

Subpart F—Coal [Reserved]

Subpart G—Other Solid Minerals [Reserved]

Subpart H—Geothermal Resources

SOURCE: 56 FR 57286, Nov. 8, 1991, unless otherwise noted.

§ 212.350 Definitions.

Terms used in this subpart shall have the same meaning as in 30 CFR 206.351.

§ 212.351 Required recordkeeping and reports.

(a) *Records.* Each lessee, operator, revenue payor, or other person shall make and retain accurate and complete records necessary to demonstrate that payments of royalties, rentals, and other amounts due under Federal geothermal leases are in compliance with laws, lease terms, regulations, and orders. Records covered by this section include those specified by lease terms, notices, and orders, and those identified in paragraph (c) of this section. Records also include computer programs, automated files, and supporting systems documentation used to produce automated reports or magnetic tapes submitted to MMS for use in its AFS, or in its Production Accounting and Auditing System.

(b) *Period for keeping records.* All records pertaining to Federal geothermal leases shall be maintained by a lessee, operator, revenue payor, or other person for 6 years after the records are generated unless the recordholder is notified, in writing, before the expiration of that 6-year period that records must be maintained for a longer period for purposes of audit or investigation. When an audit or investigation is underway, records shall be maintained until the recordholder is released by written notice of the obligation to maintain records.

(c) *Access to records.* The Associate Director for Royalty Management shall have access to all records in the possession of the lessee, operator, revenue payor, or other person pertaining to compliance with royalty obligations under Federal geothermal leases (re-

gardless of whether such records were generated more than 6 years before a request or order to produce them and they otherwise were not disposed of), including, but not limited to:

(1) Qualities and quantities of all products extracted, processed, sold, delivered, or used by the operator/lessee;

(2) Prices received for products, prices paid for like or similar products, and internal transfer prices; and

(3) Costs of extraction, power generation, electrical transmission, and by-product transportation.

(d) *Inspection of Records.* The lessee, operator, revenue payor, or other person required to keep records shall be responsible for making the records available for inspection. Records shall be made available at a business location of the lessee, operator, revenue payor, or other person during normal business hours upon the request of any officer, employee, or other party authorized by the Secretary. Lessees, operators, revenue payors, and other persons will be given a reasonable period of time to produce records.

Subpart I—OCS Sulfur [Reserved]

PART 215—ACCOUNTING AND AUDITING STANDARDS [RESERVED]

PART 216—PRODUCTION ACCOUNTING

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Subpart I—Indian Land [Reserved]

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. 3716, 3720A, 9701; 43 U.S.C. 1301 *et seq.*, 1331 *et seq.*, 1801 *et seq.*

SOURCE: 51 FR 8175, Mar. 7, 1986, unless otherwise noted.

Subpart A—General Provisions

§ 216.1 Purpose.

The purpose of this part is to ensure that the Federal Government receives proper information regarding energy and mineral resources removed from Federal and Indian leases and federally approved agreements, including the Outer Continental Shelf (OCS).

§ 216.2 Scope.

This part governs the reporting of oil, gas, and solid minerals operations information on Federal and Indian leases or federally-approved agreements including leases or agreements on the OCS. This part also governs the reporting of other operational information associated with production from Federal and Indian leases or federally-approved agreements when such operations occur prior to the point of sale or royalty determination, whichever is

applicable. Reporters are required to submit certain production reports to MMS as set forth in this part.

[58 FR 45254, Aug. 27, 1993]

§ 216.6 Definitions.

For purposes of this part:

Agreement means a binding arrangement between two or more parties purporting to the act of agreeing or of coming to a mutual arrangement that is accepted by all parties to a transaction (e.g., communitizations, unitization, gas storage, or compensatory royalty agreements.).

Alaska Native Corporation means a corporation created pursuant to the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*).

Approved mining plan as used in this part means an approved resource recovery and protection plan (43 CFR 3480.5) or approved mining plan (43 CFR 3572.1).

Associate Director means the Associate Director for Royalty Management of the MMS.

Facility means a structure(s) used to store or process Federal or Indian mineral production prior to or at the point of royalty determination.

