

successful in a challenge to all or part of the MMS order to pay, section 10 does not apply to the refund or recoupment of the disputed payment or portion thereof.

(h) MMS approval is not required for an adjustment by any person to the amount reported for a report month that results in a credit of not more than an amount established periodically by MMS and published in the FEDERAL REGISTER. However, no adjustment may be reported more than 2 years after the date MMS received the Form MMS-2014 including the excess payment.

**PART 232—INTEREST PAYMENTS
[RESERVED]**

**PART 233—ESCROW AND
INVESTMENTS [RESERVED]**

**PART 234—BONDING—PAYMENT
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PART 241—PENALTIES

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AUTHORITY: 25 U.S.C. 396 *et seq.*; 25 U.S.C. 396a *et seq.*; 25 U.S.C. 2101 *et seq.*; 30 U.S.C. 181 *et seq.*; 30 U.S.C. 351 *et seq.*; 30 U.S.C. 1001 *et seq.*; 30 U.S.C. 1701 *et seq.*; 43 U.S.C. 1301 *et seq.*; 43 U.S.C. 1331 *et seq.*; and 43 U.S.C. 1801 *et seq.*

Subpart A—General Provisions

§ 241.20 Civil penalties authorized by statutes other than the Federal Oil and Gas Royalty Management Act of 1982.

(a) Whenever a lessee, operator, revenue payor, or other authorized person fails to comply with any regulations, orders or notices, the appropriate MMS official shall give the lessee, operator, revenue payor, or other authorized person notice in writing to remedy any violations.

(b) Failure by the lessee, operator, revenue payor, or other authorized person, or other party to complete the necessary remedial action within the time and in the manner prescribed by the notice may subject the lease to cancellation proceedings pursuant to 30 CFR 250.12 for offshore leases, 43 CFR subpart 3163 and 3108 for Federal onshore leases, or provisions of 25 CFR for Indian leases.

(c) The lessee, operator, revenue payor, or other authorized person, shall be subject to a penalty of not more than \$500 per day for each day the violation specified in the notice continues beyond the date specified in the notice, not to exceed 60 days. In addition to this penalty or in lieu thereof, MMS can take steps to cancel the lease.

(d) No penalty under this section shall be assessed until the person

charged with a violation has been given the opportunity for a hearing. Hearings shall be held by the appropriate MMS official whose findings shall be conclusive unless an appeal is taken pursuant to 30 CFR part 243.

[49 FR 37352, Sept. 21, 1984; 49 FR 40576, Oct. 17, 1984]

Subpart B—Oil, Gas, and OCS Sulfur, General

AUTHORITY: The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 *et seq.*).

§ 241.50 Definitions.

Terms used in subparts B, C, and D of this part shall have the same meaning as in 30 U.S.C. 1702.

[49 FR 37352, Sept. 21, 1984, as amended at 53 FR 1226, Jan. 15, 1988]

§ 241.51 Civil penalties authorized by the Federal Oil and Gas Royalty Management Act of 1982.

(a)(1) *Notice of noncompliance.* If the MMS believes that any person has failed or refused to comply with any statute, regulation, rule, order, lease, or permit governing the determination and collection of royalties on Federal or Indian lands or on the Outer Continental Shelf, the MMS may issue a notice of noncompliance which shall set forth the nature of the violation and the remedial action required.

(2) The notice of noncompliance shall be served by personal service by an authorized representative of the MMS or by registered mail. Service by registered mail shall be deemed to occur when received or 5 days after the date it is mailed, whichever is earlier.

(3) When a notice of noncompliance is issued by the MMS under this section:

(i) Unless the violation is corrected within 20 days (or such longer time as specified in the notice) from the date that the notice is served, the person upon whom the notice is served shall be liable for a penalty of up to \$500 per violation for each day such violation continues, dating from the date of service of the notice;

(ii) Unless the violation is corrected within 40 days (or such longer time as specified in the notice) from the date

that the notice is served, the person upon whom the notice is served shall be liable for a penalty of up to \$5,000 per violation for each day such violation continues;

(iii) If the person upon whom the notice is served does not correct the violation within 20 days (or such longer time as specified in the notice) from the date that the notice is served, such person may, by that date, request a hearing on the record by filing a written request with the Hearings Division (Departmental), Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203.

(4) If the person upon whom a notice of noncompliance has been served pursuant to paragraph (a)(3) of this section corrects the violations within 20 days (or such longer time as specified in the notice) from the date that the notice is served, no penalties shall be assessed by the MMS under this section and the person shall not be entitled to a hearing on the record provided for in paragraph (a)(3)(iii) of this section. The person may appeal the notice of noncompliance or other disputed MMS decision or order in accordance with the appeals procedures in 30 CFR part 243.

(b)(1) *Notice of noncompliance for intentional violations.* In addition to the provisions of paragraph (a) of this section, the MMS may issue a notice of noncompliance for intentional violations, which shall set forth the nature of the violation and the remedial action required, to any person who—

(i) Knowingly or willfully fails to make any payment due by the date as specified by statute, regulation, order, or terms of the lease;

(ii) Knowingly or willfully fails to submit or submits false, inaccurate, or misleading data to the MMS in support of a royalty, rental, bonus, or other payment; or

(iii) Knowingly or willfully prepares, maintains, or submits false, inaccurate, or misleading reports, notices, affidavits, records, data, or other written information.

(2) A person served with a notice of noncompliance for an intentional violation under this paragraph shall be liable for a penalty of up to \$10,000 per

violation for each day such violation continues.

(3) The notice of noncompliance for intentional violation shall be served in accordance with paragraph (a)(2) of this section.

(4) A person who has been served with a notice of noncompliance for intentional violation issued pursuant to this subsection shall have 20 days from the date of service to file a written request for a hearing on the record with the Hearings Division (Departmental), Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203.

