

Posted on Fri, Apr. 04, 2003

Interior deputy participated in meetings on oil and gas leases

By Don Thompson
ASSOCIATED PRESS

SACRAMENTO - As the No. 2 official at the Interior Department, former energy lobbyist J. Steven Griles participated in meetings on oil and gas leases off Florida and California in which his firm's former clients had huge financial stakes, his appointment calendars show.

In September 2001, two months after his Senate confirmation, Griles participated in the first of at least four meetings with his Interior Department colleagues about a Chevron natural gas project in the Gulf of Mexico, according to calendars obtained by the Associated Press and environmental groups under the Freedom of Information Act.

Before Griles was confirmed by the Senate, Chevron USA Inc. was paying Griles' firm, National Environmental Strategies Inc., \$80,000 to lobby the Interior Department where he was about to become deputy secretary, according to reports that Griles' firm filed with Congress.

The four meetings were part of a lengthy legal battle that ended with the Bush administration paying Chevron \$46 million to abandon its planned Destin Dome 56 project. One of the wells would have been drilled just 30 miles from Florida beaches. Griles attended Bush's Oval Office announcement of the decision, which provided a boost to the Florida re-election campaign of the president's brother, Florida Gov. Jeb Bush.

Interior Department spokesman Mark Pfeifle defended Griles, saying he has acted ethically.

As a condition of his Senate confirmation, Griles had promised to refrain for a year from involvement in any issue in which one of his former clients or employers had an interest.

Griles insisted he personally did no lobbying for Chevron despite being registered as lobbying the Interior Department on "oil and gas exploration and production issues" on Chevron's behalf.

After inquiries by the AP, Griles's former lobbying partner and longtime friend Marc Himmelstein, who signed the forms, said the firm plans to change each of three lobbying reports it filed with Congress to remove Griles' name.

One of the lobbying firm's principals, John Northington, said he performed all the work for Chevron. Northington served 7 1/2 years in the Clinton administration at the Energy and Interior departments.

While he is at the Interior Department, Griles is receiving four payments of \$284,000 annually from his former firm, which was co-founded by former Republican National Chairman Haley Barbour. The money is for Griles' work to bring in so many clients.

Pfeifle said the Chevron settlement was negotiated by career employees who "saved the taxpayers more than \$285 million" because Chevron and other oil companies sued the government for far more than they collected.

Griles also participated in at least 10 meetings regarding 36 oil and gas leases off the California coast.

Griles was a registered lobbyist for Shell Oil Co. and its subsidiary Cal Resources through 1997 and served as an expert witness on behalf of Shell, Chevron and other oil companies being sued for alleged fraud regarding royalty payments to the government. He also lobbied for Devon Energy, which has a 30 percent share in one of the California leases.

Shell has a major financial stake in the California leases through its ownership share in Aera Energy. Aera wants \$772 million in federal reimbursement for its investment in 19 leases, the largest share of the \$1.2 billion leaseholders are seeking because California has blocked development of the leases.

Interior Secretary Gale Norton announced Monday the Bush administration would not ask the U.S. Supreme Court to review district and appellate court decisions upholding California's oversight of the leases. That now sets up a possible federal agreement to buy back the California leases from the oil companies, as the Bush administration did with Chevron.

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United States Department of the Interior

MINERALS MANAGEMENT SERVICE
Washington, DC 20240



FEB 27 2003

Mr. Jay Norman
State of New Mexico
Taxation and Revenue Department
Oil and Gas Bureau
1200 South Street Francis Drive
Santa Fe, New Mexico 87509

Re: MMS Royalty Enforcement Policy Guidelines for Federal Leases

Dear Mr. Norman:

Thank you for your letter of January 15, 2003, explaining your objections, on behalf of the State and Tribal Royalty Audit Committee (STRAC) to the royalty enforcement guidelines applicable to Federal leases that I issued and approved on October 15, 2002. I regret that there appear to be some misunderstandings regarding the guidelines, and I am pleased to have the opportunity to respond to the concerns you expressed and the legal arguments raised.

Your letter discusses the seven-year statute of repose applicable to royalties owed on oil and gas produced from Federal leases after September 1, 1996, enacted as part of the Federal Oil and Gas Royalty Simplification and Fairness Act (RSFA).¹ The guidelines I issued in October apply only to production to which RSFA does not apply — namely, oil and gas produced from Federal leases before September 1, 1996, and minerals other than oil and gas.²

The January 15, letter proceeds on two basic premises that are not expressly stated. These are: (1) the fact that RSFA is of only prospective effect somehow prohibits MMS from issuing administrative guidelines about audits and enforcement for pre-RSFA periods that take into account the time period involved; and (2) if a pre-RSFA limitations period (*i.e.*, under 28 U.S.C. 2415(a)) could be longer than 7 years, MMS cannot issue administrative guidelines about audits and enforcement that take into account time periods short of what the limitations period may be in a particular case. I cannot agree with either of these assumptions.

¹ See Section 4 of Pub. L. No. 104-185, 110 Stat. 1700, 1705, adding a new section 115(b) to the Federal Oil and Gas Royalty Management Act (FOGRMA), codified as 30 U.S.C. 1724(b).

² The guidelines do not address Indian leases, which therefore are not involved here.