Federal lease means a lease concerning minerals owned by the United States and includes a lease where an Alaska Native Corporation receives all or part of the royalties accruing from that lease, and the MMS has not waived administration of that lease.

First purchaser means any entity receiving the lease production in a first transfer for value transaction.

Gas means any fluid, either combustible or noncombustible, which is extracted from a reservoir and which has neither independent shape nor volume, but tends to expand indefinitely; a substance that exists in a gaseous or rarefied state under standard temperature and pressure conditions.

Indian lease means a lease concerning lands or interest in lands of an Indian Tribe or an Indian allottee, his heirs or devisees, held in trust by the United States or which is subject to Federal restriction against alienation, including mineral resources and mineral estates reserved to an Indian Tribe or an Indian allottee, his heirs or devisees thereto in the conveyance of a surface

or non-mineral estate, except that such term does not include any lands subject to the provisions of section 3 of the Act of June 28, 1906 (34 Stat. 539).

Lease means any contract, profit-share arrangement, joint venture, permit, or other agreement issued or approved by the United States under a mineral leasing law that authorizes exploration for, extraction of, or removal of oil, gas, or solid minerals—or the land area covered by that authorization, whichever is covered by the context.

Lessee means any person to whom the United States, an Indian Tribe, or an Indian allottee, issues a lease, or any person who has been assigned an obligation to make royalty or other payments required by the lease.

MMS/RMP means the Royalty Management Program of the Minerals Management Service.

Measurement device means a mechanical or electrical device that is used to measure production of oil, gas, or solid minerals for sales, transfers, and/or royalty determination.

Mine means an underground or surface excavation or series of excavations and the surface or underground support facilities that contribute directly or indirectly to mining, production, preparation, and handling of coal or other solid minerals.

Mineral Leasing Law means any Federal law administered by the Secretary authorizing the disposition under lease of oil, gas, or solid minerals.

Oil means any fluid hydrocarbon substance other than gas which is extracted in a fluid state from a reservoir and which exists in a fluid state under the existing temperature and pressure conditions of the reservoir. Oil includes liquefiable hydrocarbon substances such as drip gasoline or other natural condensates recovered in a liquid state from gas.

Operator means any person, including a lessee who has control of, or who manages operations on, any oil and gas or solid minerals lease site on Federal (including the OCS) or Indian lands. "Operator" also means any entity engaged in the business of developing, drilling for, producing, transporting, purchasing, selling, or processing oil, gas or solid minerals and/or which has

the responsibility of reporting production from a lease or a portion thereof.

Outer Continental Shelf (OCS) has the same meaning as provided in section 2 of the Outer Continental Shelf Lands Act, 43 U.S.C. 1331.

Person means any individual, firm, corporation, association, partnership, consortium or joint venture.

Production Accounting and Auditing System (PAAS) means an integrated system of manual and automated processes for minerals production reporting, accounting, and auditing. Based upon production reports submitted by reporters, the PAAS will track oil, gas, and solid minerals produced from or allocated to Federal and Indian leases, including the OCS, from the source of production to the point of disposition with emphasis on the point of royalty determination, or point of sale, whichever is applicable.

Raw make means natural gas liquids (NGL's) that are extracted from the wet gas stream at a gas plant (e.g., ethane through natural gasoline) which sometimes is transferred to a fractionation plant for further processing.

Reporter means any reporting entity required to submit a PAAS report or form to the MMS.

Secretary means the Secretary of the Interior or his/her designee.

Solid minerals means those minerals including but not limited to coal, potash, sodium, phosphate, sulfur, lead, zinc, copper, silica sands, sand and gravel, and other minerals under mineral leasing laws originating from or allocated to Federal or Indian leases, excluding oil or gas, oil shale, and geothermal resources.

[51 FR 8175, Mar. 7, 1986, as amended at 58 FR 45254, Aug. 27, 1993]

§ 216.10 Information collection.

The information collection requirements contained in this part have been approved by OMB under 44 U.S.C. 3501 et seq. The forms, filing date, and approved OMB clearance numbers are identified in 30 CFR 210.10.

