

The gains in patient and operator protection will significantly outweigh the economic impact on licensees. Accordingly, as provided by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

Any small business entity subject to this regulation which determines that because of its size, it is likely to bear disproportionate adverse economic impact, should inform the Commission of this in a comment that provides the following information:

(a) The licensee's size in terms of annual receipts, number of employees, number of patient beds and annual number of teletherapy procedures;

(b) How the proposed regulations would result in a significant economic burden upon the licensee as compared to larger licensees;

(c) How the proposed regulations could be modified to take into account the differing needs of capabilities of the commenter;

(d) The benefits that would accrue, or the detriments that would be avoided, if the proposed regulation were modified as suggested by the commenter; and

(e) How the regulation, modified as suggested in (c) above would still adequately protect the public health and safety.

List of Subjects in 10 CFR Part 35

Byproduct material, Drugs, Health facilities, Health professions, Medical devices, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting requirements.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Part 35 is contemplated.

PART 35—HUMAN USES OF BYPRODUCT MATERIAL

1. The authority citation for Part 35 continues to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended; (42 U.S.C. 2111, 2201, 2232, 2293); sec. 201, 88 Stat. 1242, as amended by Pub. L. 94-79, 89 Stat. 413 (42 U.S.C. 5841).

For the purposes of section 223, 68 Stat. 958, as amended (42 U.S.C. 2279); §§ 35.2, 35.14 (b), (e) and (f), 35.21(a), 35.22(a), 35.24, and 35.31 (b) and (c) are issued under sec. 181b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); and §§ 35.14(b)(5) (ii), (iii) and (v) and (f)(2), 35.25 and 35.31(d) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

§ 35.25 [Redesignated as § 35.27]

2. The present § 35.25 is redesignated § 35.27.

3. A new § 35.25 is added to read as follows:

§ 35.25 Requirements to install a permanent radiation monitor in teletherapy rooms and to use portable survey instruments.

(a) Each licensee authorized under § 35.13 to use teletherapy units for treating humans shall install a permanent radiation monitor in each teletherapy room for continuous monitoring of beam status.

(b) Each radiation monitor must be capable of providing visible notice of a teletherapy malfunction that may result in an exposed or partially exposed source. The visible indicator of high radiation levels must be located so as to be observable by a person entering the room and during operation of the unit.

(c) Each radiation monitor must be equipped with an emergency power supply separate from the power supply to the teletherapy unit. This emergency power supply may be a battery system.

(d) Each radiation monitor must be tested for proper operation each day before the teletherapy unit is used for treatment of patients.

(e) If a radiation monitor is inoperable for any reason, any person entering the teletherapy room shall use a portable survey instrument to monitor for any malfunction of the source exposure mechanism that may have resulted in an exposed or partially exposed source.

4. A new § 35.26 is added to read as follows:

§ 35.26 Inspection and servicing of the source exposure mechanism.

(a) The licensee shall cause each teletherapy machine used to treat humans to be fully inspected and serviced during source replacement or at intervals not to exceed five years, whichever comes first, to assure proper functioning of the source exposure mechanism.

(b) Inspection and servicing of the teletherapy machine shall be performed by persons specifically authorized to do so by the Commission or an Agreement State.

5. In redesignated § 35.27 the introductory text and paragraph (a) are revised to read as follows.

§ 35.27 Records.

The licensee shall maintain, for inspection by the Commission, records of the measurements, tests, corrective actions, inspection and servicing of the teletherapy machine, and instrument calibration made under §§ 35.21 through 35.26 and records of the licensee's

evaluation of the qualified expert's training and experience made under § 35.24.

(a) The following records must be preserved for five years after completion of the full calibration or inspection and servicing:

(1) Full calibration measurements reports made under § 35.21.

(2) Records of calibration of the instruments used to make these measurements under § 35.23.

(3) Records of inspection and servicing of the teletherapy machine under § 35.26.

