

where the audit will be held may be named or, if not known, inquired about. If a visit to a field plant or field office is contemplated by the government auditor, such a field trip may be mentioned. If DOI expresses a desire to review a period on which the thirty-six month time limitation has expired, it is the lessee's prerogative to allow the review or to request that DOI adhere to the time limitation specified in these regulations.

(c)(1) Exceptions to the accounting by the lessee, whether in favor of the government or the lessee, shall be noted in a report to the lessee. The lessee shall have 60 days from the mailing of a notice of exceptions to agree to the adjustments proposed by the DOI auditor or to object to the proposed adjustments. If the lessee accepts the proposed adjustments, the adjustment shall be booked in the month in which the lessee agrees to the adjustment, except where such adjustment would have resulted in a change in any net profit share payment due the United States. In such a case, there shall be a redetermination of the NPSL capital account pursuant to §1220.034.

(2) If the lessee disagrees with the adjustment, the lessee shall have the right to appeal the adjustment to the Director.

(d) Upon receipt of an agreement by the government auditor that there are no required audit adjustments, upon final determination with respect to any audit adjustment proposed by the government auditor, or upon the lapse of thirty-six months from the due date or date of mailing of the statement of account on an NPSL lease, whichever comes later, the books shall be closed for audit adjustment purposes, except upon a showing of fraud or willful misrepresentation.

(e) Records required to be kept under §1220.030(a) shall be made available for inspection by any authorized agent of DOI at any time during normal business hours upon the request of the Director or other authorized official.

[45 FR 36800, May 30, 1980, as amended at 75 FR 61087, Oct. 4, 2010]

§ 1220.034 Redetermination and appeals.

(a) If, as a result of an inspection of records or an audit under §1220.033, the Director determines that there is an error in the NPSL capital account or an error in calculating the net profit share payment, whether in favor of the government or the lessee, the Director shall redetermine the net profit share base and recalculate the net profit share payment due the United States and notify the lessee of the recalculation.

(b) The lessee shall pay any additional amount of net profit share payment owed plus interest, compounded monthly, from the date that the payment was due until the date it is actually paid. Interest shall be calculated at the prevailing rate or rates as published in the Bulletin to the Department of the Treasury Fiscal Requirements Manual, in effect for the period or periods over which the payment is owed.

(c) If the recalculated profit share payment is less than the amount paid the United States, the lessee shall apply such overpayment to the next profit share payment.

(d) Within 30 days after receiving notice of the recalculation as provided in paragraph (a) of this section, the lessee may appeal the decision of the Director in accordance with the appeals provision of 30 CFR part 1290.

[45 FR 36800, May 30, 1980, as amended at 75 FR 61087, Oct. 4, 2010]

PART 1227—DELEGATION TO STATES

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

SOURCE: 62 FR 43084, Aug. 12, 1997, unless otherwise noted Redesignated at 75 FR 61087, Oct. 4, 2010.

DELEGATION OF ONRR ROYALTY FUNCTIONS

§ 1227.1 What is the purpose of this part?

This part provides procedures to delegate Federal royalty management functions to States under section 205 of the Federal Oil and Gas Royalty Management Act of 1982 (the Act), 30 U.S.C. 1735, as amended by the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996, Pub. L. 104-185, August 13, 1996, as corrected by Pub. L. 104-200. This part also provides procedures to delegate only audit and investigation functions to States under Pub. L. 102-154 for solid mineral leases, geothermal leases and leases subject to section 8(g) of the Outer Continental Shelf Lands Act, 43 U.S.C. 1337(g). This part does not apply to any inspection or enforcement responsibilities of the Bureau of Land Management for onshore leases or the ONRR Offshore Minerals Management program for leases on the Outer Continental Shelf.

[62 FR 43084, Aug. 12, 1997, as amended at 75 FR 61087, Oct. 4, 2010]

§ 1227.10 What is the authority for information collection?

(a) The information collection requirements contained in this part have been approved by Office of Management and Budget (OMB) under 44 U.S.C. 3501 *et seq.* and assigned OMB Control Number 1010-0088. We will use the information collected to review and approve delegation proposals from States wishing to perform royalty management functions.

(b) Public reporting burden is estimated as follows. ONRR estimates 400 annual burden hours per function for each State performing the delegated functions. The Federal Government will reimburse some of these costs as provided by statute. However, States

could incur additional start-up costs, such as purchasing equipment necessary to perform a delegated function, that may not be reimbursable. ONRR estimates that, if applicable, each payor or reporter would spend 50 burden hours annually coordinating their interactions and communications among the several States and with ONRR. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing burden, to the Information Collection Clearance Officer, Bureau of Ocean Energy Management, Regulation, and Enforcement, 381 Elden Street, Herndon, VA 20107; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Interior Department, OMB Control Number 1010-0088, 725 17th Street, NW., Washington, DC 20503.