[57 FR 41867, Sept. 14, 1992]

§ 216.15 Reporting instructions.

(a) Specific guidance on how to prepare and submit required information

collection reports and forms to MMS is contained in a "PAAS Reporter Handbook" and a "Paas Onshore Oil and Gas Reporter Handbook." The Reporter Handbooks are available from the Minerals Management Service, Royalty Management Program, P.O. Box 17110, Denver, Colorado 80217-0110.

(b) Production reporters should refer to these handbooks for specific guidance with respect to production reporting requirements. If additional information is required, the reporter should contact the MMS at the above address. The telephone number is listed in the handbooks.

[53 FR 16412, May 9, 1988, as amended at 57 FR 41867, Sept. 14, 1992; 58 FR 64903, Dec. 10, 1993]

§216.16 Where to report.

(a) All reporting forms listed in this part that are mailed or sent by U.S. Postal Service express mail should be mailed to the Mineral Management Service, Royalty Management Program, P.O. Box 17110, Denver, Colorado 80217-0110.

(b) Reports delivered to MMS by special couriers or overnight mail, except U.S. Postal Service express mail, shall be addressed as follows: Minerals Management Service, Royalty Management Program, Building 85, Denver Federal Center, Denver, Colorado 80225.

(c) A report is considered received when it is delivered to MMS at the addresses specified in paragraphs (a) and (b) of this section. Reports received at the MMS addresses specified in paragraphs (a) and (b) of this section after 4 p.m. mountain time are considered received the following business day.

[56 FR 20127, May 2, 1991, as amended at 57 FR 41867, Sept. 14, 1992; 58 FR 64903, Dec. 10, 1993]

§216.20 Applicability.

The requirements of this part shall apply to all oil, gas, and solid mineral operators reporting information on Federal and Indian leases or federally-approved agreements, including leases or agreements on the OCS.

[58 FR 45254, Aug. 27, 1994]

§216.21 General obligations of the reporter.

The reporter shall submit accurately, completely and timely, pursuant to the requirements of this part, all information forms and other information required by MMS. Specific guidance on the use of the required forms is contained in the Production Accounting and Auditing System Reporters Handbook. Copies of the handbook are available from the MMS.

§216.25 Confidentiality.

(a) Information obtained by MMS pursuant to the rules of this part shall be open for public inspection and copying during regular office hours upon a written request, pursuant to rules at 43 CFR part 2, except that:

(1) Notwithstanding any other provision of this part, information obtained from a reporter under this part relating to a minerals agreement approved pursuant to the Indian Mineral Development Act of 1982, 25 U.S.C. 2101 *et seq.*, the Tribal Leasing Act of 1938 (25 U.S.C. 396a *et seq.*), or the Allotted Indian Mineral Development Act of 1909 (25 U.S.C. 396), shall not be released without the written consent of the Indian Tribe(s) or individual Indian(s) who are parties to the mineral agreement.

(2) Information obtained from a reporter pursuant to this part that constitutes a trade secret and/or commercial or financial information which is privileged or confidential, or other information that may be withheld under the Freedom of Information Act (5 U.S.C. 552(b)), such as geologic and geophysical data concerning wells, shall be available for public inspection in accordance with 43 CFR part 2. When such information is related to Indian lands, consent to release the information must also be obtained from the cognizant Tribe or allottee.

(b) If any geologic and/or geophysical data is submitted under this part, these shall be made available to the public only in accordance with the provisions of 30 CFR 250.3, 250.4 and 252.7, if these relate to an offshore lease, and in accordance with 43 CFR 3162.8 if these relate to an onshore Federal or Indian lease.

§ 216.30 Special forms and reports.

When special forms or reports other than those referred to in the regulations in this part are necessary, instructions for the filing of such forms or reports will be provided by the Associate Director. Such requests will be made in conformity with the requirements of the Paperwork Reduction Act of 1980, and are expected to involve less than 10 respondents annually.

§ 216.40 Assessments for incorrect or late reports and failure to report.