With respect to the first premise, we agree that RSFA applies prospectively and not retroactively. Contrary to the arguments made in the letter, however, MMS is not making RSFA retroactive. Nor (in the words of the letter) is MMS "legislat[ing] its own 7 year statute of limitations applicable to audits, orders, demands, and appeals not covered by RSFA". MMS has no authority to legislate anything, including a statute of limitations. Legislation is a function constitutionally reserved to Congress.

The fact that RSFA was prospective in application does not prohibit MMS from adopting an appropriate enforcement policy for periods to which RSFA does not apply, or from deciding where to focus limited audit and enforcement resources according to the time period involved. MMS has the authority to decide how far back its audit and enforcement efforts should go, and MMS is perfectly within its rights to adopt a policy of going back seven years for pre-1996 periods as a general matter if it believes it appropriate to do so.

With respect to the second premise, the fact that a limitations period for a pre-RSFA or non-oil and gas royalty claim under 28 U.S.C. 2415(a) and 2416(c) may be longer than seven years in any given case does not mean the government is obligated to focus pre-RSFA enforcement efforts on old periods or disregard the lapse of long periods of time. Nor does the government's disagreement with the Tenth Circuit's reasoning in the *Oxy* statute of limitations case³ mean that MMS cannot take into account the time period involved in deciding where it will focus its efforts.⁴

The letter also asserts (p. 3) that applying the guidelines to orders to perform a restructured accounting "is inconsistent with the fact that the statute of limitations, if one exists, is tolled once audit is initiated [footnote citation to *Phillips Petroleum Co. v. Lujan*, 963 F.2d 1380 (10th Cir. 1992)] . . ." This misconstrues applicable Tenth Circuit precedents. First, the cited decision, often known as "*Phillips II*," is inapposite. That case involved only document production and retention, to which the statute of limitations was held inapplicable. It did not involve an order to pay money or to recompute and pay.

Second, the applicable Tenth Circuit precedent, *Phillips Petroleum Co. v. Lujan*, 4 F.3d 858 (10th Cir. 1993) (often known as "*Phillips III*") does not stand for the proposition that

³ *Oxy USA, Inc. v. Rabbitt*, 268 F.3d 1001 (10th Cir. 2001), reversing *en banc* 230 F.3d 1178 (10th Cir. 2000).

⁴ The letter also asserts at p. 3, that the *Oxy* decision "applies only to judicial actions initiated by the Department to collect royalty debts." That is not a complete statement of the holding of that case. The *en banc* majority specifically held that 28 U.S.C. 2415(a) applies to administrative orders to pay royalty and not just to judicial actions. However much the government may disagree with the Tenth Circuit's analysis, it is, at least for the present, the controlling precedent in that Circuit.

initiating an audit tolls the running of a limitations period under 28 U.S.C. 2415(a) that was running before an audit. *Phillips III* holds that if facts material to a claim for royalties are not reasonably knowable in the absence of an audit, section 2416(c) tolls the running of the limitations period for a reasonable time to begin and conduct an audit. After that time has expired, the limitations period begins to run.⁵ The effect of *Phillips III* is that the government has a reasonable time to begin and conduct an audit (whatever that may be under the circumstances) plus six years in which to assert a claim for unpaid royalty. When the audit is actually conducted is irrelevant. The limitations period may have begun to run by the time an audit actually is conducted because it was started after a reasonable time had passed; but if a claim is asserted within six years of whenever the limitations period began to run, it is timely, regardless of when the audit was initiated.

Contrary to the statement in the letter (p. 2), the congressional intent for prospective periods expressed in RSFA is not a "legal justification for the policy." The policy is an exercise of audit and enforcement discretion, and would be valid even in the absence of RSFA. However, I do believe that the congressional policy underlying the RSFA provision is a very appropriate policy justification for the guidelines. If it is appropriate as a matter of policy to extend back seven years, under ordinary circumstances, for production after September 1, 1996, it would seem equally appropriate as a matter of policy to do so for periods before September 1, 1996. MMS was not obligated to choose this particular policy, but I believe it is certainly reasonable.

The guidelines are a policy presumption regarding how MMS and its delegates should focus their enforcement efforts. They are not a legal absolute, and I believe they contain more than enough flexibility to meet circumstances where it is appropriate to go back further than seven years. The guidelines are not a rule, and MMS does not claim that they have the force and effect of law. Therefore, APA notice-and-comment procedures are neither required nor appropriate in the circumstances. The guidelines are my exercise of discretion in where the agency will focus its enforcement efforts.

Nor are the guidelines a question of audit standards that FOGRMA section 205(d), 30 U.S.C. 1735(d), as amended by RSFA section 3, requires to be promulgated by rule. The technical and professional standards for audit methodology, records, reporting procedures, report and data processing, etc., remain unchanged. Again, the guidelines are an exercise of enforcement discretion.

