.C. 1337(g).

Paragraph (c) would provide that States may request a delegation of royalty management functions under this rule if the State has solid mineral leases or geothermal leases on Federal lands within that State.

Section 227.101 What royalty management functions may MMS delegate to a State?

This section would list the functions that, under the Act, MMS may delegate to States eligible to receive delegations as provided under section 227.100 of this rule.

Paragraph (a) would provide that States may request to conduct audits and investigations. For purposes of this rulemaking, this paragraph would pertain only to audits and investigations related to royalty management functions. However, MMS is interested in knowing whether States having oil and gas leases subject to section 8(g) of the Outer Continental Lands Act, 43 U.S.C. 1337(g) would be interested in

performing inspection functions on those leases.

Paragraph (b) would provide that States may request to receive and process either production reports or royalty reports, or both as a delegable function. RSFA added these functions to section 205(a)(2) of the Act, 30 U.S.C. 1735(a)(2), which refers to "financial reports." However, "financial reports" are royalty reports or other reports lessees or their designees file in association with the payment of royalties. Therefore, MMS would use the term "royalty reports" in this rulemaking to encompass all financial reports.

Paragraph (c) would provide that States may request to correct erroneous report data as a delegable function for either production reports or royalty reports, or both. This is a new function which RSFA added to section 205. States to which MMS has delegated this function must assure that reporters correct reporting errors. States must perform this function to allow MMS to enter correct production or royalty data into the applicable MMS production or royalty database.

Paragraph (d) would provide that States may request to perform automated verification activities as a delegable function. RSFA also added this function to section 205. States to which MMS has delegated this function must perform verification processes to resolve various identified exceptions. Examples of exceptions include volume and royalty rate discrepancies. The verification process would require the State to perform manual research. If the State's manual research identified exceptions, the State would require reporters to submit corrected reports or pay additional royalties.

Paragraph (e) would provide that States may request to issue demands, subpoenas (except for solid mineral and geothermal leases), and orders to perform restructured accounting, including related notices to lessees or their designees. This delegation would not include any further enforcement authority. Thus, if a lessee or its designee appeals a demand or order to perform restructured accounting, that appeal would go to MMS. Further, any judicial action to enforce a demand, order to perform restructured accounting or subpoena would be MMS's responsibility together with the U.S. Department of Justice.

Paragraph (e) also would provide that States may request to enter into tolling agreements with lessees or their designees in order to toll the running of the 7-year statute of limitations on demands under the Act. This paragraph

would exclude issuing subpoenas for solid mineral and geothermal leases for the reasons discussed above.

Section 227.102 What royalty management functions will MMS not delegate?

This section would explain the principal royalty management functions that MMS will not delegate. These functions are specifically reserved to MMS and are not delegable under this rule.

Paragraph (a) would provide that MMS must collect all monies received from sales, bonuses, rentals, royalties, civil penalties, assessments and interest. This paragraph also would provide that MMS must collect any monies a lessee or its designee pays because of audits or other actions of a delegated State.

Paragraph (b) would provide that MMS must compare all cash and other payments it receives with payments shown on royalty reports or other documents, such as bills, to reconcile payor accounts. For example, if a lessee or its designee pays MMS \$100 but reports a \$110 payment on its royalty report or other document, MMS must reconcile the discrepancy. This paragraph also would provide that MMS must disburse all appropriate monies to States and other revenue recipients, including refunds and interest owed to lessees and their designees.

Paragraph (c) would provide that MMS will receive, process and decide all administrative appeals from demands or other orders issued to lessees and their designees including demands or orders a delegated State issues. Thus, even if a State performs the audit and issues the demand or order, lessees or their designees must continue to send the notice of appeal to MMS, and MMS will process and decide those appeals. A centralized appeals process is necessary for uniform administration of the applicable statutes, regulations, and policies. Therefore, this authority would be reserved, among other reasons, to "assure[] that a uniform and effective royalty management system will prevail among the States." 30 U.S.C. 1735(d).

Paragraph (d) would provide that MMS will take all enforcement actions other than issuing demands, subpoenas and orders to perform restructured accounting. This paragraph also would provide that MMS will issue notices of noncompliance and civil penalties, collect debts, write off delinquent debts, pursue litigation, enforce subpoenas, and manage alternative dispute resolution. Furthermore, this paragraph explains that MMS will conduct, coordinate and approve all settlements

or other compromises of an obligation that a lessee or its designee owes.

Therefore, if a State receives a settlement request from a lessee or its designee, the State must refer that request to MMS. However, MMS will include States in settlement discussions as it currently does. As with appeals, centralizing the decision of whether to issue a civil penalty is necessary for uniform administration of the applicable statutes, regulations, and policies. Therefore, the authority would be reserved, among other reasons, to "assure[] that a uniform and effective royalty management system will prevail among the States." 30 U.S.C. 1735(d).

Paragraph (e) would explain that MMS will decide all valuation policies, including issuing valuation regulations, determinations, and guidelines, and interpreting valuation regulations. For example, MMS must respond to industry requests for valuation determinations in specific situations. Such valuation determinations have the effect of an order and are appealable. MMS also must decide requests for exceptions to the limitations on allowances and the exceptions for non-arm's-length transportation and processing allowances. However, in the course of audits, States may apply any MMS valuation policy, make findings consistent with such policies, and issue orders in accordance with such policies. The purpose of this paragraph is to maintain uniform and consistent enforcement of applicable statutes and regulations.

Paragraph (f) is a catch-all provision that would allow MMS to reserve additional authorities and responsibilities not included in paragraphs (a) through (e) of this section.

Section 227.103 What must a State's delegation proposal contain?

This section would provide that if a State wants MMS to delegate royalty management functions to it, the State must submit a delegation proposal to the MMS Associate Director for Royalty Management. This section also would explain that a State's delegation proposal must contain specific minimum information to help MMS assess its potential to receive and perform delegated functions. Such information would include a description of what facilities, personnel, and equipment the State will need to perform delegated functions. It also would include what facilities, personnel, and equipment the State currently has and what it will need to obtain, and its resources to obtain such elements. To assist States in preparing

their delegation proposals, this section also would provide that MMS will help States with any technical assistance and information they may need.

MMS specifically requests comments on additional information that you believe would be important to include in a State's delegation proposal.

Paragraph (a) would require the State to provide the name and title of the State government official authorized to submit the delegation proposal and execute the delegation agreement.

Paragraph (b) would require the State to provide the name, address, and telephone number of the State contact for the delegation proposal.

Paragraph (c) would require the State to provide a copy of the legislation, State Attorney General opinion or other document demonstrating the State's authority to accept a delegation from MMS, and receive State or Federal appropriations to perform delegated functions. This documentation is necessary because States must show that State laws and regulations allow the State to perform the delegated functions it seeks.

Paragraph (d) would require States to provide the date they propose to begin performing delegated functions.

Paragraph (e) would require States to provide a detailed statement of the delegable functions that they propose to perform. In addition, for each delegable function a State proposes to assume, the State must describe the resources available in that State to perform each function, the procedures the State will use to perform each function, and how the State will assure that all Federal laws, lease terms, regulations and relevant performance standards will be met.

Paragraph (e) also would require States to provide evidence that the State has or will have the resources to perform each delegable function. Thus, States would have to submit a description of the personnel they have available to perform delegated functions, the facilities the State will use to perform delegated functions, and the equipment, including hardware and software, the State has available for any of the delegable functions for which it is requesting delegation. If a State did not currently have the personnel, facilities or equipment necessary to perform delegated functions, it would have to provide information on when it expects to have such resources available.

Paragraph (f) would require a State to estimate the costs to fund the personnel, facilities and equipment necessary to perform each delegable function that the State proposes to perform.

Paragraph (g) would require States to submit their plans to fund the costs of the resources described under paragraph (f), including any items the State will ask MMS to fund under the delegation agreement. Thus, this paragraph would require a State to describe the resources available in the State to perform each delegable function.

Paragraph (h) would require States to provide a statement identifying any areas where State law may limit its ability to perform delegated functions. In addition, a State would have to explain what actions it proposes to remove any such limitation.

Paragraph (i) would require States to provide a statement that in accordance with section 203 of the Act, 30 USC 1733, persons who have access to information received under delegated functions are subject to the same provisions of law regarding confidentiality and disclosure of that information as Federal employees. Applicable laws include the Freedom of Information Act (FOIA), the Trade Secrets Act, and relevant Executive Orders. In addition, your statement must acknowledge that all documents produced, received, and maintained as part of any delegation functions are agency records for purposes of FOIA. All requests for records or other information under the applicable laws would be subject to MMS's review and approval.

Section 227.104 What will MMS do when it receives a State's delegation proposal?

This section would explain that MMS will record the date it receives a State's delegation proposal. This section also would explain that MMS will notify the State in writing whether its delegation proposal is complete within 15 business days of the recorded date. When MMS notifies a State that its delegation proposal is not complete, MMS will identify any missing items section 227.103 requires. Once a State submits all required information, MMS will notify the State in writing the date its delegation proposal is complete. The date the delegation request is "complete" is important because under proposed section 227.107, MMS would decide whether to approve a delegation proposal within 90 days after it is complete.

Section 227.105 What are the hearing procedures?

This section would explain the public hearing procedure that will occur after MMS notifies a State that its delegation proposal is complete. The hearing procedures would assure that the State

has demonstrated it has adequate resources to carry out the requested delegation, that it will carry out the requested delegation upon receipt of its delegation agreement, that it will effectively and faithfully administer all applicable statutes and regulations, that it will not impose any additional burdens on lessees or their designees, and that it will cooperate with any MMS, General Accounting Office or Office of the Inspector General reviews. The hearing also is to allow other persons to present their views regarding the State's delegation proposal.

Paragraph (a) explains that the MMS Director will appoint a hearing official to conduct one or more public hearings for fact finding regarding a State's ability to assume the delegated functions it requested. Because the public hearing is purely a fact finding procedure, this paragraph makes clear that the hearing official is not responsible for deciding whether to approve a State's delegation request. The remaining paragraphs of this proposed section are self-explanatory.

Section 227.106 What statutory requirements must a State meet to receive a delegation?

This section would make clear that the MMS Director will decide whether to approve a State's delegation request and will ask the Secretary of the Interior to concur in the decision. This section would provide that the MMS Director's decision is solely within the MMS Director's and the Secretary's discretion. This section also would provide that the MMS Director's decision in which the Secretary concurs in is the final decision for the Department of the Interior. Thus, the decision is not subject to appeal to the Interior Board of Land Appeals under 43 CFR part 4.

In addition, this section would provide that the MMS Director may approve a State's request for delegation only if, based upon the State's delegation proposal and the hearing record, the MMS Director finds that the State meets the statutory requirements under section 205.

Under paragraph (a), the MMS Director would have to find that it is likely that the State will provide adequate resources to achieve the purposes of the Act. Thus, States must show a commitment of State resources adequate to perform the requested delegable functions. This would include evidence that the State has the proper appropriation from the State legislature.

Under paragraph (b), the MMS Director would have to find that the State has demonstrated that it will effectively and faithfully administer the

rules and regulations of the Secretary under the Act in accordance with the requirements of subsections (c) and (d) of section 205 of the Act. The purpose of this proposed paragraph is for States to demonstrate their ability to effectively administer a royalty management system that will be uniform among the States. The purpose of this requirement also is to allow a smooth, efficient transition of delegable functions to States.

