operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ''**ADDRESSES.**''

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

BOEING: Docket 97–NM–55–AD.

Applicability: Model 777–200 series airplanes, as listed in Boeing Alert Service Bulletin 777–23A0027, dated February 13, 1997; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent overheating of the transformers of the overhead electronic units (OEU), which potentially could cause a fire in the transformer assembly and/or other electronic components of the OEU and could cause smoke to enter the passenger cabin, accomplish the following:

(a) Within 6 months after the effective date of this AD, replace OEU's having part numbers (P/N) 285W0029–3, 285W0029–3 MOD A, and 285W0029–3 MOD B, of the passenger address and entertainment communication systems with modified OEU's having P/N's 285W0029–5, 285W0029–5 MOD A, and 285W0029–5 MOD B, in accordance with Boeing Alert Service Bulletin 777–23A0027, dated February 13, 1997.

Note 2: Boeing Component Service Bulletin 285W0029–23–01, dated February 13, 1997, describes procedures for reworking OEU's having P/N's 285W0029–3, 285W0029–3 MOD A, and 285W0029–3 MOD B, to a configuration having a dash number –5, and a MOD level marking (if applicable).

(b) As of the effective date of this AD, no person shall install an OEU having P/N 285W0029–3, 285W0029–3 MOD A, or 285W0029–3 MOD B, on any airplane.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on March 31, 1997.

S. R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification 026Service.

[FR Doc. 97–8701 Filed 4–3–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 243

RIN 1010–AC08

Policy for Release of Third-Party Proprietary Information for the Administrative Appeals Process and for Alternative Dispute Resolution

AGENCY: Minerals Management Service, Interior.

ACTION: Proposed rulemaking.

SUMMARY: The Minerals Management Service (MMS) proposes to amend its regulations to authorize MMS by law to provide third-party proprietary information to appellants and entities involved in administrative appeals and other Alternative Dispute Resolution (ADR) when that information is the basis for an MMS assessment.

Presently, MMS cannot release third-party commercial or financial information (proprietary information) because release would violate the Trade Secrets Act which prohibits releasing proprietary information ''except as provided by law.'' This regulation will provide the authority by law to release the information. MMS' proposed rule would require that those receiving relevant proprietary information sign confidentiality and liability agreements before the agency releases the information.

DATES: Comments must be received on or before June 3, 1997.

ADDRESSES: Comments should be sent to: David S. Guzy, Chief, Rules and Publications Staff, Royalty Management Program, Minerals Management Service, P.O. 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 Colette Haines, Gregory Kann, Donna Luna, Cecelia Williams, and Sammy Wilson, MMS, and Howard Chalker, Office of the Solicitor.

I. General

Appellants sometimes request information MMS used to assess additional royalties. MMS presently

processes requests for such information under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, which authorizes MMS to withhold proprietary information. Exemption 4 of FOIA protects ''trade secrets and commercial or financial information obtained from a party and privileged or confidential.'' It protects submitters of proprietary information and other parties associated with such information from the competitive disadvantages of public disclosure.

MMS follows Exemption 4 of FOIA to determine if certain types of information fall within the scope of the Trade Secrets Act, since Exemption 4 and the Act are coextensive. *CNA Fin. Corp.* v. *Donovan*, 830 F.2d 1132, 1144–52 (D.C. Cir. 1987), *cert. denied*, 484 U.S. 977 (1988). Such business-related information as sales prices or values that producers or purchasers submit to MMS is commercial or financial information.

Information is privileged or confidential if it meets one of two tests:

(1) The submitter voluntarily submits the information to the Department but would not customarily release the information to the public;

(2) MMS requires the submitter to provide the information and release of that information could cause harm to the competitive position of the submitter. *Critical Mass Energy Project* v. *NRC*, 975 F.2d 871, 879, 880 (D.C. Cir. 1992), *cert. denied*, 113 S. Ct. 1579 (1993).

MMS believes that commercial or financial information less than 6 years old concerning the volume and value of the produced substance falls into these categories. While MMS does not believe that the release of either volume or value information alone would cause competitive harm, it seeks input on this issue through this rulemaking.

The requirement to submit such information rests on the lessee or its agent, such as an operator. When a purchaser voluntarily submits royalty information to MMS on behalf of a lessee, MMS evaluates the harm to the lessee and/or its agent as well as the purchaser.