(a) An assessment of an amount not to exceed \$10 per day may be charged for each report not received by MMS by the designated due date.

(b) An assessment of an amount not to exceed \$10 may be charged for each incorrectly completed report.

(c) For purposes of oil and gas reporting under the PAAS, a report is defined as each line of production information required on the Monthly Report of Operations (Form MMS-3160), Oil and Gas Operations Report (Form MMS-4054), Gas Analysis Report (Form MMS-4055), Gas Plant Operations Report (Form MMS-4056), and Production Allocation Schedule Report (Form MMS-4058).

(d) For purposes of solid minerals reporting under PAAS, a report is defined as each line of production information required on the Solid Minerals Operation Report (Form MMS-4059) and Solid Minerals Facility Report (Form MMS-4060).

(e) The MMS will not make assessments for reporting problems which are beyond the control of the reporter (e.g., reports received late because of bad weather). The reporter shall have the burden of proving that a reporting problem was unavoidable.

(f) An assessment under this section shall not be shared with a State, Indian tribe, Indian allottee, or Alaska Native Corporation.

(g) The amount of the assessment to be imposed pursuant to paragraphs (a) and (b) of this section shall be established periodically by MMS. The assessment amount for each violation will be based on MMS's experience with costs and improper reporting. The MMS will publish a Notice of the as-

essment amount to be applied in the FEDERAL REGISTER.

[51 FR 8175, Mar. 7, 1986, as amended at 52 FR 27546, July 22, 1987; 53 FR 16412, May 9, 1988; 58 FR 64903, Dec. 10, 1993; 59 FR 38905, Aug. 1, 1994]

Subpart B—Oil and Gas, General**§ 216.50 Monthly report of operations.**

(a) Each operator of each onshore Federal or Indian lease or agreement containing at least one well not permanently plugged and abandoned shall file a Monthly Report of Operations (Form MMS-3160) unless production data is authorized to be reported on Form MMS-4054. This requirement does not apply to reporting of operations of gas storage agreements, which must continue to be reported to the appropriate BLM office. A completed Form MMS-3160 shall be filed for each calendar month, beginning with the month in which drilling operations are initiated, on or before the 15th day of the second month following the month being reported until the lease or agreement is terminated, or the last well is approved as permanently plugged or abandoned by BLM and all inventory is disposed of, or until monthly omission of the report is authorized by MMS. The MMS may grant time extensions for filing Form MMS-3160 on a case-by-case basis upon written request to MMS.

(b) Specific and detailed guidance on how to prepare and submit the required production data on the Form MMS-3160 are contained in the *MMS PAAS Onshore Oil and Gas Reporter Handbook*. See § 216.15 of this part.

(c)(1) Operators already reporting onshore lease production data to MMS in accordance with § 216.53 of this part on the effective date of this rule may request to change to the provisions of this section. Any request to change to the requirements of this section must be made by advance written notice to MMS and have MMS approval.

(2) An operator who reports production data to MMS for offshore leases in accordance with § 216.53 of this part may request to report for its onshore leases in accordance with the requirements of that section. Any such request must be made by advance written

notice to MMS and have MMS approval.

(d)(1) Except where disclosure is required by law, information submitted on Form MMS-3160 that MMS classifies as confidential will be protected as such by both MMS and BLM for the period of 1 year. Operators must petition MMS for each lease or agreement to obtain a confidential classification and to extend the classification period beyond 1 year.

(2) Except as provided by statute, information submitted on Form MMS-3160 in regard to Federal leases and Indian leases which are part of a unit containing non-Indian leases is not considered to be confidential.

(3) Except where disclosure is required by law, all information submitted on Form MMS-3160 in regard to Indian leases, other than those included in paragraph (d)(2) of this section, will be considered to be confidential.

(4) Except as provided in this subsection, all other information will be released.

[53 FR 16412, May 9, 1988, as amended at 58 FR 45254, Aug. 27, 1993; 58 FR 64903, Dec. 10, 1993]

§216.51 Facility and Measurement Information Form.