Under paragraph (c), the MMS Director would have to find that a State's delegation will not create an unreasonable burden on any lessee. The purpose of this section is to ensure that lessees are not subject to duplicate requirements from MMS and one or more delegated States. While lessees may have some increased reporting burdens because of multiple reporting entities, MMS does not consider that an unreasonable burden given the Act's intent.

Under paragraph (d), the MMS Director would have to find that the State agrees to adopt standardized reporting procedures MMS prescribes for royalty and production accounting purposes, unless the State and all affected parties (including the Secretary and lessees and their designees) otherwise agree. For example, a State would have to adopt the MMS Report of Sales and Royalty Remittance (Form MMS-2014) and the MMS Monthly Report of Operations (Form MMS-3160) reporting formats, unless all affected parties and the Secretary agree to an alternate procedure that fulfills MMS's reporting requirements.

Under paragraph (e), the MMS Director would have to find that the State agrees to follow and adhere to regulations and guidelines MMS issues under the mineral leasing laws regarding valuation of production. Thus, a State requesting delegation must agree to follow all Federal laws, regulations, and Secretarial and agency determinations and orders relating to the calculation, reporting and payment of mineral revenues. The purpose of this paragraph is to ensure uniform application of the royalty management program among the delegated States.

Under paragraph (f), the MMS Director would have to find that where necessary for a State to carry out and enforce a delegated activity, the State agrees to enact such laws and promulgate such regulations as are consistent with relevant Federal laws and regulations. Thus, a State applying for delegation would be required to provide evidence that the State is authorized under State laws to perform delegable functions. If a State is not so

authorized, then it may be required to enact laws authorizing performance of those functions before the MMS Director will approve the State's delegation proposal.

Section 227.107 When will the MMS Director decide whether to approve a State's delegation proposal?

This section would state that the MMS Director will decide whether to approve a State's delegation proposal within 90 days after its delegation proposal is complete. Under the Act, 30 U.S.C. 1735(c), MMS has 90 days after a State submits its delegation proposal to decide whether to approve the delegation proposal. However, the Act does not explain what constitutes a delegation proposal sufficient to start the 90-day period running. Therefore, as part of the Secretary's rulemaking authority under the Act, 30 U.S.C. 1751(a), MMS interprets the 90-day period to run from the date a State's delegation proposal is complete. This interpretation would avoid MMS unnecessarily rejecting a State's proposal merely because some portion of it is incomplete. This section would also provide that MMS may extend the 90-day period with a State's written consent.

Section 227.108 How will MMS notify a State of its decision?

This section would provide that MMS will notify the State in writing of its decision on the State's delegation proposal. In addition, this section would explain that after MMS approves a State's delegation proposal, MMS will hold discussions with the State to develop a delegation agreement detailing the delegable functions which the State will perform and the standards and requirements the State must comply with to perform those functions.

Section 227.109 What if the MMS Director denies a State's delegation proposal?

Under this proposed section, if the MMS Director denies a State's proposal, MMS will state the reasons for denial. MMS also will inform the State in writing of the conditions it must meet to receive approval. In addition, this section would provide that a State may submit a new delegation proposal at any time following a denial.

Section 227.110 How long are delegation agreements effective?

This section would explain how long delegation agreements issued under this part remain in effect as well as procedures for renewal of delegation agreements.

Paragraph (a) would provide that delegation agreements are effective for 3 years.

Paragraph (b) would explain that after 3 years a State may ask MMS to renew its delegation for an additional 3 years. This section also would explain that States must submit their renewal request to the MMS Associate Director for Royalty Management within 6 months prior to the expiration of the 3-year delegation agreement. Paragraph (b)(1) would provide that if a State does not want to change the terms of its delegation agreement, it need only ask MMS to extend its existing agreement for the 3-year renewal period. In such instances, MMS will not schedule a hearing unless the State requests one. Paragraph (b)(2) would explain that if a State wants to change the terms of its delegation agreement for the renewal period, full review is required. Therefore, in this situation, the State must submit a new delegation proposal under this part.

Paragraph (c) would explain that the MMS Director would approve a State's renewal request only if MMS determines that the State is meeting the requirements of the applicable standards and regulations. Further, it would explain that if the MMS Director denies a State's renewal request, MMS will state the reasons for denial. In addition, MMS would inform a State in writing of the conditions it must meet to receive approval. This section also would provide that a State may submit a new renewal request at any time following a denial, but not after your current agreement expires.

Paragraph (d) would provide that after the 3-year renewal period for a State's delegation agreement ends, the State must request a new delegation agreement from MMS under this part. It also would explain that MMS will not hold a hearing on the State's new delegation agreement unless the State requests one or it wants to change the terms of its delegation agreement. Further, it would explain that as part of the MMS Director's decision whether to approve a State's request for a new delegation, the MMS Director will consider whether the State is meeting the requirements of the applicable standards and regulations under its existing delegation agreement.

Existing Delegations

Section 227.111 Do existing delegation agreements remain in effect?

This section would explain a State's options if it is operating under a delegation in effect on the date these regulations become final.

Paragraph (a) would explain that a State not wanting to perform any new royalty management functions in addition to those authorized under its existing delegation agreement may continue under that agreement until it expires. After the delegation agreement expires, a State would have to receive a new delegation agreement meeting the requirements of these regulations and the applicable standards.

Paragraph (b) would explain that a State wanting to perform royalty management functions in addition to those authorized under its existing agreement must submit a delegation proposal under this part. Thus, any State wanting to perform the delegable functions under this part in addition to those provided for under its existing delegation agreement must submit a delegation proposal under this part for all delegable functions it wishes to perform, including those under its existing agreement.

Paragraph (c) would provide that MMS may extend any delegation agreement in effect on the date these regulations become final for up to 3 years beyond the date it is due to expire. The purpose of this paragraph is to provide States whose existing delegation agreements are due to expire shortly after these rules become final with enough time to prepare a delegation proposal under this part and to receive authority to accept a delegation from MMS and receive State or Federal appropriations to perform delegated functions as required under section 227.103(c)(2) of this part.

Compensation

Section 227.112 What compensation will a State receive to perform delegated functions?

This section would provide that a State would receive compensation for its costs to perform each delegation function. This section also would provide the conditions for a State to receive compensation.

Paragraph (a) would provide that compensation for costs would be subject to agency fiscal appropriations. Thus, if Congress does not pass a budget or continuing resolution, MMS will not have the funds available to pay the States.

Paragraph (b) would provide that compensation could not exceed the reasonable anticipated expenditures that MMS would incur to perform the same function. Thus, a State's compensation would be limited to the amount it would cost the MMS to perform the same function. For example, if it costs MMS \$1,000 to perform error correction

on a State's leases, then \$1,000 is the maximum amount a State could receive to perform its own error correction.

Paragraph (c) would provide that the cost for which a State requests compensation must be directly related to its performance of a delegated function and necessary for performance of that delegated function. For example, MMS will not compensate a State for employees who perform delegated royalty management functions to attend an environmental conference because environmental studies are not a delegated function. An additional example is that MMS will not compensate a State for performing audits of State leases even though the same audit may cover Federal leases.

Generally, MMS will compensate for items related to performing royalty management delegations, such as, rent or lease of office space, salary, employee benefits, supplies, equipment, and travel. For example, MMS would compensate for reasonable purchase of office personal computers, but would not compensate for purchase of a mainframe computer.

Paragraph (d) would provide that States would be required to provide vouchers detailing their expenditures quarterly or monthly during the fiscal year as stated in their delegation agreement.

Paragraph (e) would provide that States would be required to maintain adequate books and records to support their vouchers.

Paragraph (f) would provide that MMS would pay a State quarterly or monthly during the fiscal year as stated in the State's delegation agreement.

Paragraph (g) would provide that MMS could withhold compensation for a State's failure to properly perform a delegated function whether or not MMS takes any action under sections 227.801 or 227.802 of this part.

States' Responsibilities To Perform Delegated Functions

Section 227.200 What are a State's general responsibilities if it accepts a delegation?

This section would explain what general responsibilities a State must perform for each delegated function. Specific requirements would be explained in sections 227.300, 227.301, 227.400, 227.401, 227.500, 227.501, 227.600, and 227.601 of this part, the State's delegation agreement, and the *Standards*.

Paragraph (a) would provide that States must operate in compliance with all Federal laws, regulations, and Secretarial and agency determinations

and orders relating to the calculation, reporting, and payment of mineral royalties and other revenues. Under this paragraph, States also would be required to submit a written request for interpretation of any applicable Federal requirement to the appropriate MMS official. The purpose of this requirement is to maintain uniform and consistent application of Federal requirements in order to minimize the burden on lessees. MMS will respond to a State's request for guidance in writing, and States must follow the interpretation or guidance given.

Paragraph (b) would provide that States must comply with Generally Accepted Accounting Principles (GAAP). Paragraphs (b) (1)–(5) explain what GAAP requirements would pertain to performing royalty management functions.

Paragraph (c) would require States to assist MMS in meeting the requirements of the Government Performance and Results Act (GPRA) as well as assisting in developing and endeavoring to comply with the MMS Strategic Plan and Performance Measurements.

Paragraph (d) would require a State to maintain all records it obtains or creates under its delegated functions, such as royalty reports, production reports, and other related information. States would be required to maintain such records in a safe, secure manner, including taking appropriate measures for protecting confidential and proprietary information and assisting MMS in responding to Freedom of Information Act requests when necessary. This paragraph also would require States to maintain such records for at least 7 years.

Paragraph (e) would require States to provide reports to MMS about any activities it performs under its delegated functions. MMS will specify in a State's delegation agreement and the *Standards* what reports a State must submit and how often it must submit them. The rule would provide that at a minimum, a State must provide periodic statistical reports to MMS summarizing the activities it carried out, such as:

- (1) Production and royalty reports processed;
- (2) Erroneous reports corrected;
- (3) Results of automated verification resolution efforts;
- (4) Number of audits performed; and
- (5) Enforcement documents issued.

Paragraph (f) would require States to assist MMS in maintaining adequate reference, royalty, and production databases as provided in the *Standards*. Thus, States would provide corrected reference data to MMS such as: lease acreage, lease ownership, royalty rates,

unit and communitization agreement allocation factors, and payor information. States will have access to the reference database for use in various delegated functions. However, MMS will update reference data and maintain the reference database.

Paragraph (g) would require States to develop annual work plans that:

(1) Specify the work the State will perform for each delegated function; and

(2) Identify the resources the State will commit to perform each delegated function. This would include the personnel, facilities, and equipment the State will commit to perform each delegated function.

Paragraph (h) would require States to help MMS respond to requests for information from other Federal agencies, Congress, and the public. Thus, MMS would be responsible for responding to such requests with the State's assistance.

Paragraph (i) would require that States cooperate with MMS's monitoring of their delegated functions. For example, States must make financial records available to MMS to facilitate the fiscal examination MMS performs as part of monitoring the State's delegated functions under § 227.800(b)(2).

Paragraph (j) would require States to comply with the *Standards* as required under § 227.201.

Section 227.201 What standards must a State comply with for performing delegated functions?