Executive Order 12600 and the Department of the Interior's regulations implementing Exemption 4 require an agency to notify the submitter prior to releasing propriety information (43 CFR 2.15(d)). If the submitter provides valid objection to release, MMS must redact (delete) or otherwise withhold proprietary information before releasing the requested material.

There are numerous ways in which MMS uses third-party proprietary information in assessing additional royalties. For example, gas plant audits rely on proprietary information that third parties furnish. MMS understands that many submitters believe that release of this information could cause competitive harm to them.

Another example is an assessment based on major portion analysis, where MMS determines the highest price paid or offered for a major portion of oil or gas produced from a single field or area. Third parties, including lessees, operators, and purchasers, submit such information to MMS. The release of combinations of information, such as volume and value, could cause competitive harm to those third parties.

The Trade Secrets Act (Act), 18 U.S.C. 1905, prohibits MMS from releasing such information except as provided by law. The Act provides penalties of up to 1 year in jail, a $1,000 fine, and mandatory removal from the job for a Federal employee who discloses proprietary information without authorization.

However, the Act's prohibition on release is not absolute. Substantive regulations provide authorization for release. *Chrysler* v. *Brown*, 441 U.S. 281 (1979). This proposed rule would permit MMS to release third-party proprietary information to those appealing or attempting to settle assessments based on that information. This section does not address MMS' release of any other type of information.

Under the proposed regulation, MMS would inform the recipient of an assessment based on third-party commercial or financial information (proprietary information) that such information is available if the party signs confidentiality and liability agreements. These agreements would require that the recipient use the proprietary information only for reviewing and appealing or settling an MMS order. Also, the proprietary information would be available only to those individuals actually working on the appeal or a related ADR.

The agreements would require that the recipient accept all liability for wrongful disclosure. Further, at its discretion, MMS could require for good cause that the recipient of proprietary information meet more stringent standards than normally required.

The recipient of an MMS order has the right to appeal the order to the MMS Director, or to the Deputy Commissioner of Indian Affairs if the order relates to an Indian lease. MMS' proposed rule would require the appellant to request access to proprietary information before the expiration of the appellant's time to file a statement of reasons under 30 CFR Part 290.

MMS has determined that requiring the appellant to make its request early in the appeals process works best. For example, if an appellant were to request documents while MMS was preparing the Director's Decision, the agency would have to stop work on the decision to process the request. This would be a particular problem because of the 33-month limit for the Department to decide appeals imposed in the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996.

Additionally, if MMS were to furnish information immediately before the MMS Director issued a decision, the information would be useless because the appellant would not have time to use the information. Because the MMS order at issue would have notified the appellant that such information was available, there would be no reason to delay the appeals process simply because an appellant failed to promptly request information.

Under the proposed regulations, MMS would not release proprietary information after the expiration of appellant's time to file a statement of reasons under 30 CFR Part 290, except to facilitate ADR. MMS could release such information at any time during ADR under the terms of the proposed regulations.

Because judicial review of final agency action is limited to the administrative record, MMS could not provide a requestor with proprietary information after final agency action.

This rulemaking applies only to the disposition of relevant third-party proprietary information. It does not grant any rights to appellants to obtain admissions, depositions, or responses to interrogatories.

MMS specifically requests your comments, including rationale, on the following issues:

1. What type of information is proprietary? For how long after such information is generated does it remain proprietary? For example, when is the proprietary information no longer of value to the competition? Describe the competitive harm that release of this information would cause. Please be mineral specific. Identify the data elements on specific MMS forms that you would consider proprietary either on their own or in combination with other data elements. Does the release of either volume or value information without the other cause competitive harm?

MMS seeks mineral-specific comments because we believe that the release of information regarding one mineral may cause more competitive harm than for another. For example,

there is usually only one owner/operator/payor per coal mine or lease, as opposed to multiple such entities for an oil and gas lease. Therefore, MMS believes that release of coal production and royalty data is more likely to cause competitive harm than release of similar information on oil and gas. Further, because many coal contracts are long-term contracts, such information on coal may remain proprietary longer than for oil and gas.

2. When there is an appeal of an MMS order or ADR, should MMS release relevant proprietary information if the requester signs confidentiality and liability agreements?

3. Should MMS notify the submitters that the proprietary information has been requested?

4. Are the proposed safeguards of this rulemaking adequate to protect the submitter's interest? Are there additional safeguards that MMS should include in this rule?

5. Should this rule include release of relevant proprietary information needed to file appeals with the MMS Director or defend against civil penalties under 30 CFR Parts 241 or 251?

6. Should MMS restrict the proposed list of people allowed to review the relevant proprietary information further than the proposed rule requires?

