

make an assurance of payment or an advance payment unless:

(A) The Council estimates or determines that allowable charges that a requester may be required to pay are likely to exceed \$250. The Council will notify the requester of the likely cost and obtain satisfactory assurance of full payment where the requester has a history of prompt payment of FOIA fees, or require an advance payment of an amount up to the full estimated charges in the case of requesters with no history of payment; or

(B) A requester has previously failed to pay a fee charged in a timely fashion. The Council may require the requester to pay the full amount owed plus any applicable interest as provided in subsection 1101.4(b)(5)(iv) or demonstrate that he/she has, in fact, paid the fee, and to make an advance payment of the full amount of the estimated fee before the Council begins to process a new request or a pending request from that requester.

(C) When the Council acts under § 1101.4(b)(5)(vii) (A) or (B), the administrative time limits prescribed in subsection (a)(6) of the FOIA (i.e., 10 working days from receipt of initial requests and 20 working days from receipt of appeals from initial denial, plus permissible extensions of these time limits) will begin only after the Council has received the fee payments described.

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DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 202, 203, 206, 112, and 218

43 CFR Parts 3480

Coal Product Valuation; Reopening of Public Comment Period

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Proposed rule; Reopening of public comment period.

SUMMARY: The Minerals Management Service (MMS) is reopening the public comment period on its proposal to amend the product valuation regulations for coal. MMS is requesting additional public comment on specific issues.

DATES: MMS must receive comments by 4:00 p.m. M.S.T. on or before October 13, 1987.

ADDRESS: Requests for the materials mentioned herein and written comments

should be mailed to: Minerals Management Service, Royalty Management Program, Rules and Procedures Branch, Denver Federal Center, Building 65, P.O. Box 25165, Mail Stop 628, Denver, Colorado 80225, Attention: Dennis C. Whitcomb.

FOR FURTHER INFORMATION CONTACT: Dennis Whitcomb, Chief, Rules and Procedures Branch, telephone (303) 231-3432, (FTS) 326-3432.

SUPPLEMENTARY INFORMATION: On January 15, 1987, MMS issued a notice of proposed rulemaking to amend the product valuation regulations for coal (52 FR 1840). The original public comment period was 90 days. MMS subsequently reopened the comment period on July 9, 1987, for 14 days. (52 FR 25887). During the second comment period, MMS received some significant comments from principal interested parties raising issues which merit further consideration and response from the public. To allow for this further consideration, MMS is reopening the comment period for 60 days to give interested persons an opportunity to obtain from MMS copies of the comments described below and then to provide a response for MMS to consider in developing a final rulemaking.

One of the significant comments was submitted jointly on behalf of the coal and electric utility industries by the National Coal Association, Edison Electric Institute, American Mining Congress, American Public Power Association, National Rural Electric Cooperative Association, and the Western Fuels Association, Inc. The proposal submitted by these parties includes a comprehensive, section-by-section set of revisions to the MMS' January proposed rulemaking, including justification for the suggested modifications. The most significant revisions suggested by this comment is to remove the valuation standards contained in the proposed rules and substitute instead the concepts of "gross royalty value" and "net royalty value." Essentially, the industry would base royalty values on the Internal Revenue Code's (IRC) concept of "gross income from property" used for depletion calculations under IRC section 613 and implementing regulations. This "gross royalty value" would be increased by amounts for royalties and reduced by processing allowances and amounts based on Federal Black Lung excise taxes, Abandoned Mine Land fees and State and local taxes (such as severance taxes). The resulting figure would be the "net royalty value." This valuation starting point differs from the proposed MMS rules principally by excluding any

amounts received for State and local taxes, transportation from the lease to the delivery point, and any beneficiation. (Under the proposed MMS rules, allowances would be provided for some of these amounts.)

MMS intends to evaluate the industry proposal and compare its approach with the MMS proposal, including dollar impacts, ease of administration, and consistency with basic MMS valuation principles. To facilitate this review, MMS requests that interested persons review the entire industry proposal and provide responses. MMS is particularly interested in whether any States have considered the approach suggested in the industry proposal for State taxation purposes or for royalty purposes. Copies of the industry proposal are available from MMS at the address listed in the **ADDRESS** section of this notice.

MMS also received a brief response to the industry proposal from Governor Sullivan of Wyoming, questioning some of the basic concepts in that proposal such as whether it is not simpler to start from gross proceeds under arm's length contracts as proposed by MMS. MMS will provide copies of Governor Sullivan's comments with the industry proposal and would like to receive responses from industry and others regarding the questions raised by Governor Sullivan.

During the comment period, MMS also received a comprehensive set of section-by-section comments from Indian representatives. Although the Indian comments do not include a proposal as significantly different from the MMS proposed rules as the industry proposal, the Indian comments nevertheless raise a number of significant issues related to valuation for Indian leases such as the role of the Indian lessor in approving processing and transportation allowances. The MMS specifically requests further public comment on the various matters raised in the Indian comments. Copies are available from MMS at the address listed in the **ADDRESS** section of this notice.

Commenters are requested to be as specific as possible with their comments. Where practicable, the comment should identify the section of the MMS proposed rule, industry proposal, or Indian comments being addressed.

Date: August 6, 1987.

William D. Bettenberg,

Director, Minerals Management Service.

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