This section would explain a State's requirements to comply with standards for performing delegated functions. In addition to the requirements for performing royalty management functions under this part and a State's delegation agreement, MMS will set out additional requirements in the *Standards*. MMS will provide each delegated State with the *Standards*.

Paragraph (a) would provide that if MMS delegates royalty management functions to a State, it must comply with the *Standards*. The *Standards* would provide guidelines for States to carry out specific delegable functions. For example, the *Standards* will explain the appropriate standards of accuracy, timeliness, and efficiency for States to carry out each delegated function.

Paragraph (b) would provide that a State's delegation agreement may include standards in addition to those in the *Standards* which specifically apply to the functions delegated to that State.

Paragraph (c) would provide that if a State fails to comply with its delegation agreement, the *Standards*, or any of the

specific standards and requirements in the delegation agreement, that would be grounds for termination of all or part of its delegation agreement, or other actions as provided under §§ 227.801 and 227.802.

Paragraph (d) would provide that MMS may revise the *Standards* and will provide notice of those changes in the **Federal Register**. This paragraph also would provide that States must comply with any changes to the *Standards*.

MMS would suggest formation of an advisory committee comprised of States receiving delegations and MMS representatives. The committee would be responsible for providing advice and recommendations about the standards and procedures required for the performance of delegable functions. MMS would like comments on this suggestion.

Section 227.300 What audit functions may a State perform?

This section would explain generally that an audit consists of an examination of records to verify that royalty reports and payments accurately reflect actual production, sales, revenues and costs, and compliance with Federal statutes, regulations, lease terms, and MMS policy determinations. This section would then provide the minimum functions a State must perform if it requests delegation of audit functions. Thus, a State must perform all of the functions in this section if it requests delegation of audit functions.

Paragraph (a) would require States to issue engagement letters informing the lessee that the State has begun an audit. This would ensure that lessees receive maximum advance notification of scheduled audits and have adequate time to furnish requested information.

Paragraph (b) would require States to arrange for entrance conferences to facilitate the lessees' understanding of the audit process, enhance the effectiveness of the initial site visit, designate audit coordinators, and clarify policies regarding confidentiality.

Paragraph (c) would require States to submit requests for records to lessees requesting information necessary to perform the audit.

Paragraph (d) would require States to schedule site visits to examine the information the State has requested. States would be required to schedule site visits sufficiently in advance to allow lessees ample time to arrange space for the auditors and to have the requested information available.

Paragraph (e) would require States to examine royalty and production reports to determine whether royalties and

production volumes were properly reported and paid.

Paragraph (f) would require States to examine lessee production and sales records, including contracts, payments, invoices, and transportation and processing costs to substantiate that production volumes and royalties were correctly reported and paid.

Paragraph (g) would require States to hold closeout conferences to inform lessees that site visits are complete and to summarize audit findings to date.

Paragraph (h) would require States to issue records releases and audit closure letters to lessees upon completion of an audit, as necessary.

Paragraph (i) would require States to provide assistance to MMS regarding appealed demands or orders, including preparing field reports, performing remanded actions, modifying orders, and providing oral and written briefing and testimony as expert witnesses. Thus, although MMS would decide all appeals, it would rely on States to provide any information or assistance necessary for deciding appeals and developing the administrative record.

Section 227.301 What are a State's responsibilities if it performs audits?

This section would explain a State's general responsibilities if it accepts delegation of the audit functions required under section 227.300. The *Standards* and a State's delegation agreement would contain more specific responsibilities a State must perform if it accepts delegation of audit functions.

Paragraph (a) would require States performing audits to comply with the *MMS Audit Procedures Manual* and the *Government Auditing Standards* the Comptroller General of the United States issues.

Paragraph (b) would require States to follow the MMS Annual Audit Work Plan and 5-year Audit Strategy, which MMS will develop in consultation with States having delegated audit authority.

Paragraph (c) would require States to agree to undertake special audit initiatives MMS identifies which target specific valuation or volume issues such as gas contract settlements and crude oil valuation.

Paragraph (d) would require States to prepare, construct, or compile audit work papers under the appropriate procedures, manuals, and guidelines.

Paragraph (e) would require States to prepare and submit any audit reports required in MMS Audit Work Plans and the *Standards*.

Paragraph (f) would require States to comply with procedures for appealed demands or orders, including using

appropriate format and content for field reports and meeting timeframes.

Section 227.400 What functions may a State perform in processing production reports or royalty reports?

This section would explain that production reporters or royalty reporters provide production, sales, and royalty information on mineral production from leases which must be collected, analyzed, and corrected. States may receive and process production reports or royalty reports, or both. This section would provide the minimum functions a State must perform if it requests delegation of authority to process production reports or royalty reports, or both.

Paragraph (a) would provide that if a State requests delegation of either production report or royalty report processing functions, it must perform certain minimum functions. Thus, a State must perform all of the functions in paragraph (a) if it requests delegation of either production or royalty report processing functions, or both. The minimum functions States must perform are:

(i) Receiving, identifying, and date stamping production reports or royalty reports;

(ii) Processing production or royalty data to allow entry into a data base. MMS uses such data to disburse money to the proper entities and to provide data to States and other affected Federal agencies;

(iii) Creating copies of reports by means such as electronic imaging. This requirement creates an audit record and allows for use of the copies in other functions such as automated verification and audits;

(iv) Timely transmitting production report or royalty report data to MMS and other affected Federal agencies as provided in the State's delegation agreement and the *Standards*. For example, MMS transmits a biweekly tape of production data to BLM and monthly production data to the Bureau of Indian Affairs (BIA), States, and Indian tribes;

(v) Providing training and assistance to production reporters or royalty reporters. For example, MMS holds periodic training meetings. MMS also would expect delegated States to hold these meetings. States processing reports also must provide telephone or written assistance to reporters who have questions on how to report certain transactions;

(vi) Providing production data or royalty data to appropriate Federal agencies upon request. For example, States would be required to provide

production data to BLM upon request; and

(vii) Providing assistance to MMS for appealed demands or orders, including preparing field reports, performing remanded actions, modifying orders, and providing oral and written briefing and testimony as expert witnesses.

Paragraph (b) would explain that if a State requests delegation of either production report or royalty report processing functions, or both, it may perform certain additional functions authorized under the Act. Unlike the functions required under paragraph (a) of this section, performance of the functions in this paragraph would not be mandatory. The optional functions would include:

(i) Granting exceptions from reporting and payment requirements for marginal properties; and

(ii) Approving alternative royalty and payment requirements for unit agreements and communitization agreements.

Section 227.401 What are a State's responsibilities if it processes production reports or royalty reports?

This section would explain what general responsibilities a State must perform if it accepts delegation of the processing functions required under section 227.400 for production reports or royalty reports or both. The *Standards* and a State's delegation agreement would contain more specific responsibilities a State must perform if it accepts delegation of report processing functions. States must perform the following minimum report processing functions:

(a) Process reports accurately and timely as provided in the *Standards* and the State's delegation agreement;

(b) Identify fatal errors for subsequent error correction that the State or MMS performs;

(c) Accept multiple forms of electronic media from reporters, as MMS specifies. For example, States must be able to accept electronic data interchange, magnetic or cartridge tapes, diskettes reporters prepare, e-mail, model diskettes, and template diskettes;

(d) Timely transmit required production or royalty data to MMS and other affected Federal agencies. For example, MMS transmits a biweekly tape of production data to BLM and a monthly tape to BIA and States. A State delegated the function of performing processing of report functions would be required to timely transmit the required data to the appropriate agency;

(e) Access well, lease, agreement, and reporter reference data from MMS and provide updated information to MMS.

BLM uses this information for field inspections. MMS uses it in performing other royalty management functions such as automated verification and audits;

(f) For production reports, maintain adequate system software edits to ensure compliance with the provisions of 30 CFR part 216, the *PAAS Onshore Oil and Gas Reporter Handbook*, the *PAAS Reporter Handbook-Lease, Facility/Masurement Point, and Gas Plant Operators*, the *PAAS Solid Minerals Reporter Handbook*, any interagency memorandums of understanding to which MMS is a party, and the *Standards*. For example, when a reporter submits a production report, the lease number reported must match the lease number in the database;

(g) For royalty reports, maintain adequate system software edits to ensure compliance with the provisions of 30 CFR part 218, the *Oil and Gas Payor Handbook, Volume II*, the *Solid Minerals Payor Handbook*, "Dear Payor" letters, and the *Standards*. For example, the lease must be a valid lease in the system and the correct payor must pay on the lease; and

(h) Comply with the procedures for appealed demands or orders, including using appropriate format and content for field reports and supplementals and meeting timeframes.

Section 227.500 What functions may a State perform to assure that reporters correct erroneous report data?

This section would explain that production data and royalty data are subjected to numerous edits for errors which ensure that what is reported is correct, that disbursement is made to the proper recipient, and that correct data are used for other functions such as automated verification and audits. States may perform error correction functions for production reports or royalty reports, or both. This section would provide the minimum functions a State must perform if it requests delegation of authority to correct erroneous report data for production reports or royalty reports, or both. The minimum error correction functions a State must perform are:

(a) Correcting all fatal errors and assigning appropriate confirmation indicators. Confirmation indicators are used for tracking purposes and for generating confirmation reports to operators;

(b) Verifying missing production reports to ensure that all reports are received to assist BLM in field inspections and MMS in other functions such as automated verification and audits;

(c) Contacting production reporters or royalty reporters about missing reports and resolving exceptions. States would be required to contact reporters by phone and request that they submit additional data and amended reports. If phone contact does not resolve the issue, the State would be required to send a letter or issue an order to the reporter;

(d) Documenting all corrections made, including providing production reporters or royalty reporters with confirmation reports of any changes;

(e) Providing training and assistance to production reporters or royalty reporters. For example, MMS routinely advises reporters on how to prepare their production and royalty reports. In addition, MMS holds reporter training sessions throughout the country several times a year. MMS also would expect delegated States to advise reporters on preparing their reports and to hold such training sessions.

(f) Issuing notices and bills as needed, including but not limited to, imposing assessments on a person who chronically submits erroneous reports; and

(g) Providing assistance to MMS for appealed demands or orders, including preparing field reports, performing remanded actions, modifying orders, and providing oral and written briefing and testimony as expert witnesses.

Section 227.501 What are a State's responsibilities to assure that reporters correct erroneous data?

This section would explain what general responsibilities a State must perform if it accepts delegation of the error correction functions required under section 227.500 for production reports or royalty reports, or both. The *Standards* and a State's delegation agreement would contain more specific responsibilities a State must perform if it accepts delegation of error correction functions. States must perform the following minimum error correction functions:

(a) Ensure compliance with the provisions of 30 CFR parts 216 and 218, any applicable handbook specified under 30 CFR 401 (f) and (g), inter-agency memorandums of understanding to which MMS is a party, and the *Standards*;

(b) Assure that reporters accurately and timely correct all fatal errors as designated in the *Standards*. These errors include, for example, invalid or incorrect reporter/payor codes, incorrect lease/agreement numbers, and missing data fields. The *Standards* would list fatal edits for both production reports and royalty reports;

(c) Submit accepted and corrected lines to MMS to allow processing into the Auditing and Financial System (AFS) and the Production Accounting and Auditing System (PAAS) in a timely manner as provided in the *Standards* and 30 CFR 219; and

(d) Comply with the procedures for appealed demands or orders, including using appropriate format and content for field reports and meeting timeframes.