7. Should MMS charge fees for the relevant proprietary information based on the fee schedule used for FOIA requests at 43 CFR Part 2?

As an aid to public participation in this rulemaking, comments received will be posted on the Internet at http://www.rmp.mms.gov.

II. Section-by-Section Analysis

Section 243.10 Definitions.

All proposed definitions in this section are self-explanatory.

Section 243.11 When must I request relevant third-party proprietary information?

The paragraphs in this part would provide time frames for filing a timely request for relevant third-party proprietary information. You would be required to file a request after you file a timely notice of appeal under 30 CFR 290.3(a)(1). You would submit a request after you file a timely notice but before the expiration of the time for filing a statement of reasons or anytime during ADR with MMS.

MMS would inform you when your order is based on third-party proprietary information and advise you of the request procedures under 30 CFR 243.12.

Section 243.12 How do I request relevant proprietary information?

This section would provide the procedures for requesting relevant proprietary information as well as the address of the MMS FOIA Officer.

Section 243.13 May MMS deny my request for relevant proprietary information?

This section would provide that the Associate Director for Royalty Management (AD/RM) can deny your request for relevant proprietary information for good cause. The AD/RM would deny your request if the information requested was not used in the order being challenged, or if it receives a request after the time frames outlined in § 243.11. The AD/RM could also deny the request if you have breached a previous confidentiality or liability agreement.

Section 243.14 May I appeal MMS's denial of my request for relevant proprietary information?

Paragraph (a) would provide that you could appeal MMS's denial of a request for relevant proprietary information as part of your appeal on the merits under 30 CFR Part 290 to the MMS Director or the Deputy Commissioner of Indian Affairs.

Paragraph (b) would provide that you could not appeal a denial of a request for relevant proprietary information while you are in ADR.

Section 243.15 What must I do before MMS will give me the relevant proprietary information?

Under the proposed regulation, you must sign confidentiality and liability agreements before MMS will provide relevant documents.

Paragraph (a) would require that your organization's Chief Operating Officer or equivalent sign the confidentiality and liability agreements. It would also require that the signing official have the authority to execute the agreement. These agreements must be notarized.

Paragraph (b) would require that under the confidentiality and liability agreements you must agree to accept all liability of any kind for wrongful disclosure or misuse of the proprietary information. Such liability includes, but is not limited to, liability to the Department; to the third party providing the information to MMS; and to the applicable lessee(s), lessor(s), and operator(s).

For example, assume that, on a lessee's behalf, a purchaser of oil and gas from a Federal or Indian lease submitted proprietary information to MMS, who in turn provided that information to an appellant under this section. The appellant would be responsible for any and all damages to the lessee, lessor, and purchaser for any violation of the confidentiality or liability agreements which caused harm to the competitive position of these parties. This would be true whether the lessee, lessor, or purchaser sought such damages from MMS or the appellant.

Paragraph (c) would require you to submit new confidentiality and liability agreements for each appeal unless MMS determines that the appeal can be covered by an existing agreement. MMS could determine that previous confidentiality and liability agreements for an appeal may cover a subsequent ADR.

Section 243.16 Do I pay a fee for the relevant proprietary information?

This section would require you to pay the billed amount that MMS charges you for producing the relevant proprietary information. For example, the MMS general administrative costs would include researching, copying, and producing data on magnetic tapes and computer disks, among other items. MMS would base these costs on the FOIA fees charged under 43 CFR Part 2. The bill would accompany the relevant proprietary information.

Section 243.17 What are my obligations and restrictions in using the relevant third-party proprietary information MMS provides?

This section would prohibit you from using third-party proprietary information to gain a competitive advantage over the submitter or other parties associated with the data, and to cause any other harm to the competitive position of the submitter.

Paragraph (a) would provide that you may use the proprietary information only to evaluate and challenge the relevant order.

Paragraph (b) would restrict access to the proprietary information to the specific individuals listed in this paragraph.

Paragraph (c) would require that those parties reviewing the proprietary information sign a certification statement attesting that they have read the confidentiality and liability agreements and that they agree to be bound by them.

Paragraph (d) would require you to maintain all certification statements and make them available to MMS upon request.

Paragraph (e) would require that you provide all certification statements to the MMS FOIA Officer within 30 days after:

(1) the Department issues a final nonappealable decision, or

(2) you and MMS conclude ADR with a final agreement, or

(3) you withdraw the appeal or request for ADR.