The January 15, letter concludes (at p. 4) with an expression of concern about the Department's supposed "current attitude toward State and Tribal participation in the royalty audit

⁵ The Tenth Circuit did not specify what constitutes a reasonable period to conduct an audit; it held only that it could not in any case exceed six years in view of FOGRMA document retention requirements at 30 U.S.C. 1713(b) as it then read (before RSFA).

program." I can assure you that the Department has always been, and remains, very positive about our cooperative audit efforts, and I do not believe that anything in the guidelines indicates otherwise. The letter states that "State and Tribal audit programs are not a subdivision of the Federal bureaucracy. Instead, each STRAC jurisdiction represents an independent and sovereign government." The letter further asserts that "[b]ecause of their expertise and more direct financial interest . . . Congress wanted the States and Tribes to be active participants and watchdogs over the federal collection of revenues owed to their jurisdictions, not passive subordinates of a Federal bureau . . ." I discuss these arguments here because they appear to be based on a misunderstanding of the legal relationship between the States and the United States in the context of audits of royalty payments on Federal leases under 30 U.S.C. 1735. I believe it would be helpful to clarify this question so that the States and MMS are not working from different conceptual models of that relationship. In doing so, I hope to avoid the unnecessary misunderstandings and conflicts that otherwise are likely to result.

While State and tribal governments clearly "are not a subdivision of the Federal bureaucracy," in the letter's expression, the States are MMS' agents in the context of Federal royalty audits. From a legal point of view, the State audit programs for Federal leases effectively are a functional subdivision of MMS. The States do not have a property interest in Federal leases⁶, and have no property right to any portion of lease revenues. Instead, the States receive a portion of Federal lease revenues by virtue of an indefinite appropriation that can be changed by statutory amendment at the discretion of Congress.⁷ The State does not derive its authority to audit royalty payments under Federal leases from the State's constitution or state law. It derives that authority solely by virtue of the delegation entered into under Federal law (30 U.S.C. 1735) enacted for the management of Federal property. Nor does that delegation grant to the State a portion of the executive power of the United States — something that Congress could not constitutionally do. The delegation effectively employs the State's auditors as agents of the Federal agency. The State audit program is subject to Federally-prescribed standards and supervision, and, indeed, is paid for by Federal funds.

MMS always seeks to work in cooperation with the States so that effective efforts are maximized, and both the States and the Federal government benefit thereby. But contrary to the statement in the letter, the State's financial "interest" is not "more direct" than the Federal government's. Indeed, the opposite is true. A State's financial interest is entirely derivative of the Federal interest. While Congress, in FOGRMA, recognized that the States have an incentive to participate in delegated Federal audits because the State would benefit financially from the audit effort, Congress evidenced no intent to make the States "watchdogs" over the Federal

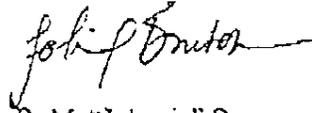
⁶ *New Mexico v. United States*, 831 F.2d 265 (Fed. Cir. 1987).

⁷ *E.g.*, 30 U.S.C. 191(a) (Mineral Leasing Act); 43 U.S.C. 1337(g)(2) (Outer Continental Shelf Lands Act).

collection of revenues in any legal sense. The States have no authority to supervise or direct Federal collection of revenues from Federal property interests, or to dictate how the Federal government is to go about the collection and enforcement process. We undertake every effort, and many times bend over backwards, to resolve disagreements between a State and MMS. But if a disagreement between a State and MMS ultimately turns out to be unresolvable, MMS' view necessarily must control. This is not a matter of any adverse attitude, because our attitude toward the State audit programs, as I have said before, is highly positive and is one of great respect and appreciation. It is simply a matter of law.

We have tremendous respect for the States' audit programs and expertise, which has been demonstrated over many years, and the relationship between the States and MMS has been highly mutually beneficial. We want it to continue and to improve still further.

Sincerely,



R. M. "Johnnie" Burton
Director

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Terms: **interior w/4 department w/100 technical w/2 amendment! or correction and date(aft 1999)** ([Edit Search](#))

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67 FR 19109, *

FEDERAL REGISTER

Vol. 67, No. 75

Rules and Regulations

DEPARTMENT OF THE INTERIOR (DOI)

Minerals Management Service (MMS)

30 CFR Parts 201, 206, 212, 216, 217, 218, 219, 220, 227, 228, 230, 241, and 243

RIN 1010-AC87

Technical Amendments

67 FR 19109

DATE: Thursday, **April** 18, 2002

ACTION: Final rule.

To view the next page, type .np* TRANSMIT.

To view a specific page, transmit p* and the page number, e.g. p*1

[*19109]

SUMMARY: The MMS is updating its regulations to reflect changes in our organization name, system names, handbook titles, addresses, and regulatory cites as well as correcting miscellaneous clerical errors. We are also removing certain parts of the CFR relating to laws that have been repealed. These technical amendments will make MMS regulations more accurate and useful.

EFFECTIVE DATE: This rule is effective April 18, 2002.

FOR FURTHER INFORMATION CONTACT: Carol P. Shelby, Regulatory Specialist, Minerals Management Service, Minerals Revenue Management, P.O. Box 25165, MS 320B2, Denver, Colorado 80225-0165; telephone (303) 231-3151; FAX (303) 231-3385; e-mail Carol.Shelby@mms.gov.

SUPPLEMENTARY INFORMATION: This final rule contains **technical amendments** that will make MMS regulations more accurate and useful. The **Department of the Interior** finds good cause to issue this rule without notice and opportunity for public comment. Public comment is unnecessary because this rule contains **technical amendments** that relate to (1) agency administration and, thus, do not affect the regulated community or (2) regulations rendered null and void by subsequent legislation over which MMS has no control. For the same reasons, a 30-day period is not required between publication of the final rule and its effective date under 5 U.S.C. 553(d). All of the amendments in this rule are covered in the following seven categories:

Organization Name

In October 2000, the MMS Royalty Management Program was reorganized and renamed Minerals Revenue Management. To reflect this change, we have removed all references to the Royalty Management Program wherever it occurs in our regulations. The change in organization name necessarily affected the title of our Associate Director which we also corrected in this rule.