Section 227.600 What automated verification functions may a State perform?

This section would explain that automated verification involves systematic monitoring of production and royalty reports to identify and resolve reporting or payment discrepancies. This section would provide the minimum functions a State must perform if it requests delegation of automated verification functions.

Paragraph (a) would provide that States may perform automated comparison of sales volumes reported by royalty reporters to sales and transfer volumes reported by production reporters. Paragraph (a) also would provide that if a State requests delegation of automated comparison of sales and production volumes, it must perform at least the following functions:

(1) Performing an initial sales volume comparison between royalty and production reports;

(2) Performing subsequent comparisons when reporters adjust royalty or production reports;

(3) Checking unit prices for reasonable product valuation based on reference price ranges MMS provides;

(4) Resolving volume variances using written correspondence, telephone inquiries, or other media;

(5) Maintaining appropriate file documentation to support case resolution; and

(6) Issuing orders to correct reports or payments.

Paragraph (b) would provide that a State requesting delegation of authority to perform automated comparison of sales and production volumes also may perform functions in addition to those it must perform under paragraph (a) of this section. States may perform any one or more of the following additional automated verification functions:

(1) Verifying compliance with lease financial terms, such as payment of rent, minimum royalty, and advance royalty;

(2) Identifying and resolving improper adjustments. This involves trying to adjust a previously reported line with a line that does not match;

(3) Identifying late payments and insufficient estimates, including

calculating interest owed to MMS and verifying payor-calculated interest owed to MMS;

(4) Calculating interest due to a lessee or its designee for an adjustment or refund, including identifying overpayments and excessive estimates, except for solid mineral and geothermal leases. MMS cannot delegate authority to calculate interest due a lessee or its designee for solid mineral and geothermal leases because MMS is not authorized under the Act to pay interest to such lessees or their designees. MMS cannot delegate authority it does not have.

(5) Verifying royalty rates;

(6) Verifying compliance with transportation and processing allowance limitations; and

(7) Manually checking and confirming corrected reports or payments.

Paragraph (c) would require States to issue any notices and bills associated with any of the functions under paragraphs (a) and (b) of this section.

Paragraph (d) would require States to provide assistance to MMS for appealed demands or orders, including preparing field reports, taking remanded actions, modifying orders, and providing oral and written briefing and testimony as expert witnesses.

Section 227.601 What are my responsibilities if I perform automated verification?

This section would explain what general responsibilities a State must perform if it accepts delegation of the automated verification of production reports or royalty reports functions required under section 227.600 for production reports or royalty reports, or both. The *Standards* and a State's delegation agreement would contain more specific responsibilities a State must perform if it accepts delegation of automated verification of production report or royalty report functions. States must perform the following minimum automated verification functions:

(a) Verify through research and analysis all identified exceptions, and prepare the appropriate billings, assessment letters, warning letters, notification letters, Lease Problem Reports, other internal forms required, and correspondence required to perform any required follow-up action for each function, as specified in the *Standards* or the State's delegation agreement;

(b) Resolve and respond to all production reporter or royalty reporter inquiries;

(c) Maintain all documentation and logging procedures as specified in the *Standards* or the State's delegation agreement;

(d) Access well, lease, agreement, and production reporter or royalty reporter reference data from MMS and provide update information to MMS. Thus, States will have access to the reference database but MMS will update reference data and maintain and update the reference database; and

(e) Comply with procedures for appealed demands and orders, including using appropriate format and content for field reports and meeting timeframes.

Section 227.700 *What enforcement documents may a State issue in support of its delegated function?*

This section would explain what enforcement actions a State may take as part of its delegated functions.

Paragraph (a) would provide that States may issue demands, subpoenas (except for solid minerals and geothermal leases), and orders to perform restructured accounting, including related notices to lessees and their designees. Unlike Federal oil and gas leases, under the Act MMS does not have statutory authority to issue subpoenas for solid mineral and geothermal leases. Thus, MMS cannot delegate this authority to States.

Paragraph (a) also would provide that States may enter into tolling agreements under section 15(d)(1) of the Act, 30 U.S.C. 1725(d)(1).

Paragraph (b) would provide that, when a State issues any enforcement document, it must comply with the requirements of section 115 of the Act, 30 U.S.C. 1725.

Paragraph (c) would explain the requirements a State must comply with when it issues a demand or enters into a tolling agreement under section 15(d)(1) of the Act, 30 U.S.C. 1725(d)(1). When a State issues a demand or enters into a tolling agreement, the highest State official having ultimate authority over the collection of royalties or the State official to whom that authority has been delegated must sign the demand or tolling agreement.

Paragraph (d) would explain what requirements a State must meet when issuing subpoenas or orders to perform restructured accounting. When a State issues a subpoena or order to perform a restructured accounting, it must:

(1) Coordinate with MMS to assure identification of issues that may concern more than one State before it issues subpoenas and orders to perform restructured accounting. The purpose of this paragraph is to ensure that issues of national importance are pursued in a uniform and coordinated manner; and

(2) Assure that the highest State official having ultimate authority over

the collection of royalties signs any subpoenas and orders to perform restructured accounting, as required under section 115 of the Act, 30 U.S.C. 1725. Unlike demands and tolling agreements, such officials may not delegate signature authority for subpoenas and orders to perform restructured accounting to any other person.

Performance Review

Section 227.800 *How will MMS monitor a State's performance of delegated functions?*

This section would provide procedures that MMS would use to monitor a State's performance of its delegated functions.

Paragraph (a) would provide that a monitoring team comprised of MMS officials would monitor a State's performance of the delegated functions under its delegation agreement. The team would be comprised of MMS experts from each of the delegated function areas. Please provide comment to MMS if you have suggestions on how MMS should form this team.

Paragraph (b) would provide that the *Standards* will specify the frequency of monitoring for each delegated function.

Paragraph (c) would specify how the monitoring team would monitor a State's performance of each delegated function. The monitoring team would:

(1) Perform reviews to verify that the State is complying with the *Standards* and 30 U.S.C. § 1735;

(2) Conduct fiscal examinations to verify that the State's costs are eligible for reimbursement;

(3) Periodically review the State's statistical reports required under § 227.200(e) to verify the State's accuracy, timeliness, and efficiency;

(4) Check for timely transmittal of production report or royalty report information to MMS and other affected agencies, as applicable, to allow for proper disbursement of funds and processing of information;

(5) Schedule on site visits and Office of The Inspector General, General Accounting Office, and MMS audits of the State's performance of its delegated functions; and

(6) Maintain reports of its monitoring activities.

Section 227.801 *What if a State does not adequately perform a delegated function?*

This section would explain the steps MMS may take if a State's performance of a delegated function does not comply with its delegation agreement, or the *Standards*, or if MMS finds that the

State can no longer meet the statutory requirements under § 227.106.

Paragraph (a) would provide that MMS would notify a State in writing of its noncompliance or inability to comply with its delegation agreement, or the *Standards*, or the statutory requirements under § 227.106. The notice would prescribe corrective actions a State must take, and how long it would have to comply. A State could ask MMS for an extension of time to comply with the notice and would be required to explain why it needs more time to comply.

Paragraph (b) would provide that if a State did not take the prescribed corrective actions within the time that MMS allows in a notice issued under paragraph (a) of this section, then MMS may:

(1) Initiate proceedings under § 227.802 to terminate all or a part of the State's delegation agreement;

(2) Withhold compensation provided to the State under § 227.112; and

(3) Perform the delegated function, prior to terminating or without terminating the State's delegation agreement, including, but not limited to, issuing a demand or order to a Federal lessee, or its designee, or any other person when:

(i) The State's failure to issue the demand or order would result in an underpayment of an obligation due MMS; and

(ii) Such underpayment would go uncollected without MMS intervention.

Section 227.802 *How may MMS terminate a State's delegation agreement?*

This section would explain the procedures MMS would use to terminate either a State's entire delegation agreement or a part of a State's delegation agreement.

Paragraph (a) would provide that MMS will notify a State in writing that it is initiating procedures to terminate the State's delegation agreement.

Paragraph (b) would state that MMS will provide a State with notice and opportunity for a hearing under § 227.803.

Paragraph (c) would provide that after the hearing, MMS may:

(1) Terminate a State's delegation agreement; or

(2) Allow the State 30 days to correct any remaining deficiencies. If the State did not correct the deficiency within 30 days, MMS would terminate all or a part of the State's delegation agreement.

Section 227.803 What are the hearing procedures for terminating a State's delegation agreement?

This section would explain the hearing procedures MMS would establish to assist it in determining whether to terminate all or a part of a State's delegation agreement.

Paragraph (a) would provide that the MMS Director would appoint a hearing official to conduct one or more public hearings for fact finding and to determine any actions a State must take to correct the noncompliance identified in § 227.801(c). The hearing official would act solely as a fact finder and would not decide whether to terminate a State's delegation agreement.

Paragraphs (b) through (g) of this proposed section are self-explanatory.

Paragraph (h) would provide that information presented at each public hearing will help MMS to determine whether:

(1) The State has complied with the terms and conditions of its delegation agreement; or

(2) The State has the capability to comply with the requirements under § 227.106.

Section 227.804 How else may a State's delegation agreement terminate?

This section would explain that a State may terminate its delegation at any time by giving MMS a 90-day written notice of intent to terminate. MMS would require 90 days notice to allow it to prepare to reassume the functions it had delegated to the State. In addition, industry would require the 90 days to readjust its systems to reflect any change.

Section 227.805 How may a State obtain a new delegation agreement after termination?

This section would explain that a State may apply again for delegation by beginning with the proposal process under this part after its delegation agreement terminates.

The MMS's Royalty Management Program will post the comments received on the Internet homepage at www.rmp.mms.gov.

IV. Procedural Matters

The Regulatory Flexibility Act

The Department certifies that this rule will not have significant economic effect on a substantial number of small entities as that term is defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Some small entities might have activities in more than one State. While these companies could be required to report to several States instead of only

the Federal Government under the proposed rule, they would not have to file different reports. Instead, they would file the same reports that they do now, but to a greater number of regulatory authorities. The proposed rule will provide procedures and standards for States interested in developing and maintaining an efficient and effective Federal royalty management system for those functions delegable to States under the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996, Pub. L. 104-185, August 13, 1996, as corrected by Pub. L. 104-200.

Executive Order 12630

The Department certifies that the rule does not represent a governmental action capable of interference with constitutionally protected rights. Thus, a Takings Implication Assessment need not be prepared under Executive Order 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights."

Executive Order 12866

This proposed rule is significant under the Executive Order 12866. The Office of Management and Budget (OMB) has reviewed the rule. Although this rule will result in an increased reporting burden, there will be several offsetting benefits which include: incentives to States and increased State participation in Federal activities; agency compliance with the statute.

Executive Order 12988

The Department has certified to OMB that this rule meets the applicable reform standards provided in section 3(a) and (b)(2) of Executive Order 12988.