Paragraph (f) would require you to identify any third-party proprietary information if you use the relevant proprietary information in an appeal or during ADR.

Paragraph (g) would require that you return the documents as outlined in § 243.20.

Paragraph (h) would require you to be bound by the minimum confidentiality requirements under this regulation whether or not they are set forth in the confidentiality agreement.

Section 243.18 May MMS require me to meet more stringent confidentiality standards than those minimum requirements under this regulation?

This section would advise you that for good cause MMS could hold you to more stringent standards and explain in writing why they are necessary. One example of good cause would be an appellant's failure to comply with previous confidentiality and/or liability agreements.

MMS might also determine that in some cases the company officials directly involved in the appeal would also be involved in that company's day-to-day decision making. Their access to third-party proprietary information could cause competitive harm to the submitter of, or other parties associated with, that information. In these cases, MMS could limit review of proprietary information to outside counsel or consultants.

Section 243.19 Am I relieved of the confidentiality and/or liability agreements and all liability after the appeal process or the ADR process is over?

This section would advise that you must always comply with the terms of the confidentiality and liability agreements even after:

(1) the Department issues a final nonappealable decision, or

(2) you and MMS conclude ADR with a final agreement, or

(3) you withdraw the appeal or request for ADR.

You will continue to be liable for any damage resulting from your wrongful disclosure of the proprietary information.

Section 243.20 What do I do with the relevant proprietary information after the appeal process or the ADR process is over?

This section would advise you of the proper disposition of the relevant proprietary information.

Section 243.21 What happens if I don't return the relevant proprietary information?

This section would require appropriate sanctions if you fail to return the relevant proprietary information.

III. Procedural Matters

The Regulatory Flexibility Act

The Department certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. § 601 *et seq.*). The proposed rule will provide the authorization by law for MMS to provide appellants with documents furnished by third parties and which contain proprietary information that MMS used to calculate an order.

Executive Order 12630

The Department certifies that the rule does not represent a governmental action capable of interference with constitutionally protected property 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 does not meet the criteria for a significant rule requiring review by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988

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

Paperwork Reduction Act

This rule has been examined under the Paperwork Reduction Act of 1995 and contains no reporting and information collection requirements.

Unfunded Mandate 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 Part 243

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Petroleum, Public lands—mineral resources.

Dated: March 27, 1997.

Bob Armstrong,

Assistant Secretary—Land and Minerals Management.

For the reasons set out in the preamble, we propose to amend 30 CFR Part 243 by adding the following:

PART 243—APPEALS—ROYALTY MANAGEMENT PROGRAM

Subpart B—Release of Relevant Third-Party Proprietary Information

1. The authority citation for part 243 is revised to read as follows:

Authority: 5 U.S.C. 301 *et seq.*; 25 U.S.C. 396 *et seq.*, 396a *et seq.*, 2101 *et seq.*; 30 U.S.C. 181 *et seq.*, 351 *et seq.*, 1001 *et seq.*, 1701 *et seq.*; 31 U.S.C. 9701; 43 U.S.C. 1301 *et seq.*, 1331 *et seq.*, 1801 *et seq.*

2. Subpart B is added to read as follows:

Subpart B—Release of Relevant Proprietary Third-Party Information

Sec.

243.10 Definitions.
243.11 When must I request relevant third-party proprietary information?
243.12 How do I request relevant proprietary information?
243.13 May MMS deny my request for relevant proprietary information?
243.14 May I appeal MMS's denial of my request for relevant proprietary information?
243.15 What must I do before MMS will give me the relevant proprietary information?
243.16 Do I pay a fee for the relevant proprietary information?
243.17 What are my obligations and restrictions in using the relevant proprietary information MMS provides?
243.18 May MMS require me to meet more stringent confidentiality standards in some cases?

243.19 Am I relieved of the confidentiality and liability agreements and all liability after the appeals process or the ADR process is over?
243.20 What do I do with the relevant proprietary information after the appeals process or the ADR process is over?
243.21 What happens if I don't return the relevant proprietary information?

§ 243.10 Definitions.

Alternative dispute resolution means using methods other than litigation to settle disputes. These methods may include mediation, arbitration, settlement negotiation, minitrials, conciliation, fact finding, and facilitation.

Appellant means a person with an administrative appeal of an order from the Minerals Management Service, pending under 30 CFR 290 or 30 CFR 241.51(a)(4). For purposes of this subpart only, an appellant also includes a person involved in alternative dispute resolution (ADR) with MMS.

