

Dated: July 18, 1984.

Robert E. Putz,  
Regional Director.

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### Minerals Management Service

#### Refund Procedures and Order to Pay Royalties

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Notice of Refund Procedures and Order to Pay Royalties.

**SUMMARY:** The purposes of this notice are to revise the Department of the Interior's Notice of Refund Procedures published in the Federal Register on April 25, 1984, and to require payors who have already deducted the amount to be refunded from their existing royalty obligations to repay that amount within 60 days.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Milton Dial, Chief, Royalty Compliance Division, FTS 326-3011 (303) 231-3011

Mr. James Detlefs, Acting Chief, Fiscal Accounting Division, FTS 326-3281 (303) 231-3281.

**SUPPLEMENTARY INFORMATION:** Payors of royalties on Federal and Indian leases who are due refunds as a result of the Supreme Court's decisions in *Interstate Natural Gas Association of America, et al. (INGA) v. The Federal Energy Regulatory Commission (FERC)* have been asked to file requests for refunds in accordance with instructions provided in 49 FR 17824, dated April 25, 1984. Until a payor has complied with these instructions, it cannot be found "to the satisfaction of the Secretary" that the payor has made an overpayment. See 43 U.S.C. 1339(a) and 1734(c). No payor may take a credit against its royalty obligation for overpayments under FERC Orders 93 and 93A until these instructions are followed.

#### Tolling Periods

For Outer Continental Shelf leases, the Department of the Interior (DOI) finds that the 2-year statute of limitations mandated in section 10 of the Outer Continental Shelf Lands Act (OCSLA) was tolled for all payors on November 9, 1983, with a letter to all payors (see appendix below). For payors who submitted requests prior to that date that met the requirements of a section 10 claim under the OCSLA, the statute of limitations will be tolled as of the date the DOI received the payor's

request. See Solicitor's Opinion M-36942, 88 I.D. 1090, 1100-02 (1981).

The end of the tolling period will be determined using criteria established in FERC's Federal Register notice of May 7, 1984, (49 FR 19293). For large payors (those who sold more than 10 Bcf of gas in 1983), the tolling period will expire on November 3, 1984, and for small payors (those who sold 10 Bcf or less of gas in 1983), the tolling period will expire May 3, 1985. MMS may extend the tolling period to the extent FERC extends its proceedings.

#### Modification of Part I Submission Requirements

Submission for Part I of refund applications from payors on onshore leases whose total refund request is \$25,000 or less need only provide the information requested in Items 1 and 3 of that part.

The DOI has determined that the information requested in Part I, Item 2, of DOI's April 25, 1984, notice should be changed. Instead of the information requested in Item 2, payors must provide a refund schedule denoting on a lease-by-lease basis, the following information:

(a) The sales quantity, sales value, and the royalty reported and paid to MMS on a dry, or as-delivered basis.

(b) The sales quantity, sales value and the royalty reported and paid on a saturated basis.

(c) The amount of royalty overpaid.

MMS auditors will select a sample of leases from the refund schedule for detailed audit. All necessary data regarding the sample of leases selected must be provided by the company to the MMS auditors to facilitate the audit.

All audit work including a determination of refund eligibility will be completed within 60 days of receipt of the refund schedule.

After its company-by-company review, specific instructions will be issued by MMS on how to report the refund request on Form MMS-2014.

All other requirements in DOI's notice of April 25, 1984, shall remain the same.

#### Order to Pay Royalties

Finally, MMS has learned that certain payors, without following these instructions, have already reduced their royalty payments by an amount equal to the refund they claim as a result of the decision in *INGA v. FERC*. This reduction of royalty payments is in violation of the lease, the regulations, and Associate Director Robert E. Boldt's letter of November 9, 1983. Any payor who has so reduced its royalty payment must repay the amount within 60 days of the date of this notice and order. MMS

will then calculate the interest owed to the Government. Failure to pay royalty within the time set in this order will be considered to be done knowingly and willfully. See 30 U.S.C. 1719(c)(1) and 43 U.S.C. 1350(c).

Dated: July 25, 1984.

Robert E. Boldt,  
Associate Director for Royalty Management.

#### Appendix

November 9, 1983.

Dear Payor: Please be advised that a final decision has not yet been rendered in the case of *Interstate Natural Gas Association of America, et al. v. Federal Energy Regulatory Commission*. Although the D.C. Circuit Court of Appeals denied a Petition for Rehearing in the case, a Final Order has not yet been issued. In addition, the FERC has directed its Solicitor's Office to request authority from the Department of Justice to file for *Certiorari* from the Supreme Court.

Until such time as a final order has been issued in the case, the Minerals Management Service (MMS) will not accept FERC Order 93 of 93A refund adjustments. MMS will notify payors of a final legal decision when it is rendered and provide specific instructions on procedures for claiming refunds in the event that the lower court ruling is upheld. Any Payor who has included FERC 93 or 93A refund adjustments in prior MMS-2014 reports, should reverse the adjustments in next month report.

Thank you for your cooperation on this matter. If you have any questions, please contact the Lessee Contact Branch of the Minerals Management Service at 303-231-3288.

Sincerely,

Robert E. Boldt,  
Associate Director for Royalty Management.

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#### Development Operations Coordination Document; Exxon Co., U.S.A.

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Notice of the receipt of a proposed development operations coordination document (DOCD).

**SUMMARY:** Notice is hereby given that Exxon Company, U.S.A. has submitted a DOCD describing the activities it proposes to conduct on Leases OCS 016 and 026, Blocks 30 and 31, West Delta Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Grand Isle, Louisiana.

**DATE:** The subject DOCD was deemed submitted on July 30, 1984.