* * * * *

Dated at Washington, D.C., this 22d day of April 1982.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

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DEPARTMENT OF THE INTERIOR

Geological Survey

30 CFR Parts 211, 221, 231, 250, and 270

Procedures for Mineral Royalty Reporting of and Paying on Leases on Federal Lands, Outer Continental Shelf (OCS) Lands, and Indian Lands

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of proposed procedure and request for public comment.

SUMMARY: As successor to the U.S. Geological Survey (USGS) in the matter of all royalty minerals business, the Minerals Management Service (MMS) is proposing to develop and implement an alternate, voluntary reporting and paying procedure for minerals royalties due from leases on Federal lands, Outer Continental Shelf (OCS) lands, and Indian lands. Royalties are due from most Federal, OCS, and Indian leases on the last day of the month following the production month, as specified contractually by the Federal Government. Some payors claim that they are frequently unable to gather the data necessary to compute and pay royalties on time, and that this inability unfairly subjects them to the assessment of late charges when they are unable to pay on time.

However, industry generally schedules payments of royalties for private minerals leases to fall due on the last day of the second month following the production month. This industry practice allows payors 2 months to

gather, from various sources, the complex production and sales data needed to accurately compute and pay the royalties that are due to private lessors.

Therefore, MMS is proposing to implement a procedure that would allow payors to report and pay royalties on the last day of the second month following the production month.

DATE: Written comments on this notice must be received on or before May 28, 1982.

ADDRESS: Written comments may be mailed or delivered to Mr. Raymond A. Hicks, Chief, Branch of Rules and Procedures for Royalty Management, Minerals Management Service, 12203 Sunrise Valley Drive, Room 6A220, Mail Stop 660, Reston, Virginia 22091.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond A. Hicks, Chief, Branch of Rules and Procedures for Royalty Management, Minerals Management Service, 12203 Sunrise Valley Drive, Mail Stop 660, Reston, Virginia 22091, (703) 860-7311.

SUPPLEMENTARY INFORMATION: The royalties for most Federal, OCS, and Indian minerals leases are due contractually on the last day of the month following the month of production. Lessees/operators/payors of such royalties allege that this schedule does not allow sufficient time for gathering the complex production and sales data needed to compute and remit royalty payments by the date due. These allegations were received as comments to the Interim Rulemaking as published (45 FR 84762; December 23, 1980), which requires a late-payment charge to be assessed for late or underpayments.

In contrast, lessees/operators/payors of private minerals leases generally make royalty payments on the last day of the second month following the production month. This industry practice allows payors a 2-month period in which to collect and process multisourced data generated by numerous and diverse transporters, processors, and purchasers.

Many payors of Federal, OCS, and Indian royalties assert that their production data are also multisourced and equally constrained by external circumstances. Thus, they claim that they are often not able to compute, report, and pay royalties on time under the present 1-month Federal payment requirement. They further assert that this subjects them unfairly to delinquency assessments since the Federal Government must charge for late payments.

The seriousness of the problem described above makes it desirable and

in the public interest to develop an alternate procedure by which (1) the Federal Government and the Indians regularly receive royalty monies when legally due, and which (2) gives the minerals industry the option of a voluntary 2-month reporting and paying plan that will reduce late payments and allow more flexibility in accurately reporting and paying amounts due. This procedure would also significantly reduce the number of adjustments that payors must currently make to their production and sales reports.

For these reasons, the Minerals Management Service is proposing a voluntary procedure that would allow payors who elect this alternate 2-month payment plan to make an initial estimated royalty payment for each lease (or sub-lease) at the end of the first 1-month period after the end of the applicable production month. That estimated payment must be in an amount sufficient to cover the probable royalty liability. This would allow payors to then use the following 1-month for gathering the supporting data needed to accurately report and pay.

Under this plan, an estimated royalty payment will be made, like regular royalties for each lease or (sub-lease), on or before the last day of the month following the production month. That estimated payment shall remain at the same amount unless it has to be

adjusted, upward or downward, in accordance with the procedures established for this voluntary reporting and paying plan. The payor would be required to maintain an estimated payment for each lease or sub-lease in an amount sufficient to satisfy the monthly royalty actually coming due. Moreover, if the estimated payment(s) were to fall below 95 percent of the royalty liability to which it applied, MMS could require the payor to increase the amount(s). The payor could also increase or decrease his estimated payment(s) in anticipation of sales, production, and price fluctuations.