Paperwork Reduction Act

This proposed rule contains a collection of information which has been submitted to the Office of Management and Budget (OMB) for review and approval under section 3507(d) of the Paperwork Reduction Act of 1995. As part of our continuing effort to reduce paperwork and respondent burden, MMS invites the public and other Federal agencies to comment on any aspect of the reporting burden. Submit your comments to the Office of Information and Regulatory Affairs, OMB, Attention Desk Officer for the Department of the Interior, Washington, DC 20503. Send copies of your comments to Minerals Management Service, Royalty Management Program, Rules and Procedures Staff, P.O. Box 25165, MS 3101, Denver, Colorado 80225-0165; courier address is Building 85, Denver Federal Center, Denver,

Colorado 80225; e-Mail address is David_Guzy@smtp.mms.gov.

OMB has up to 60 days to approve or disapprove this collection of information but may respond after 30 days. Therefore, public comments should be submitted to OMB within 30 days in order to assure their maximum consideration. However, MMS will consider all comments received during the comment period for this notice of proposed rulemaking.

The information collection is titled Delegation of Authority to States (OMB Control Number 1010-0088). Recently enacted legislation expands the scope of royalty management functions that the Secretary may delegate to States. See the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996, Pub. L. 104-185, as corrected by Pub. L. 104-200 (RSFA). The functions that MMS may delegate under RSFA are:

- (1) Conducting audits and investigations;
- (2) Receiving and processing production and royalty reports;
- (3) Correcting erroneous report data;
- (4) Performing automated verification; and
- (5) Issuing demands, subpoenas (except for solid mineral and geothermal leases), orders to perform restructured accounting, and related tolling agreements and notices to lessees or their designees.

With the increase in the number of delegable functions, the paperwork burden upon those States assuming additional delegable functions and upon industry which will now be interacting with several States as well as with MMS will increase.

For example, a State requesting a delegation of any of these functions must prepare and submit information to MMS including an application to perform the delegable functions, evidence and testimony for the hearing process, expense vouchers for cost reimbursement, and annual workplans for MMS review. A delegated State must also maintain records in accordance with applicable Federal recordkeeping requirements. This information is necessary for tracking purposes, for an audit trail, and to document that the State can perform the delegated royalty management functions effectively and efficiently. MMS will use this information to evaluate applications for delegation and to monitor and review a State's performance of its delegated functions.

Currently 38 States receiving royalties from MMS could request a delegation. MMS assumes that four of the larger producing States may request a delegation of expanded functions

beyond those they already perform. Approved delegations will last for 3 years but can be extended for another 3 years. States may submit vouchers for cost reimbursement monthly or quarterly. States must submit delegable function workplans annually. MMS will specify the frequency of monitoring and reviewing a State's performance in the delegation agreement.

In the current Delegation of Authority to States information collection, MMS estimated the annual burden hours to the States to be 800 hours. This was based on 10 States conducting delegated audits spending 40 hours preparing workplans and 40 hours preparing vouchers: $[40 \text{ hours (workplans)} + 40 \text{ hours (vouchers)}] \times 10 \text{ States} = 800$ annual burden hours. In retrospect, our estimate of 80 annual burden hours per State was low. Additional responsibilities that a State must assume under the new legislation when they elect to perform a delegable function include *application and hearing preparation*—40 annual burden hours, *voucher preparation*—120 annual burden hours, *annual workplan preparation*—40 annual burden hours, and *recordkeeping*—200 annual burden hours. Experience gained over the last several years indicates that each State that is conducting delegated audits is spending approximately 400 annual burden hours, not 80, and that MMS's original estimate of 800 annual burden hours for 10 States should be revised to 4,000 annual burden hours: $[40 \text{ annual burden hours} + 120 + 40 + 200] \times 10 \text{ States} = 4,000$ annual burden hours.

MMS estimates 8,000 burden hours for the four States to perform all five delegable functions: $400 \text{ annual burden hours per function} \times 4 \text{ States} \times 5 \text{ functions} = 8,000$ annual burden hours. If six other States continued conducting delegated audits, MMS estimates that burden at 2,400 burden hours: $400 \text{ annual burden hours} \times 6 \text{ States} = 2,400$ annual burden hours. With the additional delegated functions, the total annual burden hour estimate for this information collection will increase to 10,400. Using a cost of \$25 an hour, the annual cost burden estimate is \$260,000. The Federal Government will reimburse some of these costs out of current appropriations. However, States could incur additional start up costs, such as purchasing equipment necessary to perform a delegated function, that may not be reimbursable.

The MMS expects that the annual burden for industry will increase by a total of 200,000 burden hours for approximately 4,500 payors and reporters providing royalty and production reports to MMS. If four

States perform delegable functions and each State affects approximately 1,000 payors and reporters, MMS estimates that each payor or reporter would spend 50 burden hours annually coordinating their interactions and communications among the several States and with MMS. For example, if a payor sends reports to the State but sends payments to MMS, the payor must coordinate not only with MMS, as is currently done, but also with the State. This will result in an annual burden on industry of 200,000 hours: $1,000 \text{ reporters or payors} \times 4 \text{ States} \times 50 \text{ annual burden hours} = 200,000$ annual burden hours. Using a cost of \$25 an hour, the annual cost burden estimate is \$5,000,000.

Based on our current experience with administering the delegated audit function 10 States conduct, MMS's annual burden estimate is 900 hours per State for administering the delegated audit function and an additional 300 hours per State for issuing related demand letters. Since MMS will no longer issue demand letters, the 300 burden hour estimate will decrease to an estimate of 50 annual burden hours for monitoring purposes. MMS's total burden for the six States continuing to perform delegated audits plus assuming the responsibility of issuing demand letters would be 5,700 annual burden hours: $[900 \text{ hours} \times 1 \text{ function (delegated audits)} \times 6 \text{ States}] + [50 \text{ hours} \times 1 \text{ function (issue demand letters)} \times 6 \text{ States}] = 5,700$ annual burden hours. The annual burden hours to the Federal Government for four States assuming all five functions would be 14,600 hours: $[900 \text{ annual burden hours per function} \times 4 \text{ functions (all except issue demands)} \times 4 \text{ States}] + [50 \text{ annual burden hours} \times 1 \text{ function (demand letter monitoring)} \times 4 \text{ States}] = 14,600$ annual burden hours. MMS estimates the annual burden hours to the Federal Government for this information collection at 20,300. Using a cost of \$25 an hour, the annual cost burden estimate is \$507,500.

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, MMS is providing notice and otherwise consulting with members of the public and affected agencies concerning collection of information in order to solicit comment to: (a) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, utility, and clarity of the information to be collected; and (d)

minimize the burden of the collection of information on those who are to respond, including using automated collection techniques or other forms of information technology.

The Paperwork Reduction Act of 1995 provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Unfunded Mandates Reform Act of 1995

The Department has determined and certifies according to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rule will not impose a cost of \$100 million or more in any given year on local, tribal, State governments or the private sector.

National Environmental Policy Act of 1969

We have determined that this rulemaking is not a major Federal action significantly affecting the quality of the human environment, and a detailed statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is not required.

List of Subjects in 30 CFR Parts 227, 228 and 229

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

Dated: March 28, 1997.

Bob Armstrong,

Assistant Secretary for Land and Minerals Management.

For the reasons set out in the preamble, 30 CFR part 227 is proposed to be added and parts 228 and 229 are proposed to be amended to read as follows:

1. Part 227 is added to read as follows:

PART 227—DELEGATION TO STATES

Delegation of MMS Royalty Functions

Sec.

227.1 What is the purpose of this part?

227.100 What States may request delegation?

227.101 What royalty management functions may MMS delegate to a State?

227.102 What royalty management functions will MMS not delegate?

Delegation Proposals

227.103 What must a State's delegation proposal contain?

227.104 What will MMS do when it receives a State's delegation proposal?

227.105 What are the hearing procedures?

227.106 What statutory requirements must a State meet to receive a delegation?

- 227.107 When will the MMS Director decide whether to approve a State's delegation proposal?
- 227.108 How will MMS notify a State of its decision?
- 227.109 What if the MMS Director denies a State's delegation proposal?
- 227.110 How long are delegation agreements effective?

Existing Delegations

- 227.111 Do existing delegation agreements remain in effect?

Compensation

- 227.112 What compensation will a State receive to perform delegated functions?

States' Responsibilities to Perform Delegated Functions

- 227.200 What are a State's general responsibilities if it accepts a delegation?
- 227.201 What standards must a State comply with for performing delegated functions?
- 227.300 What audit functions may a State perform?
- 227.301 What are a State's responsibilities if it performs audits?
- 227.400 What functions may a State perform in processing production reports and royalty reports?
- 227.401 What are a State's responsibilities if it processes production reports or royalty reports?
- 227.500 What functions may a State perform to ensure that reporters correct erroneous report data?
- 227.501 What are a State's responsibilities to ensure that reporters correct erroneous data?
- 227.600 What automated verification functions may a State perform?
- 227.601 What are a State's responsibilities if it performs automated verification?
- 227.700 What enforcement documents may a State issue in support of its delegated function?

Performance Review

- 227.800 How will MMS monitor a State's performance of delegated functions?
- 227.801 What if a State does not adequately perform a delegated function?
- 227.802 How will MMS terminate a State's delegation agreement?
- 227.803 What are the hearing procedures for termination of a State's delegation agreement?
- 227.804 How else may a State's delegation agreement terminate?
- 227.805 How may a State obtain a new delegation agreement after termination?

Authority: 30 U.S.C. 1735; 30 U.S.C. 196.

Delegation of MMS Royalty Functions

§ 227.1 What is the purpose of this part?

This part provides procedures to delegate Federal royalty management functions to States under Section 205 of the Federal Oil and Gas Royalty Management Act of 1982 (the Act), 30 U.S.C. 1735, as amended by the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 Pub. L. 104-185,

August 13, 1996, as corrected by Pub. L. 104-200. This part also provides procedures to delegate similar functions to States under Pub. L. 102-154 for solid mineral leases, geothermal leases, and leases subject to section 8(g) of the Outer Continental Shelf Lands Act, 43 U.S.C. 1337(g). This part does not apply to any inspection or enforcement responsibilities of BLM for onshore leases or the MMS Offshore Minerals Management program for leases on the Outer Continental Shelf.

§ 227.100 What States may request delegation?

You may request a delegation of royalty management functions under this part if:

- (a) You have oil and gas leases subject to the Act on Federal lands within your State;
- (b) You have oil and gas leases offshore of your State subject to section 8(g) of the Outer Continental Shelf Lands Act, 43 U.S.C. 1337(g);
- (c) You have solid mineral leases or geothermal leases on Federal lands within your State.

§ 227.101 What royalty management functions may MMS delegate to a State?

MMS may delegate the following royalty management functions under this part:

- (a) Conducting audits and investigations;
- (b) Receiving and processing production or royalty reports;
- (c) Correcting erroneous report data;
- (d) Performing automated verification; and
- (e) Issuing demands, subpoenas (except for solid mineral and geothermal leases), and orders to perform restructured accounting, including related notices to lessees or their designees, and entering into tolling agreements under section 115(d)(1) of the Act, 30 U.S.C. 1725(d)(1).

§ 227.102 What royalty management functions will MMS not delegate?