System Names

In October 2001, we implemented our reengineered financial and compliance computer system. To reflect this change, we have removed all references to our former computer systems-the Auditing and Financial System (AFS) and the Production Accounting and Auditing System (PAAS)-wherever they occur in our regulations.

Handbook Titles

In October 2001, we began using revised handbooks to reflect our reengineered reporting requirements. Thus, we revised references to previous handbook titles such as the Oil and Gas Payor Handbook, the PAAS Onshore Oil and Gas Reporter Handbook, and the PAAS Reporter Handbook-Lease, Facility/Measurement Point, and Gas Plant Operators wherever they occur in our regulations. We also replaced specific titles with the more generic terms, revenue reporter handbook and production reporter handbook, in order to minimize future regulatory revisions.

Addresses

On February 11, 2002, the Office of Hearings and Appeals moved their office location to a new street address in Arlington, Virginia. In part 241, we corrected the street address to read 801 North Quincy Street wherever necessary.

Regulatory Cites

Over a number of years, various sections, and paragraphs within sections, have been renumbered and often re-titled as our regulations were amended. Because regulatory amendments occur quite frequently, we have changed our cross-references to refer readers, in most cases, to specific parts rather than the sections or paragraphs within the parts. We believe this practice will minimize the need for future regulatory changes. For example, rather than refer the reader to 30 CFR 210.53, which may not exist after a pending revision becomes effective, we have generalized the cross-reference to read "part 210 of this chapter."

Miscellaneous Corrections

We are also taking this opportunity to make miscellaneous corrections such as the name of a subsequently amended law and certain spelling errors.

Regulations Repealed by Law

We removed part 230 because it pertains to refunds under Section 10 of the Outer Continental Shelf Lands Act (43 U.S.C. 1339). Section 10 was repealed by the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 (30 U.S.C 1732 note) effective August 13, 1996. Procedures for requesting Section 10 refunds before and after repeal are contained in chapter 6 of our revenue reporter handbook.

Procedural Matters

1. Summary Cost and Benefit Data

This is an MMS administrative action that imposes no monetary costs or benefits on industry, the Federal Government, State and local governments, or Indian tribes and allottees. The cost and benefit information in this Item 1 of Procedural Matters is used as the basis for the Departmental certifications in Items 2-12.

2. Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of \$ 100 million or more on the economy. **[*19110]** It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues.

3. Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant adverse effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

4. Small Business Regulatory Enforcement Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

- a. Does not have an annual effect on the economy of \$ 100 million or more.
- b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.
- c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

5. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$ 100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

6. Takings (Executive Order 12630)

In accordance with Executive Order 12630, this rule does not have significant takings implications. This rule does not impose conditions or limitations on the use of any private property; consequently, a takings implication assessment is not required.

7. Federalism (Executive Order 13132)

In accordance with Executive Order 13132, this rule does not have Federalism implications. This rule does not substantially or directly affect the relationship between the Federal and State governments or impose costs on States or localities.

8. Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

9. Paperwork Reduction Act of 1995

This rule does not contain any new or changed information collections, as defined by the Paperwork Reduction Act, that must be submitted to the Office of Management and Budget for approval.

10. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required.

11. Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, this rule does not have tribal implications that impose substantial direct compliance costs on Indian tribal governments.

12. Energy Effects

Under Executive Order 13211, this rule is not a significant regulatory action and will not have a significant adverse effect on energy supply, distribution, or use. A Statement of Energy Effects is not necessary.

List of Subjects

30 CFR Part 201

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

30 CFR Part 206

Coal, Continental Shelf, Geothermal energy, Government contracts, Indian lands, Mineral

royalties, Natural gas, Petroleum, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 212

Coal, Continental Shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Petroleum, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 216

Coal, Continental Shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Penalties, Petroleum, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 217

Coal, Continental Shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Petroleum, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 218

Coal, Continental Shelf, Electronic funds transfers, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Penalties, Petroleum, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 219

Coal, Continental Shelf, Electronic funds transfers, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Petroleum, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 220

Coal, Continental Shelf, Geothermal energy, Government contracts, Mineral royalties, Natural gas, Petroleum, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 227

Coal, Continental Shelf, Geothermal energy, Government contracts, Mineral royalties, Natural gas, Petroleum, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 228

Coal, Continental Shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Penalties, Petroleum, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 230

Coal, Continental Shelf, Electronic funds transfers, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Penalties, Petroleum, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 241

Coal, Continental Shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, **[*19111]** Penalties, Petroleum, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 243

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

Dated: March 26, 2002.

Rebecca W. Watson,

Assistant Secretary for Land and Minerals Management.