[62 FR 43084, Aug. 12, 1997, as amended at 75 FR 61087, Oct. 4, 2010]

§ 1227.101 What royalty management functions may ONRR delegate to a State?

(a) If there are oil and gas leases subject to the Act on Federal lands within your State, ONRR may delegate the following royalty management functions for all such Federal oil and gas leases to you under this part:

- (1) Receiving and processing production or royalty reports;
- (2) Correcting erroneous report data; and
- (3) Performing automated verification.

(b) If there are oil and gas leases subject to the Act on Federal lands within your State, ONRR may delegate the following royalty management functions for some or all of the Federal oil and gas leases to you under this part:

- (1) Conducting audits and investigations; and
- (2) Issuing demands, subpoenas, and orders to perform restructured accounting, including related notices to lessees or their designees, and entering into tolling agreements under section 115(d)(1) of the Act, 30 U.S.C. 1725(d)(1).

(c) If there are oil and gas leases offshore of your State subject to section 8(g) of the Outer Continental Shelf Lands Act, 43 U.S.C. 1337 (g), or solid

mineral leases or geothermal leases on Federal lands within your State, ONRR may delegate authority to conduct audits and investigations for some or all such Federal leases.

[64 FR 36784, July 8, 1999, as amended at 75 FR 61087, Oct. 4, 2010]

§ 1227.102 What royalty management functions will ONRR not delegate?

This section lists the principal royalty management functions that ONRR will not delegate to a State. ONRR will not delegate to a State the following functions:

(a) ONRR must collect all moneys received from sales, bonuses, rentals, royalties, civil penalties, assessments and interest. ONRR also must collect any moneys a lessee or its designee pays because of audits or other actions of a delegated State;

(b) ONRR must compare all cash and other payments it receives with payments shown on royalty reports or other documents, such as bills, to reconcile payor accounts. ONRR also must disburse all appropriate moneys to States and other revenue recipients, including refunds and interest owed to lessees and their designees;

(c) The Department of the Interior will receive, process, and decide all administrative appeals from demands or other orders issued to lessees, their designees, or any other person, including demands or orders a delegated State issues;

(d) Only ONRR may take enforcement actions other than issuing demands, subpoenas and orders to perform restructured accounting. ONRR or the appropriate Federal agency will issue notices of non-compliance and civil penalties, collect debts, write off delinquent debts, pursue litigation, enforce subpoenas, and manage any alternative dispute resolution. ONRR will conduct, coordinate and approve any settlement or other compromise of an obligation that a lessee or its designee owes;

(e) ONRR will decide all valuation policies, including issuing valuation regulations, determinations, and guidelines, and interpreting valuation regulations; and

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(f) ONRR may reserve additional authorities and responsibilities not included in paragraphs (a) through (f) of this section.

[62 FR 43084, Aug. 12, 1997, as amended at 75 FR 61087, Oct. 4, 2010]

DELEGATION PROPOSALS

§ 1227.103 What must a State's delegation proposal contain?

If you want ONRR to delegate royalty management functions to you, then you must submit a delegation proposal to the Director for Office of Natural Resources Revenue. ONRR will provide you with technical assistance and information to help you prepare your delegation proposal. Your proposal must contain the following minimum information:

(a) The name and title of the State official authorized to submit the delegation proposal and execute the delegation agreement;

(b) The name, address, and telephone number of the State contact for the proposal;

(c) A copy of the legislation, State Attorney General opinion or other document that:

(1) States which State entity or entities are responsible for performing delegated functions, and if more than one entity is delegated such responsibility, the position of the highest ranking State official having ultimate authority over the collection of royalties from leases on Federal lands within the State;

(2) Demonstrates the State's authority to:

(i) Accept a delegation from ONRR; and

(ii) Receive State or Federal appropriations to perform delegated functions;

(d) The date you propose to begin performing delegated functions;

(e) A detailed statement of the delegable functions that you propose to perform. For each function, describe the resources available in your State to perform each function, the procedures you will use to perform each function, and how you will assure that you will meet all Federal laws, lease terms, regulations and relevant performance standards. As evidence that

you have or will have the resources to perform each delegable function, provide the following information:

(1) A description of the personnel you have available to perform delegated functions, including:

(i) How many persons you will assign full-time and part-time to each delegated function;

(ii) The technical qualifications of the key personnel you will assign to each function, including academic field and degree, professional credentials, and quality and amount of experience with similar functions; and

(iii) Whether these persons are currently State employees. If not, explain how you propose to hire these persons or obtain their services, and when you expect to have those persons available to perform delegated functions;

(2) A description of the facilities you will use to perform delegated functions, including:

(i) Whether you currently have the facilities in which you will physically locate the personnel and equipment you will need to perform the functions you propose to assume. If not, how you propose to acquire such facilities, and when you expect to have such facilities available; and