In order to avoid the assessment of late-payment charges on Federal and OCS leases, the aggregate amounts of all of the estimated payments applicable thereto must always equal or exceed the actual royalty due in total from the paying company. To avoid assessment of late-payment charges on Indian leases, the estimated payment at the individual lease level must always equal or exceed the actual royalty due for that lease. MMS will maintain separate Federal and Indian estimated payment accounts. These accounts will not be combined to determine whether estimated payments made by a company are sufficient to cover the actual royalty liability of that payor company. The example presented below illustrates the 2-month reporting and paying cycle.

Alternate Procedure for Royalty Reporting and Paying on a Lease

| | Production month | Estimated royalty payment | Actual royalty paid for production |
|--|------------------|---------------------------|------------------------------------|
| January is the first production month for which the procedure is used. The estimated royalty payment for January is made on or before February 28 (29). Each time an actual report and payment are remitted the estimated royalty payment becomes the new estimate for the next production month. An additional \$200 is paid at the end of June to increase the amount of the estimate covering May and June production. | January..... | NA | NA. |
| | February..... | \$3,000 | NA. |
| | March..... | 3,000 | For January \$2,988. |
| | April..... | 3,000 | For February \$2,985. |
| | May..... | 3,000 | For March \$2,984. |
| | June..... | 3,000 | For May \$3,082. ¹ |
| | July..... | +200 3,200 | For June \$3,091. ¹ |

¹ A late-payment charge would be assessed for each of these 2 months because the amount of the actual liability exceeded the estimated royalty payment for the Federal or OCS lease. However, if the payor has made estimated royalty payments on all his federally-issued leases that in the aggregate equal or exceed the amount due in total, no late-payment charge would be assessed.

NOTE.—A late-payment charge would be assessed for each of these same months if the amount of the actual liability exceeded the estimated royalty payment on any Indian lease (or sub-lease).

Checks and any other royalty payments made by payors opting for the alternate 2-month cycle would be remitted in the same manner as for royalties presently paid for Federal, OCS, and Indian minerals lease production on the 1-month reporting and paying cycle. Estimated royalty payments would be distributed to the Federal Government and to the Indians in the same way as is currently prescribed.

This proposed procedure would supplement the existing royalty reporting/paying requirements that specify that royalty payments must be received by the last day of the month following production. It is recognized, however, that the optional payment procedure proposed in this notice may necessitate other procedural changes.

MMS therefore requests comments and suggestions for procedural streamlining as well as any comments

on the practicality of this proposed procedure. The notice to propose an alternate procedure for lessees/operators/payors of Federal, OCS, and Indian royalties is set forth below. The following is the text of the Alternate Procedure for Royalty Reporting and Paying.

List of Subjects in 30 CFR Parts 211, 221, 231, 250, 270

Mineral royalties.

Alternate Procedure for Royalty Reporting and Paying

The Director of the Minerals Management Service (MMS) has the authority to prescribe the manner in which royalty payments are remitted to the Federal Government and to the Indians in accordance with the pertinent provisions of the minerals operating regulations (30 CFR Parts 211, 221, 231, 250, 270) and the terms of the minerals leases and contracts issued pursuant to the Mineral Leasing Act, the Act of February 25, 1920 (30 U.S.C. 181 et seq.); the Acquired Lands Leasing Act of August 7, 1947 (30 U.S.C. 351 et seq.); the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.); the Outer Continental Shelf Lands Act (43 U.S.C. 1301 et seq.); the Allotted Lands Leasing Act of 1909 (25 U.S.C. 396); the Tribal Lands Leasing Act of 1938 (25 U.S.C. 396a); and Executive Order 12291 (46 FR 13193).