For reasons stated in the preamble, MMS amends 30 CFR parts 201, 206, 212, 216, 217, 218, 219, 220, 227, 228, 230, 241, and 243, as follows:

PART 201--GENERAL

1. The authority citation for part 201 continues to read as follows:

Authority: The Act of February 25, 1920 (30 U.S.C. 181, *et seq.*), as amended; the Act of May 21, 1930 (30 U.S.C. 301-306); the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351-359), as amended; the Act of March 3, 1909 (25 U.S.C. 396), as amended; the National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*) as amended; the Act of May 11, 1938 (25 U.S.C. 396a-396q), as amended; the Act of February 28, 1891 (25 U.S.C. 397), as amended; the Act of May 29, 1924 (25 U.S.C. 398); the Act of March 3, 1927 (25 U.S.C. 398a-398e); the Act of June 30, 1919 (25 U.S.C. 399), as amended; R.S. § 441 (43 U.S.C. 1457), see also Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41); the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471, *et seq.*), as amended; the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), as amended; the Act of December 12, 1980 (Pub. L. 96-514, 94 Stat. 2964); the Combined Hydrocarbon Leasing Act of 1981 (Pub. L. 97-78, 95 Stat. 1070); the Outer Continental Shelf Lands Act (43 U.S.C. 1331, *et seq.*), as amended; section 2 of Reorganization Plan No. 3 of 1950 (64 stat. 1262); Secretarial Order No. 3071 of January 19, 1982, as amended; and Secretarial Order 3087, as amended.

§ 201.100 -- [Amended]

2. In § 201.100, in the section heading, remove the word "Royalty" and add in its place "Minerals Revenue."

PART 206--PRODUCT VALUATION

3. The authority citation for part 206 continues 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.*, and 1801 *et seq.*

§ 206.52 -- [Amended]

4. In § 206.52, paragraph (e)(2), second sentence, remove the word "Royalty" and add in its place "Minerals Revenue."

§ 206.103 -- [Amended]

5. In § 206.103, paragraph (b)(2)(iii), remove the words " Oil and Gas Payor Handbook" and add in its place "revenue reporter handbook."

§ 206.152 -- [Amended]

6. In § 206.152, paragraph (e)(3), second sentence, remove the word "Royalty" and add in its place "Minerals Revenue."

§ 206.153 -- [Amended]

7. In § 206.153, paragraph (e)(3), second sentence, remove the word "Royalty" and add in its place "Minerals Revenue."

§ 206.250 -- [Amended]

8. In § 206.250, paragraph (c), remove the word "Mineral" and add in its place "Minerals."

§ 206.352 -- [Amended]

9. In § 206.352, paragraph (e)(3), second sentence, remove the word "Royalty" and add in its place "Minerals Revenue."

§ 206.355 -- [Amended]

10. In § 206.355, paragraph (e)(3), second sentence, remove the word "Royalty" and add in its place "Minerals Revenue."

§ 206.356 -- [Amended]

11. In § 206.356, paragraph (d)(3), second sentence, remove the word "Royalty" and add in its place "Minerals Revenue."

PART 212--RECORDS AND FILES MAINTENANCE

12. The authority citation for part 212 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.*, and 1801 *et seq.*

§ 212.51 -- [Amended]

13. In § 212.51, paragraph (a), last sentence, remove the words "for use in its Auditing and Financial System (AFS) and Production Accounting and Auditing System (PAAS)."

§ 212.351 -- [Amended]

14. Amend § 212.351 as follows:

a. In paragraph (a), last sentence, remove the words "for use in its AFS and Production Accounting and Auditing System."

b. In paragraph (c), first sentence, remove the word "Royalty" and add in its place "Minerals Revenue."

PART 216--PRODUCTION ACCOUNTING

15. The authority citation for part 216 continues to read as follows:

Authority: 5 U.S.C. 301 *et seq.*; 25 U.S.C. 396, 2107; 30 U.S.C. 189, 190, 359, 1023, 1751 (a); 31 U.S.C. 3716, 9701; 43 U.S.C. 1334, 1801 *et seq.*; and 44 U.S.C. 3506(a).

§ 216.6 -- [Amended]

16. Amend § 216.6 as follows:

- a. In the definition of "Associate Director," remove the word "Royalty" and add in its place "Minerals Revenue."
- b. Remove the definition of "MMS/RMP."
- c. Remove the definition of "Production Accounting and Auditing System (PAAS)."
- d. In the definition of "reporter," remove the word "PAAS" and add in its place "production."

§ 216.15 -- [Amended]

17. Amend § 216.15 as follows:

- a. In paragraph (a), first sentence, remove the words "a PAAS Reporter Handbook' and a PAAS Onshore Oil and Gas Reporter Handbook," and add in their place "the production reporter handbook."
- b. In paragraph (a), second sentence, remove the words "Reporter Handbooks are" and add in their place "reporter handbook is." Also remove the words "Royalty Management Program" and add in their place "Minerals Revenue Management."
- c. In paragraph (b), first sentence, remove the words "these handbooks" and add in their place "the handbook."
- d. In paragraph (b), last sentence, remove the word "handbooks" and add in its place "handbook."

§ 216.16 -- [Amended]

18. Amend § 216.16 as follows:

- a. In paragraph (a), remove the word "Mineral" and add in its place "Minerals." Also, remove the words "Royalty Management Program" and add in their place "Minerals Revenue Management."
- b. In paragraph (b), remove the words "Royalty Management Program" and add in their place "Minerals Revenue Management."