(ii) How much office space is available;

(3) Describe the equipment you will use to perform delegated functions, including:

(i) Hardware and software you will use to perform each delegated function, including equipment for:

(A) Document processing, including compatibility with ONRR automated systems, electronic commerce capabilities, and data storage capabilities;

(B) Accessing reference data;

(C) Contacting production or royalty reporters;

(D) Issuing demands;

(E) Maintaining accounting records;

(F) Performing automated verification;

(G) Maintaining security of confidential and proprietary information; and

(H) Providing data to other Federal agencies;

(ii) Whether you currently have the equipment you will need to perform the functions you propose to assume. If not, how you propose to acquire such

equipment and when you expect to have such equipment available;

(f) Your estimates of the costs to fund the following resources necessary to perform the delegation:

(1) Personnel, including hiring, employee salaries and benefits, travel and training;

(2) Facilities, including acquisition, upgrades, operation, and maintenance; and

(3) Equipment, including acquisition, operation, and maintenance;

(g) Your plans to fund the resources under paragraph (f) of this section, including any items you will ask ONRR to fund under the delegation agreement;

(h) A statement identifying any areas where State law, including State appropriation law, may limit your ability to perform delegated functions, and an explanation of how you propose to remove any such limitation;

(i) A statement that in accordance with section 203 of the Act (30 U.S.C. 1733) persons who have access to information received under delegated functions are subject to the same provisions of law regarding confidentiality and disclosure of that information as Federal employees. Applicable laws include the Freedom of Information Act (FOIA), the Trade Secrets Act, and relevant Executive Orders. In addition, your statement must acknowledge that all documents produced, received, and maintained as part of any delegation functions are agency records for purposes of FOIA. Therefore, persons who have access to information received under delegated functions may not use such information or provide such information to any other person, including State personnel, for purposes other than performing delegated functions. However, this limitation does not apply if the person submitting the information consents in writing to its use for other State purposes.

[62 FR 43084, Aug. 12, 1997, as amended at 67 FR 19112, Apr. 18, 2002; 75 FR 61087, Oct. 4, 2010]

§ 1227.104 What will ONRR do when it receives a State's delegation proposal?

When ONRR receives your delegation proposal, it will record the receipt

date. ONRR will notify you in writing within 15 business days whether your proposal is complete. If it is not complete, ONRR will identify any missing items § 1227.103 requires. Once you submit all required information, ONRR will notify you of the date your application is complete.

[62 FR 43084, Aug. 12, 1997, as amended at 75 FR 61087, Oct. 4, 2010]

HEARING PROCESS

§ 1227.105 What are the hearing procedures?

After ONRR notifies you that your delegation proposal is complete, ONRR will schedule a hearing on your proposal, if ONRR determines a hearing is appropriate, as follows:

(a) The ONRR Director will appoint a hearing official to conduct one or more public hearings for fact finding regarding your ability to assume the delegated functions requested. The hearing official will not decide whether to approve your delegation request;

(b) The hearing official will contact you about scheduling a hearing date and location;

(c) The ONRR will publish notice of the hearing in the FEDERAL REGISTER and other appropriate media within your State;

(d) ONRR will publish notice of the proposal in the FEDERAL REGISTER. ONRR will also post the proposal on the ONRR Website, and upon request, ONRR will send a copy of the delegation proposal to the trade associations to distribute to their members, as necessary;

(e) At the hearing, you will have an opportunity to present testimony and written information in support of your proposal;

(f) Other persons may attend the hearing and may present testimony and written information for the record;

(g) ONRR will record the hearing;

(h) ONRR will maintain a record of all documents related to the proposal process;

(i) After the hearing, ONRR may require you to submit additional information in support of your delegation proposal.

[62 FR 43084, Aug. 12, 1997, as amended at 75 FR 61087, Oct. 4, 2010]

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DELEGATION PROCESS

§ 1227.106 What statutory requirements must a State meet to receive a delegation?

The ONRR Director will decide whether to approve your delegation request and will ask the Secretary of the Interior to concur in the decision. That decision is solely within the ONRR Director's and the Secretary's discretion. The ONRR Director's decision, which the Secretary concurs in, is the final decision for the Department of the Interior. The ONRR Director may approve a State's request for delegation only if, based upon the State's delegation proposal and the hearing record, the ONRR Director finds that:

(a) It is likely that the State will provide adequate resources to achieve the purposes of the Act;

(b) The State has demonstrated that it will effectively and faithfully administer the ONRR regulations under the Act in accordance with subsections (c) and (d) of section 205 of the Act;

(c) Such delegation will not create an unreasonable burden on any lessee;

(d) The State agrees to adopt standardized reporting procedures ONRR prescribes for royalty and production accounting purposes, unless the State and all affected parties (including ONRR) otherwise agree;

(e) The State agrees to follow and adhere to regulations and guidelines ONRR issues under the mineral leasing laws regarding valuation of production; and

(f) Where necessary for a State to carry out and enforce a delegated activity, the State agrees to enact such laws and promulgate such regulations as are consistent with relevant Federal laws and regulations.