This section lists the principal royalty management functions that MMS will not delegate to a State. MMS will not delegate to a State the following functions:

- (a) MMS must collect all moneys received from sales, bonuses, rentals, royalties, civil penalties, assessments and interest. MMS also must collect any moneys a lessee or its designee pays because of audits or other actions of a delegated State;
- (b) MMS must compare all cash and other payments it receives with payments shown on royalty reports or other documents, such as bills, to reconcile payor accounts. MMS also

must disburse all appropriate moneys to States and other revenue recipients, including refunds and interest owed to lessees and their designees;

(c) The Department of the Interior will receive, process, and decide all administrative appeals from demands or other orders issued to lessees, their designees, or any other person, including demands or orders a delegated State issues;

(d) Only MMS may take enforcement actions other than issuing demands, subpoenas and orders to perform restructured accounting. MMS will issue notices of non-compliance and civil penalties, collect debts, write-off delinquent debts, pursue litigation, enforce subpoenas, and manage alternative dispute resolution. MMS will conduct, coordinate, and approve any settlement or other compromise of an obligation that a lessee or its designee owes;

(e) MMS will decide all valuation policies, including issuing valuation regulations, determinations, and guidelines, and interpreting valuation regulations; and

(f) MMS may reserve additional authorities and responsibilities not included in paragraphs (a) through (e) of this section.

Delegation Programs

§ 227.103 What must a State's delegation proposal contain?

If you want MMS to delegate royalty management functions to you, then you must submit a delegation proposal to the MMS Associate Director for Royalty Management. MMS will provide you with technical assistance and information to help you prepare your delegation proposal. Your proposal must contain the following minimum information:

- (a) The name and title of the State official authorized to submit the delegation proposal and execute the delegation agreement;
- (b) The name, address, and telephone number of the State contact for the proposal;
- (c) A copy of the legislation, State Attorney General opinion, or other document that:
 - (1) States which State entity is responsible for performing delegated functions; and
 - (2) Demonstrates the State's authority to:
 - (i) Accept a delegation from MMS; and
 - (ii) Receive State or Federal appropriations to perform delegated functions;
 - (d) The date you propose to begin performing delegated functions;

(e) A detailed statement of the delegable functions that you propose to perform. For each function, describe the resources available in your State to perform each function, the procedures you will use to perform each function, and how you will ensure that you will meet all Federal laws, lease terms, regulations, and relevant performance standards. As evidence that you have or will have the resources to perform each delegable function, you must provide the following information:

(1) A description of the personnel you have available to perform delegated functions, including:

(i) How many persons you will assign full-time and part-time to each delegated function;

(ii) The technical qualifications of the key personnel you will assign to each function, including academic field and degree, professional credentials, and quality and amount of experience with similar functions; and

(iii) Whether these persons are currently State employees. If not, how you propose to hire these persons or obtain their services, and when you expect to have those persons available to perform delegated functions.

(2) A description of the facilities you will use to perform delegated functions, including:

(i) Whether you currently have the facilities in which you will physically locate the personnel and equipment you will need to perform the functions you propose to assume. If not, how you propose to acquire these facilities, and when you expect to have the facilities available;

(ii) How convenient the location is for travel to and communication with lessees and Federal regulatory officials;

(iii) How much office space is available; and

(iv) How you currently are using those facilities.

(3) Describe the equipment you will use to perform delegated functions, including:

(i) Hardware and software you will use to perform each delegated function, including equipment for:

(A) Document processing, including compatibility with MMS automated systems, electronic commerce capabilities, and data storage capabilities;

(B) Accessing reference data;

(C) Contacting production or royalty reporters;

(D) Issuing demands;

(E) Maintaining accounting records;

(F) Performing automated verification;

(G) Maintaining security of confidential and proprietary information; and

(H) Providing data to other Federal agencies.

(ii) Whether you currently have the equipment you will need to perform the functions you propose to assume. If not, how you propose to acquire the equipment and when you expect to have such equipment available.

(f) Your estimates of the costs to fund the following resources necessary to perform the delegation:

(1) Personnel, including hiring, employee salaries and benefits, travel, and training;

(2) Facilities, including acquisition, upgrades, operation, and maintenance;

(3) Equipment, including acquisition, operation, and maintenance;

(g) Your plans to fund the resources under paragraph (f) of this section, including any items you will ask MMS to fund under the delegation agreement;

(h) A statement identifying any areas where State law may limit your ability to perform delegated functions. Explain what actions you propose to remove any such limitation;

(i) A statement that, in accordance with section 203 of the Act (30 U.S.C. 1733), persons who have access to information received under delegated functions are subject to the same provisions of law regarding confidentiality and disclosure of that information as Federal employees. Applicable laws include the Freedom of Information Act, the Trade Secrets Act, and relevant Executive Orders (FOIA). In addition, your statement must acknowledge that all documents produced, received, and maintained as part of any delegation functions are agency records for purposes of FOIA; and

§ 227.104 What will MMS do when it receives a State's delegation proposal?

When MMS receives your delegation proposal, it will record the receipt date. MMS will notify you in writing within 15 business days whether your proposal is complete. If it is not complete, MMS will identify any missing items that § 227.103 of this part requires. Once you submit all required information, MMS will notify you of the date your application is complete.

§ 227.105 What are the hearing procedures?

After MMS notifies you that your delegation proposal is complete, MMS will schedule a hearing on your proposal as follows:

(a) The MMS Director will appoint a hearing official to conduct one or more public hearings for fact-finding regarding your ability to assume the delegated functions requested. The

hearing official will not decide whether to approve your delegation request;

(b) The hearing official will contact you about scheduling a hearing date and location;

(c) The hearing official will publish notice of the hearing in the **Federal Register** and other appropriate media within your State;

(d) At the hearing, you will have an opportunity to present testimony and written information in support of your proposal;

(e) Other persons may attend the hearing and may present testimony and written information for the record;

(f) MMS will record the hearing;

(g) MMS will maintain a record of all documents related to the proposal process;

(h) After the hearing, MMS may require you to submit additional information in support of your delegation proposal.

§ 227.106 What statutory requirements must a State meet to receive a delegation?

The MMS Director will decide whether to approve your delegation request and will ask the Secretary of the Interior to concur in the decision. That decision is solely within the MMS Director's and the Secretary's discretion. The MMS Director's decision in which the Secretary concurs in is the final decision for the Department. The MMS Director may approve a State's request for delegation only if, based upon the State's delegation proposal and the hearing record, the MMS Director finds that:

(a) It is likely that the State will provide adequate resources to achieve the purposes of the Act;

(b) The State has demonstrated that it will effectively and faithfully administer MMS rules under the Act in accordance with the requirements of subsections (c) and (d) of section 205 of the Act;

(c) The delegation will not create an unreasonable burden on any lessee;

(d) The State agrees to adopt standardized reporting procedures prescribed by MMS for royalty and production accounting purposes, unless the State and all affected parties (including MMS and lessees and their designees) agree otherwise;

(e) The State agrees to follow and adhere to regulations and guidelines issued by MMS under the mineral leasing laws regarding valuation of production; and

(f) Where necessary for a State to carry out and enforce a delegated activity, the State agrees to enact laws and rules consistent with relevant Federal laws and regulations.

§ 227.107 When will the MMS Director decide whether to approve a State's delegation proposal?

The MMS Director will decide whether to approve your delegation proposal within 90 days after your delegation proposal is complete. MMS may extend the 90-day period with your written consent.

§ 227.108 How will MMS notify a State of its decision?

MMS will notify you in writing of its decision on your delegation proposal. If MMS approves your delegation proposal, then MMS will hold discussions with you to develop a delegation agreement detailing the functions that you will perform and the standards and requirements you must comply with to perform those functions.

§ 227.109 What if the MMS Director denies a State's delegation proposal?

If the MMS Director denies your delegation proposal, MMS will state the reasons for denial. MMS also will inform you in writing of the conditions you must meet to receive approval. You may submit a new delegation proposal at any time following a denial.

§ 227.110 How long are delegation agreements effective?

(a) Delegation agreements are effective for 3 years.

(b) After 3 years, you may ask MMS to renew the delegation for an additional 3 years. No later than 6 months prior to the expiration of your 3-year delegation agreement, you must submit your renewal request to the MMS Associate Director for Royalty Management as follows:

(1) If you do not want to change the terms of your delegation agreement for the renewal period, you need only ask to extend your existing agreement for the 3-year renewal period. MMS will not schedule a hearing unless you request one;

(2) If you want to change the terms of your delegation agreement for the renewal period, you must submit a new delegation proposal under this part.

(c) The MMS Director may approve your renewal request only if MMS determines that you are meeting the requirements of the applicable standards and regulations. If the MMS Director denies your renewal request, MMS will state the reasons for denial. MMS also will inform you in writing of the conditions you must meet to receive approval. You may submit a new renewal request at any time following a denial, but not after your current agreement expires.

(d) After the 3-year renewal period for your delegation agreement ends, you

must request a new delegation agreement from MMS under this part. No hearing will be held unless you request one or you want to change the terms of your delegation agreement. As part of the decision whether to approve your request for a new delegation, the MMS Director will consider whether you are meeting the requirements of the applicable standards and regulations under your existing delegation agreement.

Existing Delegations

§ 227.111 Do existing delegation agreements remain in effect?

This section explains your options if you have a delegation agreement in effect on [the effective date of the final rule].

(a) If you do not want to perform any royalty management functions in addition to those authorized under your existing agreement, you may continue your existing agreement until its expiration date. After the agreement expires, you must receive a new delegation agreement meeting the requirements of this part and the applicable standards.

(b) If you want to perform royalty management functions in addition to those authorized under your existing agreement, you must request a new delegation agreement under this part.

(c) MMS may extend any delegation agreement in effect on [the effective date of the final rule] for up to 3 years beyond the date it is due to expire.

Compensation

§ 227.112 What compensation will a State receive to perform delegated functions?

You will receive compensation for your costs to perform each delegated function subject to the following conditions:

(a) Compensation for costs is subject to Congressional appropriations;

(b) Compensation may not exceed the reasonably anticipated expenditures that MMS would incur to perform the same function;

(c) The cost for which you request compensation must be directly related to your performance of a delegated function and necessary for your performance of that delegated function;

(d) You must provide vouchers detailing your expenditures quarterly or monthly during the fiscal year as stated in your delegation agreement;

(e) You must maintain adequate books and records to support your vouchers;

(f) MMS will pay you quarterly or monthly during the fiscal year as stated in your delegation agreement; and

(g) MMS may withhold compensation to you for your failure to properly

perform any delegated function under section 227.801 of this part.

States' Responsibilities To Perform Delegated Functions

§ 227.200 What are a States' general responsibilities if it accepts a delegation?

For each delegated function you perform, you must:

(a) Operate in compliance with all Federal laws, regulations, and Secretarial and MMS determinations and orders relating to calculating, reporting, and paying mineral royalties and other revenues. If you need guidance on or interpretation of any applicable Federal requirement, you must submit a written request for guidance or interpretation to the appropriate MMS official. MMS will respond to your request in writing, and you must follow the interpretation or guidance given;

(b) Comply with Generally Accepted Accounting Principles (GAAP). You must:

(1) Provide complete disclosure of financial results of activities;

(2) Maintain correct and accurate records of all mineral-related transactions and accounts;

(3) Maintain effective controls and accountability;

(4) Maintain a system of accounts that includes a comprehensive audit trail so that all entries may be traced to one or more source documents; and

(5) Maintain adequate royalty and production information for royalty management purposes.