(c) *Penalty notice.* The MMS shall issue a penalty notice to any person subject to penalties under this section. The penalty notice shall set forth the amount of the penalty applicable for each day that the violation continues. The penalty amount shall be determined by MMS taking into account the severity of the violation and the person's history of noncompliance. The penalty for each day that a violation continues shall not exceed the amounts specified in paragraphs (a) and (b), of this section as applicable.

(d) Penalties imposed under this section shall be in addition to interest assessed on payments not received by the MMS by the due date and assessments for later or incorrect reporting pursuant to part 218 of this chapter.

(e) If the person served with a notice of noncompliance requests a hearing on the record pursuant to paragraph (a)(3)(iii) or paragraph (b)(4) of this section, penalties shall accrue each day until the person corrects the violations set forth in the notice of noncompliance. The Director, MMS, may suspend the requirement to correct the violations pending completion of the hearings provided by this section, but only if the Director, MMS, suspends the obligation in writing, and then only upon a determination, at the discretion of the Director, that such suspension will not be detrimental to the lessor and upon submission and acceptance of a bond deemed adequate to indemnify the lessor from loss or damage. The amount of the bond must be sufficient to cover any disputed amounts plus accrued penalties and interest. The MMS may require, at any time, adjustment

in the amount of the bond for increases in the amount of the underlying obligations determined by MMS to be due, for penalties or for interest.

(f) *Hearing.* If a person served with a notice of noncompliance has requested a hearing on the record in accordance with paragraph (a)(3)(iii) or (b)(4) of this section, the hearing shall be conducted by an Administrative Law Judge (Departmental), Office of Hearings and Appeals. After the hearing, the Administrative Law Judge shall issue a decision in accordance with the evidence presented and applicable law. Any party to a case adversely affected by a decision of the Administrative Law Judge may appeal that decision to the Interior Board of Land Appeals in accordance with the procedures set forth in 43 CFR part 4. A decision by the Interior Board of Land Appeals shall be a final order which may be appealed in accordance with paragraph (i) of this section.

(g) The Director of the MMS shall issue an order assessing the penalty, in accordance with the penalty notice, against any person subject to penalties under paragraph (a) or (b) of this section who does not request a hearing on the record as provided in paragraph (a)(3)(iii) or (b)(4) of this section. The penalty assessment must be paid within 30 days of its issuance and shall be a final order subject to collection pursuant to the provisions of paragraph (j) of this section.

(h) On a case-by-case basis the Secretary, or his/her authorized representative, may compromise or reduce civil penalties under this section. The amount of any penalty under this section, as finally determined, may be deducted from any sums owing by the United States to the person charged.

(i) Any person who has requested a hearing in accordance with paragraph (a) or (b) of this section within the time prescribed for such a hearing and who is aggrieved by a final order may seek review of such order in the U.S. District Court for the judicial district in which the violation allegedly took place. Review by the District Court shall be only on the administrative record and not *de novo*. Such action shall be barred unless filed within 90 days after the final order.

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(j) If any person fails to pay an assessment of a civil penalty under this section after the order making the assessment has become a final order, and if such person has not filed a petition for judicial review in accordance with paragraph (i) of this section, or, after a court, in an action brought under this section, has entered a final judgment in favor of the Secretary, the Court shall have jurisdiction to award the amount assessed plus interest assessed from the date of the expiration of the 90-day period referred to in paragraph (i) of this section. The amount of any penalty, as finally determined, may be deducted from any sum owing by the United States to the person charged.

[49 FR 37352, Sept. 21, 1984]

§ 241.52 Criminal penalties.

Any person who commits an act for which a civil penalty is provided at 30 U.S.C. 1719 shall be subject to criminal penalties as provided at 30 U.S.C. 1720.

[49 FR 37352, Sept. 21, 1984]

§ 241.53 Assessments for nonperformance.

Administrative costs arising out of certain defaults or violations of orders requiring the performance of certain duties by lessees, as set forth in the regulations in this part, constitute loss or damage to the United States the amount of which is difficult or impracticable of ascertainment. Therefore, the following amounts shall be deemed to cover such loss or damage and shall be payable upon receipt of notice from the Associate Director of such loss or damage.

(a) For failure to comply with a written order or instructions of the Associate Director, \$250 if compliance is not obtained within the time specified.

(b) For failure to file sales contracts or division orders as required by lease terms, \$25 for each violation, and for failure to submit pipeline run tickets, or other proper evidence of disposal as required by these regulations, \$10 for each violation.

[47 FR 47775, Oct. 27, 1982. Redesignated at 48 FR 35641, Aug. 5, 1983, further redesignated and amended at 53 FR 1226, Jan. 15, 1988]

Subpart C—Federal and Indian Oil [Reserved]

Subpart D—Federal and Indian Gas [Reserved]

Subpart E—Solid Minerals, General [Reserved]

Subpart F—Coal [Reserved]

Subpart G—Other Solid Minerals [Reserved]

Subpart H—Geothermal [Reserved]

Subpart I—OCS Sulfur [Reserved]

PART 242—NOTICES AND ORDERS [RESERVED]

PART 243—APPEALS—ROYALTY MANAGEMENT PROGRAM

Subpart A—General Provisions

Sec.

243.1 Procedure.

243.2 Suspension of orders or decisions pending appeal.

243.3 Exhaustion of administrative remedies.

243.4 Service of official correspondence.

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

Subpart A—General Provisions

§ 243.1 Procedure.

Except as may otherwise be provided in part 241 hereof, an order or decision issued under regulations administered by the Royalty Management Program may be appealed in accordance with the provisions of part 290 of this chapter.

[49 FR 37353, Sept. 21, 1984]