[62 FR 43084, Aug. 12, 1997, as amended at 75 FR 61087, Oct. 4, 2010]

§ 1227.107 When will the ONRR Director decide whether to approve a State's delegation proposal?

The ONRR Director will decide whether to approve your delegation proposal within 90 days after your delegation proposal is considered complete under § 1227.104. ONRR may extend the

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90-day period with your written consent.

[62 FR 43084, Aug. 12, 1997, as amended at 75 FR 61087, Oct. 4, 2010]

§ 1227.108 How will ONRR notify a State of its decision?

ONRR will notify you in writing of its decision on your delegation proposal. If ONRR approves your delegation proposal, then ONRR will hold discussions with you to develop a delegation agreement detailing the functions that you will perform, the standards and requirements you must comply with to perform those functions, and any required transition period.

[62 FR 43084, Aug. 12, 1997, as amended at 75 FR 61087, Oct. 4, 2010]

§ 1227.109 What if the ONRR Director denies a State's delegation proposal?

If the ONRR Director denies your delegation proposal, ONRR will state the reasons for denial. ONRR also will inform you in writing of the conditions you must meet to receive approval. You may submit a new delegation proposal at any time following a denial.

[62 FR 43084, Aug. 12, 1997, as amended at 75 FR 61087, Oct. 4, 2010]

§ 1227.110 When and for how long are delegation agreements effective?

(a) Delegation agreements are effective for 3 years from the date the ONRR Director signs the delegation agreement. However, during the development of the State's delegation proposal under § 1227.108 of this part, ONRR, the delegated State, and any other affected person will determine an appropriate transition period for lessees and their designees to modify their systems to comply with any new requirements under a delegation agreement. ONRR will publish notice of the effective date of a State's delegation agreement in the FEDERAL REGISTER and that notice will inform lessees and their designees of any transition period. ONRR also will post the proposals on the ONRR Website at www.ONRR.gov, and upon request, will send a copy of the delegation proposals to trade associations to distribute to their members.

(b) You may ask ONRR to renew the delegation for an additional 3 years no less than 6 months before your 3-year delegation agreement expires. You must submit your renewal request to the Director for Office of Natural Resources Revenue as follows:

(1) If you do not want to change the terms of your delegation agreement for the renewal period, you need only ask to extend your existing agreement for the 3-year renewal period. ONRR will not schedule a hearing unless you request one;

(2) If you want to change the terms of your delegation agreement for the renewal period, you must submit a new delegation proposal under this part.

(c) The ONRR Director may approve your renewal request only if ONRR determines that you are meeting the requirements of the applicable standards and regulations. If the ONRR Director denies your renewal request, ONRR will state the reasons for denial. ONRR also will inform you in writing of the conditions you must meet to receive approval. You may submit a new renewal request any time after denial.

(d) After the 3-year renewal period for your delegation agreement ends, if you wish to continue performing one or more delegated functions, you must request a new delegation agreement from ONRR under this part. ONRR will schedule a hearing on your request, if ONRR determines a hearing is appropriate. As part of the decision whether to approve your request for a new delegation, the ONRR Director will consider whether you are meeting the requirements of the applicable standards and regulations under your existing delegation agreement.

(e) If you do not request a hearing under paragraphs (b)(1) or (d) of this section, any other affected person may submit a written request for a hearing under those paragraphs to the ONRR Associate Director for Minerals Revenue Management.

[62 FR 43084, Aug. 12, 1997, as amended at 67 FR 19112, Apr. 18, 2002; 75 FR 61087, Oct. 4, 2010]

EXISTING DELEGATIONS

§ 1227.111 Do existing delegation agreements remain in effect?

This section explains your options if you have a delegation agreement in effect on the effective date of this regulation.

(a) If you do not want to perform any royalty management functions in addition to those authorized under your existing agreement, you may continue your existing agreement until its expiration date. Before the agreement expires, if you wish to continue to perform one or more of the delegated functions you performed under the expired agreement, you must request a new delegation agreement meeting the requirements of this part and the applicable standards.

(b) If you want to perform royalty management functions in addition to those authorized under your existing agreement, you must request a new delegation agreement under this part.

(c) ONRR may extend any delegation agreement in effect on the effective date of this regulation for up to 3 years beyond the date it is due to expire.

[62 FR 43084, Aug. 12, 1997, as amended at 75 FR 61087, Oct. 4, 2010]

COMPENSATION

§ 1227.112 What compensation will a State receive to perform delegated functions?