(c) Assist MMS in meeting the requirements of the Government Performance and Results Act (GPRA) as well as assisting in developing and endeavoring to comply with the MMS Strategic Plan and Performance Measurements;

(d) Maintain all records you obtain or create under your delegated function, such as royalty reports, production reports, and other related information. You must maintain records in a safe, secure manner, including taking appropriate measures for protecting confidential and proprietary information and assisting MMS in responding to Freedom of Information Act requests when necessary. You must maintain records for at least 7 years;

(e) Provide reports to MMS about your activities under your delegated functions. MMS will specify in your delegation agreement and the *MMS Standards for Delegation (Standards)* what reports you must submit and how often you must submit them. At a minimum, you must provide periodic statistical reports to MMS summarizing the activities you carried out, such as:

- (1) Production and royalty reports processed;
- (2) Erroneous reports corrected;
- (3) Results of automated verification findings;
- (4) Number of audits performed; and
- (5) Enforcement documents issued.
- (f) Assist MMS in maintaining adequate reference, royalty, and production databases as provided in the *Standards*;
- (g) Develop annual work plans that:
 - (1) Specify the work you will perform for each delegated function; and
 - (2) Identify the resources you will commit to perform each delegated function;
- (h) Help MMS respond to requests for information from other Federal agencies, Congress, and the public;
- (i) Cooperate with MMS' monitoring of your delegated functions; and
- (j) Comply with the *Standards* as required under § 227.201 of this part.

§ 227.201 What standards must a State comply with for performing delegated functions?

- (a) If MMS delegates royalty management functions to you, you must comply with the *Standards*. The *Standards* explain how you must carry out the activities under each of the delegable functions. The *Standards* will explain, for example, the appropriate standards of accuracy, timeliness, and efficiency for you to carry out each delegated function.
- (b) Your delegation agreement may include additional standards specifically applicable to the functions delegated to you.
- (c) Failure to comply with your delegation agreement, the *Standards*, or any of the specific standards and requirements in the delegation agreement, is grounds for termination of all or part of your delegation agreement, or other actions as provided under §§ 227.801 and 227.802.
- (d) MMS may revise the *Standards* and will provide notice of those changes in the **Federal Register**. You must comply with any changes to the *Standards*.

§ 227.300 What audit functions may a State perform?

- An audit consists of an examination of records to verify that royalty reports and payments accurately reflect actual production, sales, revenues and costs, and compliance with Federal statutes, regulations, lease terms, and MMS policy determinations. If you request delegation of audit functions, you must perform at least the following functions:
- (a) Issuing engagement letters;
 - (b) Arranging for entrance conferences;

- (c) Submitting requests for records;
- (d) Scheduling site visits;
- (e) Examining royalty and production reports;
- (f) Examining lessee production and sales records, including contracts, payments, invoices, and transportation and processing costs to substantiate production and royalty reporting;
- (g) Holding closeout conferences;
- (h) Issuing records releases and audit closure letters, as necessary; and
- (i) Providing assistance to MMS for appealed demands or orders, including preparing field reports, performing remanded actions, modifying orders, and providing oral and written briefing and testimony as expert witnesses.

§ 227.301 What are a State's responsibilities if it performs audits?

- If you perform audits you must:
- (a) Comply with the *MMS Audit Procedures Manual* and the *Government Auditing Standards* issued by the Comptroller General of the United States;
 - (b) Follow the MMS Annual Audit Work Plan and 5-year Audit Strategy, which MMS will develop in consultation with States having delegated audit authority;
 - (c) Agree to undertake special audit initiatives MMS identifies targeting specific royalty issues, such as valuation or volume determinations;
 - (d) Prepare, construct, or compile audit work papers under the appropriate procedures, manuals, and guidelines;
 - (e) Prepare and submit audit reports, MMS Audit Work Plans, the *Standards* require; and
 - (f) Comply with procedures for appealed demands or orders, including using appropriate format and content for field reports and meeting time frames.

§ 227.400 What functions may a State perform in processing production reports or royalty reports?

- Production reporters or royalty reporters provide production, sales, and royalty information on mineral production from leases that must be collected, analyzed, and corrected.
- (a) If you request delegation of either production report or royalty report processing functions, you must perform at least the following functions:
 - (1) Receiving, identifying, and date stamping production reports or royalty reports;
 - (2) Processing production or royalty data to allow entry into a data base;
 - (3) Creating copies of reports by means such as electronic imaging;
 - (4) Timely transmitting production report or royalty report data to MMS and other affected Federal agencies as

provided in your delegation agreement and the *Standards*;

- (5) Providing training and assistance to production reporters or royalty reporters;
- (6) Providing production data or royalty data to appropriate Federal agencies upon request; and
- (7) Providing assistance to MMS for appealed demands or orders, including preparing field reports, performing remanded actions, modifying orders, and providing oral and written briefing and testimony as expert witnesses.
- (b) If you request delegation of either production report or royalty report processing functions, or both, you may perform the following functions:
 - (1) Granting exceptions from reporting and payment requirements for marginal properties; and
 - (2) Approving alternative royalty and payment requirements for unit agreements and communitization agreements.

§ 227.401 What are a State's responsibilities if it processes production reports or royalty reports?

- In processing production reports or royalty reports you must:
- (a) Process reports accurately and timely as provided in the *Standards* and your delegation agreement;
 - (b) Identify fatal errors for subsequent error correction that the State or MMS performs;
 - (c) Accept multiple forms of electronic media from reporters, as MMS specifies;
 - (d) Timely transmit required production or royalty data to MMS and other affected Federal agencies;
 - (e) Access well, lease, agreement, and reporter reference data from MMS and provide updated information to MMS;
 - (f) For production reports, maintain adequate system software edits to ensure compliance with the provisions of 30 CFR part 216, the *PAAS Onshore Oil and Gas Reporter Handbook*, the *PAAS Reporter Handbook-Lease, Facility/Masurement Point, and Gas Plant Operators*, the *PAAS Solid Minerals Reporter Handbook*, any inter-agency memorandums of understanding to which MMS is a party, and the *Standards*;
 - (g) For royalty reports, maintain adequate system software edits to ensure compliance with the provisions of 30 CFR part 218, the *Oil and Gas Payor Handbook, Volume II*, the *Solid Minerals Payor Handbook*, "Dear Payor" letters, and the *Standards*; and
 - (h) Comply with the procedures for appealed demands or orders, including using appropriate format and content for field reports and supplementals and meeting time frames.

§ 227.500 What functions may a State perform to ensure that reporters correct erroneous report data?

Production and royalty data must be edited to ensure that what is reported is correct, that disbursement is made to the proper recipient, and that correct data are used for other functions, such as automated verification and audits. If you request delegation of error correction functions for production reports or royalty reports, or both, you must perform at least the following functions:

- (a) Correcting all fatal errors and assigning appropriate confirmation indicators;
- (b) Verifying missing production reports;
- (c) Contacting production reporters or royalty reporters about missing reports and resolving exceptions;
- (d) Documenting all corrections made, including providing production reporters or royalty reporters with confirmation reports of any changes;
- (e) Providing training and assistance to production reporters or royalty reporters;
- (f) Issuing notices, orders to report, and bills as needed, including, but not limited to, imposing assessments on a person who chronically submits erroneous reports; and
- (g) Providing assistance to MMS for appealed demands or orders, including preparing field reports, performing remanded actions, modifying orders, and providing oral and written briefing and testimony as expert witnesses.

§ 227.501 What are a State's responsibilities to ensure that reporters correct erroneous data?

To ensure the correction of erroneous data, you must:

- (a) Ensure compliance with the provisions of 30 CFR Parts 216 and 218, any applicable handbook specified under 30 CFR 401 (f) and (g), inter-agency memorandums of understanding to which MMS is a party, and the *Standards*;
- (b) Ensure that reporters accurately and timely correct all fatal errors as designated in the *Standards*. These errors include, for example, invalid or incorrect reporter/payor codes, incorrect lease/agreement numbers, and missing data fields. The *Standards* will list fatal edits for both production reports and royalty reports;
- (c) Submit accepted and corrected lines to MMS to allow processing into the Auditing and Financial System (AFS) and the Production Accounting and Auditing System (PAAS) in a timely manner as provided in the *Standards* and 30 CFR part 219; and

(d) Comply with the procedures for appealed demands or orders, including using appropriate format and content for field reports and meeting time frames.

§ 227.600 What automated verification functions may a State perform?

Automated verification involves systematic monitoring of production and royalty reports to identify and resolve reporting or payment discrepancies. States may perform the following functions:

- (a) Automated comparison of sales volumes reported by royalty reporters to sales and transfer volumes reported by production reporters. If you request delegation of automated comparison of sales and production volumes, you must perform at least the following functions:
 - (1) Performing an initial sales volume comparison between royalty and production reports;
 - (2) Performing subsequent comparisons when reporters adjust royalty or production reports;
 - (3) Checking unit prices for reasonable product valuation based on reference price ranges MMS provides;
 - (4) Resolving volume variances using written correspondence, telephone inquiries, or other media;
 - (5) Maintaining appropriate file documentation to support case resolution; and
 - (6) Issuing orders to correct reports or payments;
- (b) Any one or more of the following additional automated verification functions:
 - (1) Verifying compliance with lease financial terms, such as payment of rent, minimum royalty, and advance royalty;
 - (2) Identifying and resolving improper adjustments;
 - (3) Identifying late payments and insufficient estimates, including calculating interest owed to MMS and verifying payor-calculated interest owed to MMS;
 - (4) Calculating interest due to a lessee or its designee for an adjustment or refund, including identifying overpayments and excessive estimates (except for solid mineral and geothermal leases);
 - (5) Verifying royalty rates;
 - (6) Verifying compliance with transportation and processing allowance limitations; and
 - (7) Manually checking and confirming corrected reports or payments;
- (c) Issuing notices and bills associated with any of the functions under paragraphs (a) and (b) of this section; and
- (d) Providing assistance to MMS for appealed demands or orders, including preparing field reports, taking remanded

actions, modifying orders, and providing oral and written briefing and testimony as expert witnesses.

§ 227.601 What are a State's responsibilities if it performs automated verification?

To perform automated verification of production reports or royalty reports, you must:

- (a) Verify through research and analysis all identified exceptions and prepare the appropriate billings, assessment letters, warning letters, notification letters, Lease Problem Reports, other internal forms required, and correspondence required to perform any required follow-up action for each function, as specified in the *Standards* or your delegation agreement;
- (b) Resolve and respond to all production reporter or royalty reporter inquiries;
- (c) Maintain all documentation and logging procedures as specified in the *Standards* or your delegation agreement;
- (d) Access well, lease, agreement, and production reporter or royalty reporter reference data from MMS and provide update information to MMS; and
- (e) Comply with procedures for appealed demands and orders, including using appropriate format and content for field reports and meeting time frames.

§ 227.700 What enforcement documents may a State issue in support of its delegated function?

This section explains what enforcement actions you may take as part of your delegated functions.

