

## ***Section 205 Delegable Functions Team Minutes - October 10&11, 1996***

### **Participants:**

Jim Detlefs, MMS  
Paul Kruse, Wyoming  
Maurice Lierz, Western States Land Commissioners Association  
Dave Loomis, STRAC  
Clare Onstad, MMS  
Bob Prael, MMS  
John Russo, MMS  
Dave Steiber, MMS  
Sherri Thompson, BLM  
Charles Whitsel, Western States Land Commissioners Association  
Cecelia Williams, MMS  
Sam Wilson, MMS

**Recorder: Dave Steiber**

### ***Old Business:***

Minutes of October 2, 1996, were approved.

Sam Wilson gave audit presentation. From the handouts, Sam discussed the following areas:

- Audit Coverage
- Audit Planning
- Audit Types
- Royalty Formula
- The Company Audit Process
- RSFA Changes

Enforcement/Appeals. Jim Detlefs stated the MMS position is that enforcement starts after issuance of an order, and includes issuing Notices of Noncompliance, final Department decisions on MMS or State orders, and deciding in coordination with DOJ on litigation matters. MMS believes these functions must remain with the Department.

### ***Follow-up on Action Items:***

#### **Letter to the Governors.**

- Mailing Lists. Clare Onstad presented a mailing list of Governors used in the past. It needs to be verified that it includes all states that receive money. Dave Loomis will contact STRAC members to decide who should be on the mailing list besides governors, e.g., governor appointees. Should others get their own copy or just a cc? Bob Prael will get the addresses of whom in the states receives the money from MMS. Data to finalize the mailing list is to be provided to Clare Onstad by October 21, 1996.

Content of Letter.

- Copy of statute and what we are doing.
- Ask for a point of contact.
- Show team members for a point of contact.
- Ask for feedback whether inspections be included in the MMS RSFA outreach forum, or should they be discussed at separate BLM outreach sessions.

Other items.

Some BLM offices have sent letters to governor's regarding inspections.

Clare Onstad will draft the letter and distribute for comments by October 17, 1996. Both MMS and BLM Directors will sign the letter.

Comments due to Clare Onstad by Monday, October 21, 1996.

Clare will have final draft by October 23, 1996.

Perhaps the MMS home page on the Internet can be used in providing information and status updates.

### ***SOL Coordination/Clarification:***

Jim Detlefs indicated that the MMS Director, desires to make the legal and major policy decisions on the issues raised by the team. The issues have been sent to MMS Headquarters, and there will be an internal MMS meeting to discuss and decide the issues soon.

It was agreed that the team would not spend time developing procedures on the function questions until the MMS policy calls are made, then the team will take it from there.

The Act sets up guidelines to the Department to issue the regulations with consultation with the states. The issues will be sorted out, then states can decide what they want to do if there are any disputed issues.

### ***Legislative History:***

Cecilia Williams handed out copies of the legislative history of RSFA including the Senate, House, and Floor comments. The team members should review these hand outs to see if there is anything worth noting on congressional intent.

### ***Preliminary Time Table:***

The following hand outs were provided:

- New Laws Affecting MMS/RMP Rulemaking
- PL 104-21, Subtitle E - Congressional Review

- Royalty Proposed and Final Rulemaking Flowcharts
- Chronology of Deep Water Relief Rulemaking

For the Deep Water Rulemaking through pre-coordination efforts, the OMB review period was cut down to ten days. It took four months for the first interim rule, and ten months for the second interim rule. The final rules are yet to be published.

It appears that if the average time is taken, that the August 13, 1997, date for a final rule may not be met. A proposed rule to MMS Headquarters by December 31, 1996, will be difficult due to holidays/vacations and arranging meetings with all the stakeholders that are involved. However, if we do our best with an optimistic schedule, then possibly everyone can live with it.

The team will develop a proposed schedule as to when it appears that a final rule can be published.

There was a discussion as to what constitutes a major rule. It appears the criteria is that a major rule is one that has at least a \$100 million impact on the economy. It is not known how the dollar impact is defined or determined. More information is needed as to what is impact and how it is determined. It appears that whether or not a rule is considered to be major impacts the effective date. If a rule is not considered major then it can be effective with the proposed effective date, even with Congressional review; however, Congress could still reject the rule. If is major then it will be effective after Congressional review, generally 60 days.

### ***New Business:***

MMS will be represented at the various IPAA sponsored Public Land and Royalty Seminars. Decisions will need to be made as to representation at the various other industry and state conferences.

### **Discussion of Assumptions:**

General agreement was reached on the following assumptions:

- States could be an agent for Federal account.
- Matching cash to report. (Check must equal report)
- Comply with existing reporting cycle.
- Comply with standard of reporting level (revenue source). Flexible if all parties agree.
- Standard Baseline - states do not have to maintain MMS tolerance levels. More can be done with same amount of money. States can use creativity.
- Volume variance analysis
- Value variance analysis
- Work with states to obtain more money if there is a positive cost/benefit ratio.

- Reporting changes transparent to industry, unless all affected parties agree to change.
- States and affected parties must agree to parameters.
- BLM database could be made available to MMS and the states.
- Whoever has authority to take the action is owner of the data, and only owner can update data.
- MMS needs access to all data, although summary information could be adequate in some cases.

**Needing clarification:**

- How much flexibility will there be for the states to use the money received in performing the functions, e.g., can under expenditure in one function be used to pay for over expenditure in another function?
- Can states take all or part or part of any function, i.e., only royalty and not rent or minimum royalty?

**Other matters:**

There was general discussion as to:

When the time comes, should this team break out into sub-teams for each segment with additional members to parallel this team?

What should we put into the procedures (regulations vs. contracts - what should be where) and the standards? How much flexibility do we have?

Bob Prael handed out statistics showing line and lease counts by state, and the money distributed to each state.

The next team meeting is scheduled for October 23 and 24, 1996. It will begin at 10:00 a.m. on October 23.

**Agenda for October 23 and 24, 1996 Meeting**

1. Old Business
  - Designate Recorder
  - Approve/revise minutes from last meeting
2. Follow-up on Action Items
  - Update on SOL/Policy Issues
  - Review/discuss draft letter to governors
  - Finalize to whom the letter should be sent to and mailing lists
  - Discuss the preliminary time table
  - Legislative history - any comments?
  - Continue with assumptions

3. New business

Discuss creating sub-teams to develop regulations/procedures

Develop objectives

Begin developing standards

Other items?

4. Summarize results of meeting

5. Schedule next meeting