A Facility and Measurement Information Form (Form MMS-4051) must be filed for each facility or measurement device which handles production from any Federal or Indian lease, or federally-approved agreement, through the point of first sale or the point of royalty computation, whichever is later. The completed form must be filed by any operator (reporting production on a Form MMS-4054) of an onshore Facility Measurement Point (FMP) that handles production from any Federal or Indian lease or federally-approved agreement prior to, or at the point of royalty determination, or any operator who acquires an onshore FMP that is currently reporting to the PAAS. The report must be filed no later than 30 days after the establishment of a new facility or measurement device, or 30 days after a change is made to an existing facility or measurement device.

[58 FR 45254, Aug. 27, 1993]

§216.52 First Purchaser Report.

The First Purchaser Report (Form MMS-4053) must be filed by first purchasers only upon the specific request of MMS.

[51 FR 8175, Mar. 7, 1986. Redesignated at 58 FR 64903, Dec. 10, 1993]

§216.53 Oil and Gas Operations Report.

Every operator of an OCS lease or federally-approved offshore agreement and any operator of an onshore Federal or Indian lease or federally-approved agreement that has elected to report production on an Oil and Gas Operations Report (Form MMS-4054) instead of the Form MMS-3160 (see §216.50(c)(2)) must file a Form MMS-4054 each month as long as there exists at least one well that is not permanently plugged and abandoned. A completed Form MMS-4054 must be filed for each calendar month, beginning with the month in which drilling operations are initiated, on or before the 15th day of the second month following the month being reported, until the lease or agreement is terminated, or the last well is permanently plugged or abandoned and all inventory is disposed of, or until omission of the report is authorized by MMS.

[58 FR 45255, Aug. 27, 1993. Redesignated at 58 FR 64903, Dec. 10, 1993]

§216.54 Gas Analysis Report.

Any operator of an OCS lease or federally-approved agreement and, upon request by MMS, any operator of an onshore Federal or Indian lease or federally-approved agreement, from which gas is sold or is transferred for processing prior to the point of royalty computation, must file a Gas Analysis Report (Form MMS-4055) for each sales or transfer meter. The form is due at least twice a year; once in the first 6 months of the calendar year, and once in the last 6 months of the calendar year, but may be submitted monthly, or as specified by the gas sales contract terms, and must be submitted on or before the 15th day of the second month following the end of the reporting period to which the information applies. All reports must be submitted by August 15th for any sales/transfers occurring

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in the first 6 months of the calendar year and February 15th of the following year for any sales/transfers occurring in the second 6 months of the calendar year.

[58 FR 45255, Aug. 27, 1993. Redesignated at 58 FR 64903, Dec. 10, 1993]

§216.55 Gas Plant Operations Report.

The operator of each gas plant that processes gas that originates from an OCS lease or federally-approved agreement and, upon request by MMS, the operator of a gas plant that processes gas from an onshore Federal or Indian lease or federally-approved agreement, prior to the point of royalty computation, must file a Gas Plant Operations Report (Form MMS-4056) for each calendar month, beginning with the month in which processing of gas is initiated, on or before the 15th day of the second month following the month being reported. The report must show 100 percent of the gas. If a plant no longer processes gas that originated from a Federal or Indian lease, or federally-approved agreement, prior to the point of royalty computation and has not processed such gas for 6 months or more, the operator of the gas plant is not required to file a Gas Plant Operations Report until the plant again produces such gas. The operator of the gas plant must notify MMS, in writing, when such gas has not been processed for 6 months or longer.

[58 FR 45255, Aug. 27, 1993. Redesignated at 58 FR 64903, Dec. 10, 1993]

§216.56 Production Allocation Schedule Report.

(a) Any operator of an offshore Facility Measurement Point (FMP) handling production from a Federal lease or federally-approved agreement that is commingled (with approval) with production from any other source prior to measurement for royalty determination must file a Production Allocation Schedule Report (Form MMS-4058). This report is not required whenever all of the following conditions are met:

- (1) All leases involved are Federal leases;
- (2) All leases have the same fixed royalty rate;

(3) All leases are operated by the same operator;

(4) The facility measurement device is operated by the same person as the leases/agreements;

(5) Production has not been previously measured for royalty determination; and

(6) The production is not subsequently commingled and measured for royalty determination at an FMP for which Form MMS-4058 is required under this part.