- (a) You may issue demands, subpoenas (except for solid minerals and geothermal leases), and orders to perform restructured accounting, including related notices to lessees and their designees. You also may enter into tolling agreements under section 15(d)(1) of the Act, 30 U.S.C. 1725(d)(1).
- (b) When you issue any enforcement document you must comply with the requirements of section 115 of the Act, 30 U.S.C. 1725.
- (c) When you issue a demand or enter into a tolling agreement under section 15(d)(1) of the Act, 30 U.S.C. 1725(d)(1), the highest State official having ultimate authority over the collection of royalties or the State official to whom that authority has been delegated must sign the demand or tolling agreement.
- (d) When you issue a subpoena or order to perform a restructured accounting you must:
 - (1) Coordinate with MMS to ensure identification of issues that may concern more than one State before you issue subpoenas and orders to perform restructured accounting; and

(2) Ensure that the highest State official having ultimate authority over the collection of royalties signs any subpoenas and orders to perform restructured accounting, as required under section 115 of the Act, 30 U.S.C. 1725. This official may not delegate signature authority to any other person.

Performance Review

§ 227.800 How will MMS monitor a State's performance of delegated functions?

This section explains MMS's procedures for monitoring your performance of any of your delegated functions.

(a) A monitoring team of MMS officials will review and monitor your performance of the delegated functions under the delegation agreement.

(b) The *Standards* will specify the frequency of monitoring for each delegated function.

(c) The monitoring team will:

(1) Perform reviews to verify that you are complying with the *Standards* and 30 U.S.C. 1735;

(2) Conduct fiscal examinations to verify that your costs are eligible for reimbursement;

(3) Periodically review your statistical reports required under § 227.200(e) to verify your accuracy, timeliness, and efficiency;

(4) Check for timely transmittal of production report or royalty report information to MMS and other affected agencies, as applicable, to allow for proper disbursement of funds and processing of information;

(5) Schedule onsite visits and Office of the Inspector General, General Accounting Office, and MMS audits of your performance of your delegated functions; and

(6) Maintain reports of its monitoring activities.

§ 227.801 What if a State does not adequately perform a delegated function?

If your performance of the delegated function does not comply with your delegation agreement, or the *Standards*, or if MMS finds that you can no longer meet the statutory requirements under § 227.106 of this part, then MMS may:

(a) Notify you in writing of your noncompliance or inability to comply. The notice will prescribe corrective actions you must take, and how long you have to comply. You may ask MMS for an extension of time to comply with the notice. In your request you must explain why you need more time; and

(b) If you do not take the prescribed corrective actions within the time that MMS allows in a notice issued under paragraph (a) of this section, then MMS may:

(1) Initiate proceedings under § 227.802 of this part to terminate all or a part of your delegation agreement;

(2) Withhold compensation provided to you under § 227.112 of this part; and

(3) Perform the delegated function, before terminating or without terminating your delegation agreement, including, but not limited to, issuing a demand or order to a Federal lessee, or its designee, or any other person when:

(i) Your failure to issue the demand or order would result in an underpayment of an obligation due MMS; and

(ii) The underpayment would go uncollected without MMS intervention.

§ 227.802 How will MMS terminate a State's delegation agreement?

This section explains the procedures MMS will use to terminate all or a part of your delegation agreement:

(a) MMS will notify you in writing that it is initiating procedures to terminate your delegation agreement;

(b) MMS will provide you notice and opportunity for a hearing under § 227.803 of this part;

(c) After the hearing, MMS may:

(1) Terminate your delegation agreement; or

(2) Allow you 30 days to correct any remaining deficiencies. If you do not correct the deficiency within 30 days, MMS will terminate all or a part of your delegation agreement.

§ 227.803 What are the hearing procedures for terminating a State's delegation agreement?

(a) The MMS Director will appoint a hearing official to conduct one or more public hearings for fact finding and to determine any actions you must take to correct the noncompliance. The hearing official will not decide whether to terminate your delegation agreement;

(b) The hearing official will contact you about scheduling a hearing date and location;

(c) The hearing official will publish notice of the hearing in the **Federal Register** and other appropriate media within your State;

(d) At the hearing, you will have an opportunity to present testimony and written information on your ability to perform your delegated functions as required under this part, your delegation agreement, and the *Standards*;

(e) Other persons may attend the hearing and may present testimony and written information for the record;

(f) MMS will record the hearing;

(g) After the hearing, MMS may require you to submit additional information; and

(h) Information presented at each public hearing will help MMS to determine whether:

(1) You have complied with the terms and conditions of your delegation agreement; or

(2) You have the capability to comply with the requirements under § 227.106 of this part.

§ 227.804 How else may a State's delegation agreement terminate?

You may terminate your delegation at any time by giving MMS a 90-day written notice of intent to terminate.

§ 227.805 How may a State obtain a new delegation agreement after termination?

After your delegation agreement is terminated, you may apply again for delegation by beginning with the proposal process under this part.

PART 228—COOPERATIVE ACTIVITIES WITH STATES AND INDIAN TRIBES

2. The authority citation for Part 228 is revised to read as follows:

Authority: Section 202, Pub. L. 97-451, 96 Stat. 2457 (30 U.S.C. 1732).

3. Part 228 is amended by revising the title to read as follows:

PART 228—COOPERATIVE ACTIVITIES WITH INDIAN TRIBES

4. A new section 228.3 is added to read as follows:

§ 228.3 Limitation on applicability.

MMS will not enter into a cooperative agreement with a State under this part to carry out audit and related investigation and enforcement activities for leases on Federal lands within the State. This part applies only to cooperative agreements with Indian tribes and States to perform audits, inspections, and investigations for Indian lands. See part 227 of this title for delegation of authority to States for Federal lands.

PART 229—DELEGATION TO STATES

5. The authority citation for Part 229 is revised to read as follows:

Authority: 30 U.S.C. 1735.

6. Part 229 is amended by revising the title to read as follows:

PART 229—DELEGATION TO STATES FOR INDIAN LANDS

7. A new section 229.3 is added to read as follows:

Subpart A—General Provisions**§ 229.3 Limitation on applicability.**

MMS will not enter into a delegation agreement with a State under this part to carry out audit and related investigation activities for leases on Federal lands within the State. This part applies only to delegation agreements with States to perform audits, inspections, and investigations for Indian lands. See part 227 of this title for delegations of authority to States for Federal lands.

[FR Doc. 97-10387 Filed 4-23-97; 8:45 am]

BILLING CODE 4310-MR-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 229**

[I.D. 041797A]

Authorization for Commercial Fisheries under the Marine Mammal Protection Act; Take Reduction Plan Regulations and Emergency Regulations; Public Hearings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Public hearings; request for comments.

SUMMARY: NMFS is announcing the dates, times and locations for 11 public hearings that will address the proposed Atlantic Large Whale Take Reduction Plan (ALWTRP or Plan) and implementing regulations intended to reduce the level of serious injury and mortality of 4 large whale stocks (right, humpback, fin, and minke) that occur incidental to 4 east coast fisheries (northeast sink gillnet, mid-Atlantic coastal gillnet, American lobster pot, and southeastern U.S. shark net).

DATES: Written comments on this document, the proposed take reduction plan and its implementing regulations must be submitted no later than May 15, 1997. Testimony may also be presented at the public hearings, which are scheduled to be held from April 28, 1997, through May 6, 1997. See **SUPPLEMENTARY INFORMATION** for specific hearing dates and times.

ADDRESSES: Written comments should be sent to, and copies of the proposed rule are available from, Chief, Marine Mammal Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver

Spring, MD 20910 (FAX: 301-713-0376). The hearings will be held in Maine, New Hampshire, Massachusetts, Rhode Island, New Jersey, Maryland, and Virginia. See **SUPPLEMENTARY INFORMATION** for specific locations.

FOR FURTHER INFORMATION CONTACT: Kevin Chu, NMFS, Northeast Region, (508) 495-2291.

SUPPLEMENTARY INFORMATION:

Pursuant to section 118 of the Marine Mammal Protection Act, NMFS proposed the ALWTRP and implementing regulations on April 7, 1997 (62 FR 16519). The objective of the Plan and its regulations is to reduce the level of serious injury and mortality of 4 large whale stocks (right, humpback, fin, and minke) that occur incidental to 4 east coast fisheries (northeast sink gillnet, mid-Atlantic coastal gillnet, American lobster pot, and southeastern U.S. shark net). By this document, NMFS is announcing 11 public hearings which will provide the public with the opportunity to submit oral or written testimony on the proposed Plan and implementing regulations.

NMFS requests that persons planning to speak at the hearings provide a written copy of their testimony to NMFS at the hearing. The dates, times, and locations of the hearings are scheduled as follows:

1. Monday, April 28, 1997, 6 p.m. EST—Massachusetts Maritime Academy, 101 Academy Dr., Buzzards Bay, MA 02532; (508) 830-5000.

2. Monday, April 28, 1997, 1 p.m. EST—Holiday Inn at the Tower, Junction US Rte. 1 & 138 West, S. Kingston, RI 02881; (401) 789-1051.

3. Tuesday, April 29, 1997, 1 p.m. EST—Double Tree Club Hotel, 880 Military Highway, Norfolk, VA 23502; (757) 461-9192.

4. Wednesday, April 30, 1997, 1 p.m. EST—Radisson Eastland Hotel, 157 High Street, Portland, ME 04101; (207) 775-5411.

5. Wednesday, April 30, 1997, 1 p.m. EST—Sheraton Fontainebleau Hotel, 10100 Coastal Highway, Ocean City, MD 21842; (410) 524-3535.

6. Thursday, May 1, 1997, 1 p.m. EST—Trade Winds Motor Inn, 2 Park View Drive, Rockland, ME 04856; (207) 596-6661.

7. Thursday, May 1, 1997, 1 p.m. EST—Holiday Inn, 290 Highway - Route 37 East/Clifton Avenue, Tom's River, NJ 08754; (908) 244-4000.

8. Friday, May 2, 1997, 1 p.m. EST—White Birches, Rte 1 - East of Ellsworth, Ellsworth, ME 04605; (207) 667-3621.

9. Saturday, May 3, 1997, 1 p.m. EST—University of Maine, Science Building, Room 102, 9 O'Brien Avenue, Machias, ME 04654; (207) 255-1200.

10. Monday, May 5, 1997, 6 p.m. EST—Fuller School, 4 School House Road, Gloucester, MA 01930; (508) 281-9841.

11. Tuesday, May 6, 1997, 7 p.m. EST—Urban Forestry Center, 45 Elwyn Road, Portsmouth, NH 03801; (603) 431-6774.

Special Accommodations

These hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the appropriate regional contact (see **FOR FURTHER INFORMATION CONTACT**) at least 5 days prior to the hearing date.

Authority: 16 U.S.C. 1361 *et seq.*

Dated: April 18, 1997.

Thomas C. Eagle,

Acting Chief Marine Mammal Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97-10591 Filed 4-21-97; 11:51 am]

BILLING CODE 3510-22-F

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Parts 600 and 648**

[I.D. 041697B]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Applications for Experimental Fishing Permits (EFPs)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notification of experimental fishery applications; request for comments.

SUMMARY: NMFS issues this notice to announce that the Regional Administrator, Northeast Region, NMFS (Regional Administrator), is considering approval of three experimental fishing proposals that would permit vessels to conduct operations otherwise restricted by regulations governing the Fisheries of the Northeastern United States. The experimental fisheries would involve fishing for and retention and limited landing of various species of fish, including regulated multispecies and invertebrates with small mesh in the Gulf of Maine/Georges Bank Regulated Mesh Area. Provisions under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notice to provide interested parties the