You will receive compensation for your costs to perform each delegated function subject to the following conditions:

(a) Compensation for costs is subject to Congressional appropriations;

(b) Compensation may not exceed the reasonably anticipated expenditures that ONRR would incur to perform the same function;

(c) The cost for which you request compensation must be directly related to your performance of a delegated function and necessary for your performance of that delegated function;

(d) At a minimum, you must provide vouchers detailing your expenditures quarterly during the fiscal year. However, you may agree to provide vouchers on a monthly basis in your delegation agreement;

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(e) You must maintain adequate books and records to support your vouchers;

(f) ONRR will pay you quarterly or monthly during the fiscal year as stated in your delegation agreement; and

(g) ONRR may withhold compensation to you for your failure to properly perform any delegated function as provided in section 227.801 of this part.

STATES' RESPONSIBILITIES TO PERFORM DELEGATED FUNCTIONS

[62 FR 43084, Aug. 12, 1997, as amended at 75 FR 61087, Oct. 4, 2010]

§ 1227.200 What are a State's general responsibilities if it accepts a delegation?

For each delegated function you perform, you must:

(a) Operate in compliance with all Federal laws, regulations, and Secretarial and ONRR determinations and orders relating to calculating, reporting, and paying mineral royalties and other revenues. You must seek information or guidance from ONRR regarding new, complex, or unique issues. If ONRR determines that written guidance or interpretation is appropriate, ONRR will provide the guidance or interpretation in writing to you and you must follow the interpretation or guidance given;

(b) Comply with Generally Accepted Accounting Principles (GAAP). You must:

(1) Provide complete disclosure of financial results of activities;

(2) Maintain correct and accurate records of all mineral-related transactions and accounts;

(3) Maintain effective controls and accountability;

(4) Maintain a system of accounts that includes a comprehensive audit trail so that all entries may be traced to one or more source documents; and

(5) Maintain adequate royalty and production information for royalty management purposes;

(c) Assist ONRR in meeting the requirements of the Government Performance and Results Act (GPRA) as well as assisting in developing and endeavoring to comply with the ONRR Strategic Plan and Performance Measurements;

(d) Maintain all records you obtain or create under your delegated function, such as royalty reports, production reports, and other related information. You must maintain such records in a safe, secure manner, including taking appropriate measures for protecting confidential and proprietary information and assisting ONRR in responding to Freedom of Information Act requests when necessary. You must maintain such records for at least 7 years;

(e) Provide reports to ONRR about your activities under your delegated functions. ONRR will specify in your delegation agreement what reports you must submit and how often you must submit them. At a minimum, you must provide periodic statistical reports to ONRR summarizing the activities you carried out, such as:

(1) Production and royalty reports processed;

(2) Erroneous reports corrected;

(3) Results of automated verification findings;

(4) Number of audits performed; and

(5) Enforcement documents issued.

(f) Assist ONRR in maintaining adequate reference, royalty, and production databases as provided in the *Standards* issued under § 1227.201 of this part and the delegation agreement;

(g) Develop annual work plans that:

(1) Specify the work you will perform for each delegated function; and

(2) Identify the resources you will commit to perform each delegated function;

(h) Help ONRR respond to requests for information from other Federal agencies, Congress, and the public;

(i) Cooperate with ONRR's monitoring of your delegated functions; and

(j) Comply with the *Standards* as required under § 1227.201 of this part.

§ 1227.201 What standards must a State comply with for performing delegated functions?

(a) If ONRR delegates royalty management functions to you, you must comply with the *Standards*. The *Standards* explain how you must carry out the activities under each of the delegable functions.

(b) Your delegation agreement may include additional standards specifically applicable to the functions delegated to you.

(c) Failure to comply with your delegation agreement, the *Standards*, or any of the specific standards and requirements in the delegation agreement, is grounds for termination of all or part of your delegation agreement, or other actions as provided under §§ 1227.801 and 227.802.

(d) ONRR may revise the *Standards* and will provide notice of those changes in the FEDERAL REGISTER. You must comply with any changes to the *Standards*.

[62 FR 43084, Aug. 12, 1997, as amended at 75 FR 61087, Oct. 4, 2010]

§ 1227.300 What audit functions may a State perform?

An audit consists of an examination of records to verify that royalty reports and payments accurately reflect actual production, sales, revenues and costs, and compliance with Federal statutes, regulations, lease terms, and ONRR policy determinations.

(a) If you request delegation of audit functions, you must perform at least the following:

- (1) Submitting requests for records;
- (2) Examining royalty and production reports;
- (3) Examining lessee production and sales records, including contracts, payments, invoices, and transportation and processing costs to substantiate production and royalty reporting;
- (4) Providing assistance to ONRR for appealed demands or orders, including preparing field reports, performing remanded actions, modifying orders, and providing oral and written briefing and testimony as expert witnesses.