(b) A completed Form MMS-4058 must be filed for each calendar month, beginning with the month in which handling of production covered by this section is initiated, and must be filed on or before the 15th day of the second month following the month being reported.

[58 FR 45255, Aug. 27, 1993. Redesignated at 58 FR 64903, Dec. 10, 1993]

§216.57 Stripper royalty rate reduction notification.

In accordance with its regulations at 43 CFR 3103.4-1, titled "Waiver, suspension, or reduction of rental, royalty, or minimum royalty," the Bureau of Land Management (BLM) may grant reduced royalty rates to operators of low producing oil leases to encourage continued production. Operators who have been granted a reduced royalty rate(s) by BLM must submit a Stripper Royalty Rate Reduction Notification (Form MMS-4377) to MMS for each 12-month qualifying period that a reduced royalty rate(s) is granted.

[58 FR 64903, Dec. 10, 1993]

Subpart C—Oil and Gas, Onshore [Reserved]

Subpart D—Oil, Gas, and Sulfur, Offshore [Reserved]

Subpart E—Solid Minerals, General

§216.200 [Reserved]

§216.201 Mine Information Report.

The Mine Information Form (Form MMS-4050) must be filed for each mine that includes Federal or Indian leases

in its approved mining plan. The completed form must be filed by the operator of the mine/lease(s). Form MMS-4050 must be filed at the request of the MMS initially during the conversion of the mine/lease(s) to the PAAS.

§ 216.202 Facility and Measurement Information Form.

The Facility and Measurement Information Form (Form MMS-4051) must be filed for each facility or measurement device which handles solid mineral production from any Federal or Indian lease, or federally approved agreement, through the point of first sale or the point of royalty computation, whichever is applicable. The completed form must be filed by the operator of the facility or measurement device. Form MMS-4051 must be filed initially at the request of the MMS during the conversion of facility and measurement device operators to the PAAS. Subsequent to conversion, Form MMS-4051 must be filed with MMS/RMP no later than 30 days after establishment of a new facility or measurement device, or a change to any existing facility or measurement device that handles production attributable to any Federal or Indian lease, or federally approved agreement, through the point of first sale or royalty computation, whichever is applicable.

§ 216.203 Solid Minerals Operations Report.

The Solid Minerals Operation Report (Form MMS-4059) must be submitted by all Federal and Indian lease operators of producing mines that are part of an approved mine plan. Form MMS-4059 must be filed for the same period established for payment for royalties in the lease terms, unless a different reporting frequency is established by an MMS authorized official, and on or before the 15th day of the second month following the period being reported until all the leases within a mine are terminated or until omission of the report is authorized by the MMS.

§ 216.204 Solid Minerals Facility Report.

The Solid Minerals Facility Report (Form MMS-4060) must be filed by operators of secondary processing facili-

ties that handle production attributable to Federal or Indian leases where royalty is determined after processing. The report period is monthly, unless a longer period is specified in the lease document, or otherwise approved by the MMS. The Form MMS-4060 must be filed on or before the 15th day of the second month following the period being reported.

Subpart F—Coal [Reserved]

Subpart G—Other Solid Minerals [Reserved]

Subpart H—Geothermal Resources [Reserved]

Subpart I—Indian Land [Reserved]

PART 217—AUDITS AND INSPECTIONS

Subpart A—General Provisions [Reserved]

Subpart B—Oil and Gas, General

Sec.

217.50 Audits of records.

217.51 Lease account reconciliation.

217.52 Definitions.

Subpart C—Oil and Gas, Onshore [Reserved]

Subpart D—Oil, Gas and Sulfur, Offshore [Reserved]

Subpart E—Coal

217.200 Audits.

Subpart F—Other Solid Minerals

217.250 Audits.

Subpart G—Geothermal [Reserved]

Subpart H—Indian Lands [Reserved]

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