Proprietary information means commercial or financial information obtained from a third party and privileged or confidential.

Relevant proprietary information means any proprietary information a third party furnished and that MMS used to issue and support an order. If MMS did not rely on the information for the challenged order, then it is not relevant proprietary information. Public information is not relevant proprietary information.

Third-party means any party other than the appellant or the Department.

You means the person requesting the information and the employer.

§ 243.11 When must I request relevant proprietary information?

(a) You may obtain relevant proprietary information when MMS informs you that an order you received is based on such information, advises you of the request procedures under 30 CFR 243.12, and receives your timely request for such information. You may obtain relevant proprietary information only at the time provided in this section.

(b) If you timely appeal an MMS order under 30 CFR 241.51(a)(4) or 30 CFR 290, you may timely request relevant proprietary information from MMS until the expiration of the time to file your statement of reasons.

(c) If you are in ADR, you may request relevant proprietary information until a final settlement is reached or ADR is terminated.

§ 243.12 How do I request relevant proprietary information?

(a) You must send a written request for relevant proprietary information to: Minerals Management Service, Royalty Management Program, Freedom of Information Act Officer, Re: Request for Relevant Proprietary Information, P.O. Box 25165 MS 3062, Denver, Colorado 80225–0165.

Overnight courier address: Minerals Management Service, Royalty Management Program, Denver Federal Center, Building 85, Denver, Colorado 80225.

(b) In your request:

(1) Identify the relevant proprietary information you are requesting; and

(2) Include the MMS Appeal Docket Number (if available); and

(3) Identify any existing confidentiality and liability agreements you have under this part and advise if they are related to this request.

§ 243.13 May MMS deny my request for relevant proprietary information?

The Associate Director for Royalty Management (AD/RM) will deny your request if the requested information is not relevant proprietary information or if the request is received after the timeframes outlined in § 243.11. The AD/RM also may deny the request if you have breached a previous confidentiality or liability agreement or for other good cause.

§ 243.14 May I appeal MMS's denial of my request for relevant proprietary information?

(a) Except as provided in paragraph (b) of this section, if MMS denies your request for relevant proprietary information, you may appeal that denial as part of your appeal on the merits under 30 CFR part 290. If MMS denies your request in whole or in part after the date your statement of reasons is due in your appeal, you may file a supplemental statement of reasons. You must file this supplement within 60 days after you receive notice that MMS denies your request.

(b) You cannot appeal a denial for a request for relevant proprietary information during ADR.

§ 243.15 What must I do before MMS will give me the relevant proprietary information?

(a) Your organization's Chief Operating Officer or equivalent official must sign the MMS confidentiality and liability agreements. In the agreements, the signing official also must attest to having the authority to sign them. These agreements must be notarized.

(b) You must agree under the confidentiality and liability agreements to accept all liability of any kind for wrongful disclosure or misuse of the proprietary information. Such liability includes, but is not limited to, liability to the Department, or the Indian lessor, the third party providing the proprietary information, and the applicable lessee(s) and operator(s).

(c) You must submit new confidentiality and liability agreements for each appeal or ADR unless MMS determines that existing agreements cover the appeal or ADR. For example, if you obtained relevant proprietary information through the appeals process, some or all provisions of your original confidentiality and liability agreements may cover a subsequent ADR.

§ 243.16 Do I pay a fee for the relevant proprietary information?

You must pay the amount MMS charges you for the administrative cost of providing the relevant proprietary information. The charges are based on the fees used for Freedom of Information Act (FOIA) requests at 43 CFR Part 2. MMS will send you the bill with the relevant proprietary information.

§ 243.17 What are my obligations and restrictions in using the relevant proprietary information MMS provides?

(a) You may use relevant proprietary information only for evaluating and challenging the relevant order.

(b) Only the following persons may review the relevant proprietary information:

(1) Your counsel and persons directly assisting your counsel in preparing the relevant appeal or associated ADR; and

(2) Those persons in your employ directly preparing the appeal or ADR.

(c) You must ensure that before any person reviews the relevant proprietary information they:

(1) Sign and date the certification statement attesting that they have read and understand the confidentiality and liability agreements; and

(2) Agree to be bound by them.

(d) You must maintain all certification statements and provide them to the MMS FOIA Officer upon request.

(e) You must provide all certification statements to the MMS FOIA Officer within 30 days after:

(1) The Department issues a final decision;

(2) You and MMS conclude ADR with a final agreement; or

(3) You withdraw the appeal or request for ADR.