§ 216.21 -- [Amended]

19. In § 216.21, second sentence, remove the words "Production Accounting and Auditing System Reporters Handbook" and add in their place "production reporter handbook."
[*19112]

§ 216.30 -- [Amended]

20. In § 216.30, last sentence, remove the year "1980" and add in its place the year "1995."

PART 217--AUDITS AND INSPECTIONS

21. The authority citation for part 217 continues to read as follows:

Authority: 35 Stat. 312, 35 Stat. 781, as amended; secs. 32, 6, 26, 41 Stat. 450, 753, 1248; secs. 1, 2, 3, 44 Stat 301, as amended; secs. 6, 3, 44 Stat. 659, 710; secs. 1, 2, 3, 44 Stat. 1057; 47 Stat. 1487; 49 Stat. 1482, 1250, 1967, 2026; 52 Stat. 347; sec. 10, 53 Stat. 1196, as amended; 56 Stat. 273; sec. 10, 61 Stat. 915; sec. 3, 63 Stat. 683; 64 Stat. 311; 25 U.S.C. 396, 396a-f, 30 U.S.C. 189, 271, 281, 293, 359. Interpret or apply secs. 5, 5, 44 Stat. 302, 1058, as amended; 58 Stat. 483-485; 5 U.S.C. 301, 16 U.S.C. 508b, 30 U.S.C. 189, 192c, 271, 281, 293, 359, 43 U.S.C. 387, unless otherwise noted.

§ 217.200 -- [Amended]

22. In § 217.200, in the first, third and last sentences, remove the word "Royalty" and add in its place "Minerals Revenue."

PART 218--COLLECTION OF ROYALTIES, RENTALS, BONUSES AND OTHER MONIES DUE THE FEDERAL GOVERNMENT

23. The authority citation for part 218 continues to read as follows:

Authority: 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.A. 3335; 43 U.S.C. 1301 *et seq.*, 1331 *et seq.*, 1801 *et seq.*

§ 218.51 -- [Amended]

24. Amend § 218.51 as follows:

a. In paragraph (g)(1), first sentence, remove the cross-reference "30 CFR 243.2, Suspensions of orders or decisions pending appeal," and add in its place "part 243 of this chapter."

b. In paragraph (h)(2), remove the cross-reference "30 CFR 241.20 and 241.51" and add in its place "part 241 of this chapter."

§ 218.53 -- [Amended]

25. Amend § 218.53 as follows:

a. In paragraph (b), second sentence, remove the words " Oil and Gas Payor Handbook," and add in their place "revenue reporter handbook."

b. In paragraph (b), third sentence, remove the cross-reference "30 CFR 210.53" and add in its place "part 210 of this chapter."

§ 218.102 -- [Amended]

26. In § 218.102, paragraph (b), first sentence, remove the paragraph designations "(f)(1) and (f)(2)" after the cross-reference "§ 218.51."

§ 218.150 -- [Amended]

27. In § 218.150, paragraph (c), first sentence, remove the paragraph designations "(f)(1) and (f)(2)" after the cross-reference "§ 218.51."

§ 218.151 -- [Amended]

28. In § 218.151, paragraph (c), second sentence, remove the word "segregation" and add in its place "segregation."

§ 218.155 -- [Amended]

29. Amend § 218.155 as follows:

a. In paragraph (a), first sentence, remove the words "of this part" after the cross-reference "§ 218.51."

b. In paragraph (d)(3), remove the paragraph designations "(f)(1) and (f)(2)" after the cross-reference "§ 218.51."

§ 218.202 -- [Amended]

30. In § 218.202, paragraph (b), first sentence, remove the paragraph designations "(f)(1) and (f)(2)" after the cross-reference "218.51" and add a section symbol before "218.51."

§ 218.302 -- [Amended]

31. In § 218.302, paragraph (b), first sentence, remove the paragraph designations "(f)(1) and (f)(2)" after the cross-reference "§ 218.51."

PART 219--DISTRIBUTION AND DISBURSEMENT OF ROYALTIES, RENTALS, AND BONUSES

32. The authority citation for part 219 continues to read as follows:

Authority: Section 104, Pub. L. 97-451, 96 Stat. 2451 (30 U.S.C. 1714).

§ 219.102 -- [Amended]

33. In § 219.102, last sentence, remove the words "Royalty Management Program" and add in their place "Minerals Revenue Management."

PART 220--ACCOUNTING PROCEDURES FOR DETERMINING NET PROFIT SHARE PAYMENT FOR OUTER CONTINENTAL SHELF OIL AND GAS LEASES

34. The authority citation for part 220 continues to read as follows:

Authority: Sec. 205, Pub. L. 95-372, 92 Stat. 643 (43 U.S.C. 1337).

§ 220.011 -- [Amended]

35. In § 220.011, paragraph (c)(1), first sentence, remove the word "furnish" and add in its place "furnished."

PART 227--DELEGATION TO STATES

36. The authority citation for part 227 continues to read as follows:

Authority: 30 U.S.C. 1735, 30 U.S.C. 196; Pub. L. 102-154.

§ 227.103 -- [Amended]

37. In § 227.103, first sentence, remove the word "Royalty" and add in its place "Minerals Revenue."

§ 227.110 -- [Amended]

38. In § 227.110, paragraph (b), second sentence, and paragraph (e), remove the word "Royalty" and add in its place "Minerals Revenue."