(b) If necessary for a particular audit, you may also perform any of the following:

- (1) Issuing engagement letters;
- (2) Arranging for entrance conferences;
- (3) Scheduling site visits; and
- (4) Issuing record releases and audit closure letters; and
- (5) Holding closeout conferences.

[62 FR 43084, Aug. 12, 1997, as amended at 75 FR 61087, Oct. 4, 2010]

§ 1227.301 What are a State's responsibilities if it performs audits?

If you perform audits you must:

(a) Comply with the *ONRR Audit Procedures Manual* and the *Government Auditing Standards* issued by the Comptroller General of the United States;

(b) Follow the ONRR Annual Audit Work Plan and 5-year Audit Strategy, which ONRR will develop in consultation with States having delegated audit authority;

(c) Agree to undertake special audit initiatives ONRR identifies targeting specific royalty issues, such as valuation or volume determinations;

(d) Prepare, construct, or compile audit work papers under the appropriate procedures, manuals, and guidelines;

(e) Prepare and submit ONRR Audit Work Plans. You may modify your Audit Work Plans with ONRR approval; and

(f) Comply with procedures for appealed demands or orders, including meeting timeframes, supplying information, and using the appropriate format.

[62 FR 43084, Aug. 12, 1997, as amended at 75 FR 61087, Oct. 4, 2010]

§ 1227.400 What functions may a State perform in processing production reports or royalty reports?

Production reporters or royalty reporters provide production, sales, and royalty information on mineral production from leases that must be collected, analyzed, and corrected.

(a) If you request delegation of either production report or royalty report processing functions, you must perform at least the following:

(1) Receiving, identifying, and date stamping production reports or royalty reports;

(2) Processing production or royalty data to allow entry into a data base;

(3) Creating copies of reports by means such as electronic imaging;

(4) Timely transmitting production report or royalty report data to ONRR and other affected Federal agencies as provided in your delegation agreement and the *Standards*;

(5) Providing training and assistance to production reporters or royalty reporters;

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(6) Providing production data or royalty data to ONRR and other affected Federal agencies; and

(7) Providing assistance to ONRR for appealed demands or orders, including meeting timeframes, supplying information, using the appropriate format, performing remanded actions, modifying orders, and providing oral and written briefing and testimony as expert witnesses.

(b) If you request delegation of either production report or royalty report processing functions, or both, you may perform the following functions:

(1) Granting exceptions from reporting and payment requirements for marginal properties; and

(2) Approving alternative royalty and payment requirements for unit agreements and communitization agreements.

(c) You must provide ONRR with a copy of any exceptions from reporting and payment requirements for marginal properties and any alternative royalty and payment requirements for unit agreements and communitization agreements you approve.

[62 FR 43084, Aug. 12, 1997, as amended at 75 FR 61087, Oct. 4, 2010]

§ 1227.401 What are a State's responsibilities if it processes production reports or royalty reports?

In processing production reports or royalty reports you must:

(a) Process reports accurately and timely as provided in the *Standards* and your delegation agreement;

(b) Identify and resolve fatal errors to use in subsequent error correction that the State or ONRR performs;

(c) Accept multiple forms of electronic media from reporters, as ONRR specifies;

(d) Timely transmit required production or royalty data to ONRR and other affected Federal agencies;

(e) Access well, lease, agreement, and reporter reference data from ONRR and provide updated information to ONRR;

(f) For production reports, maintain adequate system software edits to ensure compliance with the provisions of 30 CFR part 1210—Forms and Reports, the ONRR *Minerals Production Reporter Handbook*, any interagency memo-

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randum of understanding to which ONRR is a party, and the *Standards*;

(g) For royalty reports, maintain adequate system software edits to ensure compliance with the provisions of 30 CFR part 1218, the *Oil and Gas Payor Handbook, Volume II*, “Dear Payor” letters, and the *Standards*; and

(h) Comply with the procedures for appealed demands or orders, including meeting timeframes, supplying information, and using the appropriate format.

[62 FR 43084, Aug. 12, 1997, as amended at 67 FR 19112, Apr. 18, 2002; 73 FR 15898, Mar. 26, 2008; 75 FR 61087, Oct. 4, 2010]

§ 1227.500 What functions may a State perform to ensure that reporters correct erroneous report data?

Production data and royalty data must be edited to ensure that what is reported is correct, that disbursement is made to the proper recipient, and that correct data are used for other functions, such as automated verification and audits. If you request delegation of error correction functions for production reports or royalty reports, or both, you must perform at least the following:

(a) Correcting all fatal errors and assigning appropriate confirmation indicators;

(b) Verifying whether production reports are missing;

(c) Contacting production reporters or royalty reporters about missing reports and resolving exceptions;

(d) Documenting all corrections made, including providing production reporters or royalty reporters with confirmation reports of any changes;

(e) Providing training and assistance to production reporters or royalty reporters;

(f) Issuing notices, orders to report, and bills as needed, including, but not limited to, imposing assessments on a person who chronically submits erroneous reports; and

(g) Providing assistance to ONRR for appealed demands or orders, including preparing field reports, performing remanded actions, modifying orders, and providing oral and written briefing and testimony as expert witnesses.