A voluntary, royalty payment method for payors of most minerals commodities is provided herein. *This method is made available to each payor as an option to the existing prescribed contractual payment method at the time that MMS transfers that payor's lease(s) accounts from the field accounting offices to the Accounting Center in Denver, Colorado.*

All payors choosing this alternate, voluntary payment will be required to remit an initial estimated on time, royalty payment for each specific lease (or sub-lease) account. For a payor converting a given lease (or sub-lease) from the regular 1-month payment schedule to the 2-month schedule, the initial estimated royalty would be paid as regularly due. That is, the estimated royalty payment would be remitted at the end of the first month after the end of the production month. On or before the last day of the following month, the report and actual royalty payment would be due, thus completing the 2-month schedule. Late-payment charges would only apply to the amount the estimated royalty failed to cover.

A payor who elects to use the 2-month report/pay method would be expected to use that method for all leases. Ordinarily this 2-month method will apply for 1-year periods (12 consecutive

production months) once elected by the payor. Once an estimated payment has been made, the payor need only increase or decrease the amount if price changes or his production forecasting warrants a change. However, the Deputy Director for Royalty Management or his designee reserves the right to review and change the amount required for any estimated royalty payment if it regularly falls below 95 percent of actual royalties due or if certain commodities or contracts warrant exception handling.

Procedures for this voluntary method are:

1. When MMS notifies a payor that his lease(s) (or sub-lease(s)) accounting records are being transferred to Denver, that payor may advise the Accounting Center that he wishes to use the voluntary 2-month report and pay plan.

2. The Accounting Center will then provide the payor with the instruction and format necessary for making such estimated payments. The payor will be responsible for calculating the estimated royalty amount due on a lease-by-lease basis for all his leases once he has elected to place them on the 2-month report/pay schedule.

3. A payor who elects this 2-month report/pay schedule can begin using it for the production month in which MMS transfers accounting for his leases to Denver. On this schedule, the initial estimated royalty payment(s) is thus due on the last day of the month after that production month. If the first estimated royalty payment is made later, because the 2-month schedule is elected later, the first reportable production month in the 2-month cycle becomes whatever month immediately precedes the month in which the estimated royalty payment is received in Denver.

Payor participation in this voluntary 2-month schedule is not available wherever such payments are prohibited by the terms of leases or statutes, or by the regulations of other Federal Agencies. Paying adjustments will be necessary either (1) whenever the estimated royalty payment does not equal or exceed 95 percent of the actual royalties due; or (2) if the payor is granted a return to the regular 1-month schedule; or (3) when the operator/lessee/payor ends production on a given lease or sub-lease.

Payors who elect this 2-month payment schedule shall maintain it for a minimum of 12 consecutive production months unless the Deputy Director for Royalty Management or his designee determines that circumstances warrant early abandonment of the plan. Ordinarily, the Accounting Center will review such a payor request before

authorizing a return to the regular 1-month reporting and paying schedule.

Dated: April 20, 1982.

Daniel N. Miller, Jr.,
Assistant Secretary of the Interior.

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Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 716 and 785

Prime Farmland: Interim and Permanent Regulatory Programs; Extension of Public Comment Period

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of extension of public comment period.

SUMMARY: On March 22, 1982 (47 FR 12310), OSM published proposed rules for public comment which would place a temporal limit on the prime farmland grandfather exemption contained in Section 510(d) of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 et seq. On April 12, 1982 (47 FR 15805), OSM extended the comment period on this rule to April 28, 1982. Since that publication and extension, OSM has received more requests to extend the public comment period. In order to ensure that all interested persons are afforded an adequate opportunity to comment, OSM is extending the comment period.

DATE: Written comments: The comment period on the proposed rules will extend until 5 p.m. (eastern time) on May 17, 1982.

ADDRESSES: Written Comments: Hand deliver to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (TSR-05), Room 5315, 1100 L Street, NW., Washington, D.C. 20240.

Public meetings: OSM offices in Washington, D.C.; Charleston, WV.; Knoxville, Tenn.; Indianapolis, Ind.; Pittsburgh, Pa.; Denver, Colo., and Springfield, Ill.

FOR FURTHER INFORMATION CONTACT: Donald F. Smith, Division of Engineering Analysis, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Ave., NW., Washington, D.C. 20240; 202-343-5945.