(f) You must state on the front of any appeal or ADR document that it contains relevant proprietary information. You also must identify the relevant proprietary information on each page or record.

(g) You must return the documents as provided in § 243.20.

(h) You are bound by these minimum requirements whether or not they are set forth in the confidentiality agreement.

§ 243.18 May MMS require me to meet more stringent confidentiality standards in some cases?

MMS, at its discretion, may advise you in writing that it will hold you to more stringent standards. For example, MMS may require that only outside counsel review relevant proprietary information if you have breached a previous confidentiality and/or liability agreement, or if you are a direct competitor of the submitter of the third-party proprietary information.

§ 243.19 Am I relieved of the confidentiality and liability agreements and all liability after the appeals process or the ADR process is over?

You must comply with the terms of the confidentiality and liability agreements even after the appeals process or the ADR process is completed. For example, if a final decision is reached through the administrative process or ADR, or you withdraw your appeal or ADR request, you will continue to be liable for any damage resulting from your wrongful disclosure of the proprietary information.

§ 243.20 What do I do with the relevant proprietary information after the appeals process or the ADR process is over?

(a) You must return all relevant proprietary information to the MMS FOIA Officer at the address in § 243.12 (a), along with all copies, excerpts, or summaries of such information, within 60 days after:

(1) The Department issues a final decision;

(2) You and MMS conclude ADR with a final agreement; or

(3) You withdraw the appeal or request for ADR.

§ 243.21 What happens if I don't return the relevant proprietary information?

You will be subject to appropriate sanctions including civil penalties under 30 CFR Part 241 if you fail to return the relevant proprietary information.

[FR Doc. 97–8689 Filed 4–3–97; 8:45 am]

BILLING CODE 4310–MR–P

30 CFR Parts 202 and 216

RIN 1010–AC23

Amendments to Standards for Reporting and Paying Royalties on Gas and the Gas Analysis Report

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Proposed rulemaking.

SUMMARY: The Minerals Management Service proposes to amend its regulations requiring operators in the Gulf of Mexico Region to report gas at the standard conditions of 14.73 psia (instead of 15.025 psia) and adjusted to 60 degrees Fahrenheit. This change will make the regulations consistent with proposed changes to 30 CFR Part 250.

MMS also proposes to change the requirement for submitting Form MMS–4055, Gas Analysis Report (GAR), from a semiannual basis to submitting a GAR when requested by MMS. This reduction of reporting will help satisfy the requirements of the Paperwork Reduction Act of 1995 by eliminating reports that are no longer used.

DATES: Comments must be received on or before May 5, 1997.

ADDRESSES: Comments should be sent to: David S. Guzy, Chief, Rules and Procedures Staff, Royalty Management Program, Minerals Management Service, P.O. 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. Comments received will be posted on the Internet at http://www.rmp.mms.gov.

SUPPLEMENTARY INFORMATION: We are limiting the comment period to 30 days because this proposal is a minor wording change to the existing regulations, and it parallels the proposed offshore rule.

The intention of the amendments is to keep the regulations in parts 202 and 216 relating to royalty consistent with those relating to offshore minerals management and to reduced reporting requirements on the public.

MMS is seeking comments on the applicable industry standards and practices regarding the pressure at which gas should be measured. Please comment on whether reporting gas measurement at the standard pressure of 14.73 psia is appropriate or whether some other pressure should be adopted.

The principal author of this proposed rulemaking is Lawrence K. Barker of the Compliance Verification Division, Lakewood, Colorado.

Regulatory Flexibility Act

The Department certifies that this proposed rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. § 601 *et seq.*). This proposed rule would revise RMP's rules for reporting gas at the same standards as Offshore Minerals Management's rules.

Executive Order 12630

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

Paperwork Reduction Act

This proposed rule has been examined under the Paperwork Reduction Act of 1995; no new reporting and information collection requirements are included. The current information collection requirements have been approved by the Office of Management and Budget (OMB) under 44 U.S.C. § 3501 *et seq.*, and assigned Clearance Number 1010–0040.

Executive Order 12866

This proposed rule does not meet the criteria for a significant rule requiring review by OMB.

Executive Order 12988

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

Unfunded Mandate Reform Act of 1995

The Department has determined and certifies that this proposed 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 proposed rulemaking is not a major Federal action significantly affecting the quality of the human environment, and a detailed statement under section 192(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)) is not required.

List of Subjects

30 CFR Part 202

Coal, Continental shelf, Geothermal energy, Government contracts, Indian