[62 FR 43084, Aug. 12, 1997, as amended at 75 FR 61087, Oct. 4, 2010]

§ 1227.501 What are a State's responsibilities to ensure that reporters correct erroneous data?

To ensure the correction of erroneous data, you must:

(a) Ensure compliance with the provisions of 30 CFR parts 1216 and 1218, any applicable handbook specified under 30 CFR 1227.401 (f) and (g), interagency memorandums of understanding to which ONRR is a party, and the *Standards*;

(b) Ensure that reporters accurately and timely correct all fatal errors as designated in the *Standards*. These errors include, for example, invalid or incorrect reporter/payor codes, incorrect lease/agreement numbers, and missing data fields;

(c) Submit accepted and corrected lines to ONRR to allow processing in a timely manner as provided in the *Standards* and 30 CFR part 1219; and

(d) Comply with the procedures for appealed demands or orders, including meeting timeframes, supplying information, and using the appropriate format.

[62 FR 43064, Aug. 12, 1997, as amended at 67 FR 19112, Apr. 18, 2002; 75 FR 61087, Oct. 4, 2010]

§ 1227.600 What automated verification functions may a State perform?

Automated verification involves systematic monitoring of production and royalty reports to identify and resolve reporting or payment discrepancies. States may perform the following:

(a) Automated comparison of sales volumes reported by royalty reporters to sales and transfer volumes reported by production reporters. If you request delegation of automated comparison of sales and production volumes, you must perform at least the following functions:

(1) Performing an initial sales volume comparison between royalty and production reports;

(2) Performing subsequent comparisons when reporters adjust royalty or production reports;

(3) Checking unit prices for reasonable product valuation based on reference price ranges ONRR provides;

(4) Resolving volume variances using written correspondence, telephone inquiries, or other media;

(5) Maintaining appropriate file documentation to support case resolution; and

(6) Issuing orders to correct reports or payments;

(b) Any one or more of the following additional automated verification functions:

(1) Verifying compliance with lease financial terms, such as payment of rent, minimum royalty, and advance royalty;

(2) Identifying and resolving improper adjustments;

(3) Identifying late payments and insufficient estimates, including calculating interest owed to ONRR and verifying payor-calculated interest owed to ONRR;

(4) Calculating interest due to a lessee or its designee for an adjustment or refund, including identifying overpayments and excessive estimates;

(5) Verifying royalty rates; and

(6) Verifying compliance with transportation and processing allowance limitations;

(c) Issuing notices and bills associated with any of the functions under paragraphs (a) and (b) of this section; and

(d) Providing assistance to ONRR for any of these delegated functions on appealed demands or orders, including meeting timeframes, supplying information, using the appropriate format, taking remanded actions, modifying orders, and providing oral and written briefing and testimony as expert witnesses.

§ 1227.601 What are a State's responsibilities if it performs automated verification?

To perform automated verification of production reports or royalty reports, you must:

(a) Verify through research and analysis all identified exceptions and prepare the appropriate billings, assessment letters, warning letters, notification letters, Lease Problem Reports, other internal forms required, and correspondence required to perform any required follow-up action for each function, as specified in the *Standards* or your delegation agreement;

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(b) Resolve and respond to all production reporter or royalty reporter inquiries;

(c) Maintain all documentation and logging procedures as specified in the *Standards* or your delegation agreement;

(d) Access well, lease, agreement, and production reporter or royalty reporter reference data from ONRR and provide updated information to ONRR; and

(e) Comply with procedures for appealed demands and orders, including meeting time frames, supplying information, and using the appropriate format.

§ 1227.700 What enforcement documents may a State issue in support of its delegated function?

This section explains what enforcement actions you may take as part of your delegated functions.

(a) You may issue demands, subpoenas, and orders to perform restructured accounting, including related notices to lessees and their designees. You also may enter into tolling agreements under section 15(d)(1) of the Act, 30 U.S.C. 1725(d)(1).

(b) When you issue any enforcement document you must comply with the requirements of section 115 of the Act, 30 U.S.C. 1725.

(c) When you issue a demand or enter into a tolling agreement under section 15(d)(1) of the Act, 30 U.S.C. 1725(d)(1), the highest State official having ultimate authority over the collection of royalties or the State official to whom that authority has been delegated must sign the demand or tolling agreement.