§ 227.401 -- [Amended]

39. In § 227.401, paragraph (f), remove the words "the PAAS Onshore Oil and Gas Reporter Handbook, the PAAS Reporter Handbook-Lease, Facility/Measurement Point, and Gas Plant Operators" and add in their place "the production reporter handbook."

§ 227.501 -- [Amended]

40. In § 227.501, paragraph (c), remove the words "into the Auditing and Financial System (AFS) and the Production Accounting and Auditing System (PAAS)."

PART 228--COOPERATIVE ACTIVITIES WITH STATES AND INDIAN TRIBES

41. The authority citation for part 228 continues to read as follows:

Authority: Sec. 202, Pub. L. 97-451, 96 Stat. 2457 (30 U.S.C. 1732).

§ 228.6 -- [Amended]

42. In § 228.6, in the definition of "audit," last sentence, remove the words "the Auditing and Financial System and the Production Accounting and Auditing System."

PART 230--RECOUPMENTS AND REFUNDS [Removed and Reserved]

43. Remove and reserve Part 230-Recoupments and Refunds.

PART 241--PENALTIES

44. The authority citation for part 241 is revised to read as follows:

Authority: 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.*; 43 U.S.C. 1301 *et seq.*, 1331 *et seq.*, 1801 *et seq.*

§ 241.54 -- [Amended]

45. In § 241.54, first sentence, remove the words "4015 Wilson Boulevard," and add in their place "801 North Quincy Street." **[*19113]**

§ 241.56 -- [Amended]

46. In § 241.56, paragraph (b), remove the words "4015 Wilson Boulevard," and add in their place "801 North Quincy Street."

§ 241.62 -- [Amended]

47. In § 241.62, first sentence, remove the words "4015 Wilson Boulevard," and add in their place "801 North Quincy Street."

§ 241.64 -- [Amended]

48. In § 241.64, paragraph (b), remove the words "4015 Wilson Boulevard," and add in their place "801 North Quincy Street."

PART 243--SUSPENSIONS PENDING APPEAL AND BONDING-- MINERALS REVENUE MANAGEMENT

49. The authority citation for part 243 continues 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.*, and 1801 *et seq.*

50. Revise the heading of part 243 to read as set forth above.

§ 243.3 -- [Amended]

51. In § 243.3, in the definition of "MMS bond-approving officer," remove the word "Royalty" and add in its place "Minerals Revenue."

[FR Doc. 02-9242 Filed 4-17-02; 8:45 am]

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66 FR 8768

FEDERAL REGISTER

Vol. 66, No. 23

Rules and Regulations

DEPARTMENT OF THE INTERIOR (DOI)

Assistant Secretary for Indian Affairs

Bureau of Indian Affairs (BIA)

25 CFR Part 115

RIN 1076-AE00

Trust Management Reform: Leasing/Permitting, Grazing, Probate and Funds Held in Trust

66 FR 8768

DATE: Friday, **February 2, 2001**

ACTION: Final rule; technical amendment.

SUMMARY: The **Department of the Interior**, Bureau of Indian Affairs (BIA) today is making a **technical amendment** to its rulemaking published on January 22, 2001, regarding Trust Funds for Tribes and Individual Indians. *In formatting explanatory charts for publication, the question which refers to a particular chart regarding sources of money that will be accepted for deposit into a trust account was inadvertently omitted from the published regulation. The **technical amendment** is to simply include this question to appropriately make reference to the explanatory chart that has been published. This question is included in the table of contents and was in the copy of the regulation placed on public display before publication.*

EFFECTIVE DATE: March 23, 2001.

FOR FURTHER INFORMATION CONTACT: Duncan L. Brown, Office of the Secretary, U.S. Department of the Interior, 1849 C Street, NW, MS 7229 MIB, Washington, DC 20240, Telephone: 202/208-4582.

SUPPLEMENTARY INFORMATION: This technical amendment simply includes a question, already included in the table of contents, for part 115 of "Trust Management Reform: Leasing/Permitting, Grazing, Probate and Funds Held in Trust," as published on January 22, 2001, 66 FR 2068, that was inadvertently omitted from the text of the rule. We, therefore, insert this question for § 115.702 between the two charts that now follows § 115.701 as this omitted question for § 115.702 pertains to (and explains) the second chart only. Pursuant to 5 U.S.C. 553(b), public comment is not required for this technical amendment as this amendment does not make any substantive regulatory change and simply promotes administrative efficiency and corrects an inadvertent omission of text. Pursuant to 5 U.S.C. 553(d), the rulemaking will take effect immediately for good cause as the omission of the question for § 115.702 would only confuse the public and defeat the efficiency of the rulemaking.

List of Subjects in 25 CFR Part 115

Administrative practice and procedure, Indians-business and finance.

For the reasons stated in the preamble, the Department of the Interior, Bureau of Indian Affairs, Amends 25 CFR part 115 as follows:

PART 115--[AMENDED]

1. The authority citation for part 115 continues to read as follows:

Authority: R.S. 441, as amended, R.S. 463, R.S. 465; 5 U.S.C. 301; 25 U.S.C. 2; 25 U.S.C. 9; 43 U.S.C. 1457; 25 U.S.C. 4001; 25 U.S.C. 161(a); 25 U.S.C. 162a; 25 U.S.C. 164; Pub. L. 87-283; Pub. L. 97-100; Pub. L. 97-257; Pub. L. 103-412; Pub. L. 97-458; 44 U.S.C. 3010 *et seq.*

2. The second chart in § 115.701 is redesignated as § 115.702 and the section leading and introductory text are added preceding the chart to read as follows:

§ 115.702 -- What specific sources of money will be accepted for deposit into a trust account?

We must accept proceed on behalf of tribes or individuals from the following sources:

* * * * *

Dated: January 26, 2001.

James McDivitt,

Deputy Assistant Secretary--Indian Affairs.

[FR Doc. 01-2737 Filed 2-1-01; 8:45 am]

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57 FR 26996

DEPARTMENT OF THE INTERIOR

Minerals Management Service

AGENCY: Minerals Management Service, Interior.

30 CFR Part 250

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

57 FR 26996

June 17, 1992

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the consolidated offshore operating rules which were published on Friday, April 1, 1988 (53 FR 10596). The correcting amendments relate to the installation, testing, and repair requirements for the Department of the Interior pipelines contained in § 250.153.

EFFECTIVE DATE: June 17, 1992.

FOR FURTHER INFORMATION CONTACT: Wanda Stepanek, Offshore Regulatory Liaison, Engineering and Standards Branch, telephone (703) 787-1600.

TEXT:

SUPPLEMENTARY INFORMATION: The final rule published by the **Minerals Management Service** (MMS) in the Federal Register on April 1, 1988 (53 FR 10596), consolidated and restructured within 30 CFR part 250 various existing rules contained in the regulations, Outer Continental Shelf Orders, and Notices to Lessees and Operators. The promulgation of that rule resulted in an error in the sequential numbering of paragraphs that is being corrected by this action.

The MMS is issuing this **technical amendment** of 30 CFR part 250 as a final rule under the authority of the Outer Continental Shelf Lands Act, as amended.

Need for Correction

As published, the final regulations at § 250.153 contain an error that may prove to be misleading and is in need of clarification.

Author: This document was prepared by Wanda Stepanek, Engineering and Standards

Branch, MMS.

List of Subjects in 30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Public lands -- mineral resources, Public lands -- rights of way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Dated: June 8, 1992,

Richard Roldan,

Deputy Assistant Secretary, Land and Minerals Management.

Accordingly, 30 CFR part 250 is corrected by making the following correcting amendments:

PART 250 -- OIL AND GAS AND SULPHUR OPERATION IN THE OUTER CONTINENTAL SHELF

1. The authority citation for part 250 continues to read as follows:

Authority: Sec. 204, Pub. L. 95-372, 92 Stat. 629 (43 U.S.C. 1334).

§ 250.153 [Amended]

2. In § 250.153, redesignate paragraph (c)(4) as paragraph (b)(4).
[FR Doc. 92-14130 Filed 6-16-92; 8:45 am]

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Oil Daily April 5, 2002 Friday

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Oil Daily

April 5, 2002 Friday

SECTION: FEATURE STORIES

LENGTH: 464 words

HEADLINE: MMS Head Vows to Look Into Controversial Oil Valuation Rule

BODY:

The director of the Minerals Management Service (MMS) on Friday left the door open for possibly changing a Clinton-era regulation that used downstream prices to assess the amount of royalties to be paid by companies drilling in federal lands.

The oil valuation rule was highly controversial about two years ago, when Republican congressmen sympathetic to the oil industry locked horns with the Clinton administration to block its implementation. The rule was eventually implemented about a year ago but has been challenged in court by the industry.

"If there are points of real controversy that contradict the goal I will look into it," said Rejane "**Johnnie**" **Burton**, who assumed charge of MMS just last month. "It's really too soon to tell."

Burton said the agency will look into the controversy over the "duty-to-market" provision that formed the core of the MMS rule. The rule promoted by the previous Clinton administration drew a storm of criticism in the industry for forbidding allowances for all marketing costs.

Industry officials contend that if royalties are to be determined at the point of sale rather than at the lease or wellhead, then the cost of transporting, gathering, and storing oil should be added on to the price of oil. A recent court decision on the duty-to-market issue over natural gas royalties partly went against the industry.

As for the litigation on the oil valuation rule, Burton said it rests with the US Solicitor General in the Justice Department.

On the issue of taking royalties in kind (RIK) from companies instead of cash, another controversial issue, Burton said she is "enthusiastic with some caveats" over the RIK program, now being implemented in select areas. The oil industry has been urging the MMS to switch to the RIK mechanism for some time now.

"It is difficult for staff to turn into marketers," Burton said, pointing out that switching to RIK would mean that MMS staff would have to market the oil paid as royalties by the companies to the government. "I'm not sure it is entirely possible," she said.

Burton said RIK needs to be examined in a case-by-case basis. "I don't think I want it to be mandatory," she said, adding that the agency needs a "much stronger feel for the RIK program before we make it mandatory."

Stressing that the MMS will carry out the directives of the White House energy plan to the letter, Burton said MMS was participating in a task force to expedite permitting for oil and gas exploration and development. Similarly for offshore drilling, an interagency proposal for streamlining regulation would be released in September.

She also said the MMS would provide incentives to encourage offshore drilling. "If our economy is to grow, we need to produce more," Burton added.

Manimoli Dinesh

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