(d) When you issue a subpoena or order to perform a restructured accounting you must:

(1) Coordinate with ONRR to ensure identification of issues that may concern more than one State before you issue subpoenas and orders to perform restructured accounting; and

(2) Ensure that the highest State official having ultimate authority over the collection of royalties signs any subpoenas and orders to perform restructured accounting, as required under section 115 of the Act, 30 U.S.C. 1725. This official may not delegate signature authority to any other person.

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PERFORMANCE REVIEW

§ 1227.800 How will ONRR monitor a State's performance of delegated functions?

This section explains ONRR's procedures for monitoring your performance of any of your delegated functions.

(a) A monitoring team of ONRR officials will annually review your performance of the delegated functions and compliance with your delegation agreement, the *Standards*, and 30 U.S.C. 1735, including conducting fiscal examination to verify your costs for reimbursement.

(b) The monitoring team also will:

(1) Periodically review your statistical reports required under § 1227.200(e) to verify your accuracy, timeliness, and efficiency;

(2) Check for timely transmittal of production report or royalty report information to ONRR and other affected agencies, as applicable, to allow for proper disbursement of funds and processing of information;

(3) Coordinate on-site visits and Office of the Inspector General, General Accounting Office, and ONRR audits of your performance of your delegated functions; and

(4) Maintain reports of its monitoring activities.

[62 FR 43084, Aug. 12, 1997, as amended at 75 FR 61087, Oct. 4, 2010]

§ 1227.801 What if a State does not adequately perform a delegated function?

If your performance of the delegated function does not comply with your delegation agreement, or the *Standards*, or if ONRR finds that you can no longer meet the statutory requirements under § 1227.106, then ONRR may:

(a) Notify you in writing of your non-compliance or inability to comply. The notice will prescribe corrective actions you must take, and how long you have to comply. You may ask ONRR for an extension of time to comply with the notice. In your extension request you must explain why you need more time; and

(b) If you do not take the prescribed corrective actions within the time that ONRR allows in a notice issued under

paragraph (a) of this section, then ONRR may:

- (1) Initiate proceedings under §1227.802 to terminate all or a part of your delegation agreement;
- (2) Withhold compensation provided to you under §1227.112; and
- (3) Perform the delegated function, before terminating or without terminating your delegation agreement, including, but not limited to, issuing a demand or order to a Federal lessee, or its designee, or any other person when:
 - (i) Your failure to issue the demand or order would result in an underpayment of an obligation due ONRR; and
 - (ii) The underpayment would go uncollected without ONRR intervention.

§ 1227.802 How will ONRR terminate a State's delegation agreement?

This section explains the procedures ONRR will use to terminate all or a part of your delegation agreement:

- (a) ONRR will notify you in writing that it is initiating procedures to terminate your delegation agreement;
- (b) ONRR will provide you notice and opportunity for a hearing under §1227.803 of this part;
- (c) The ONRR Director, with concurrence from the Secretary, will decide whether to terminate your delegation agreement.
- (d) After the hearing, ONRR may:
 - (1) Terminate your delegation agreement; or
 - (2) Allow you 30 days to correct any remaining deficiencies. If you do not correct the deficiency within 30 days, ONRR will terminate all or a part of your delegation agreement.
- (e) ONRR will determine the date your agreement is terminated and will notify you of that date in writing. ONRR will determine the termination date based on the number of delegated functions and the impact of the termination on all affected parties.

§ 1227.803 What are the hearing procedures for terminating a State's delegation agreement?

- (a) The ONRR Director will appoint a hearing official to conduct one or more public hearings for fact finding and to determine any actions you must take to correct the noncompliance. The

hearing official will not decide whether to terminate your delegation agreement;

- (b) The hearing official will contact you about scheduling a hearing date and location;
- (c) The hearing official will publish notice of the hearing in the FEDERAL REGISTER and other appropriate media within your State;
- (d) At the hearing, you will have an opportunity to present testimony and written information on your ability to perform your delegated functions as required under this part, your delegation agreement, and the *Standards*;
- (e) Other persons may attend the hearing and may present testimony and written information for the record;
- (f) ONRR will record the hearing;
- (g) After the hearing, ONRR may require you to submit additional information; and
- (h) Information presented at each public hearing will help ONRR to determine whether:
 - (1) You have complied with the terms and conditions of your delegation agreement; or
 - (2) You have the capability to comply with the requirements under §1227.106 of this part.

[62 FR 43084, Aug. 12, 1997, as amended at 75 FR 61087, Oct. 4, 2010]

§ 1227.804 How else may a State's delegation agreement terminate?

You may request ONRR to terminate your delegation at any time by submitting your written notice of intent 6 months prior to the date on which you want to terminate. ONRR will determine the date your agreement is terminated and will notify you of that date in writing. ONRR will determine the termination date based on the number of delegated functions and the impact of the termination on all affected parties.

§ 1227.805 How may a State obtain a new delegation agreement after termination?

After your delegation agreement is terminated, you may apply again for delegation by beginning with the proposal process under this part.