

Interior's (Secretary) trust responsibility and lease terms; and,

- To improve the regulatory framework so that information is available which would permit lessees to comply with the regulatory requirements at the time that royalties were due.

All commenters endorsed the concept of revising the existing regulations to provide simplicity and certainty, decrease administrative costs, and decrease litigation. Industry generally supports the use of independent published index prices for valuing gas produced from Indian leases. Industry also supports the concept of an alternative "percentage increase" to satisfy the dual accounting requirement contained in most Indian leases to the extent the use of this alternative methodology is voluntarily chosen by the lessee. Industry does not support the language in the proposed rule and objects to:

- the safety net concept for nondedicated sales,
- the separate dual accounting requirement on natural gas liquids, and
- the gross proceeds requirement if gas production was subject to a previous contract which was the subject of a gas contract settlement. The Council of Petroleum Accountants Societies (COPAS) states "The COPAS representative on the Committee voted in favor of the original index-based formula at the Committee's May, 1995 meeting based on the belief that the use of that formula would satisfy both the gross proceeds and major portion clauses contained in most Indian leases, with the exception of gas sold under certain high-priced contracts."

MMS agrees the gross proceeds requirement in the proposed rule dealing with the issue of gas contract settlements changed the Committee's agreement that the index formula was to replace both the gross proceeds requirement and the major portion requirement. The MMS would like to receive comments on a concept where contract settlement proceeds would be royalty bearing, but would not require a monthly gross proceeds comparison to the index formula. MMS will view contract settlement proceeds to be part of gross proceeds when value is determined by gross proceeds such as for production from a dedicated contract, or in nonindex areas where the initial value is determined under the gross proceeds context. For index areas, MMS will require the gross proceeds of gas sold under nondedicated contracts to be calculated only if the contract

settlement proceeds per MMBTU when added to the 80 percent of the safety net price exceeds the formula value for the month including any increase for dual accounting. This computation would be made after the safety net prices were reported to the MMS by the lessee. Specifically, under this concept, MMS would revise § 206.172(b)(2)(ii) to read as follows:

This paragraph applies to gas not sold under a dedicated contract and that was subject to a previous contract which was part of a gas contract settlement. If the contract settlement proceeds per MMBTU added to the 80 percent of the safety net prices calculated at § 206.172(e)(4)(i) exceeds the index-based value that applies to the gas under this section (including any adjustments required under § 206.176), then the value of the gas is the higher of the value determined under this section (including any adjustments required under § 206.176) or § 206.174.

MMS specifically requests comments on these revised paragraphs. You do not need to comment on the rest of the rule. MMS will respond to all comments in a final rule.

February 28, 1997.
Lucy R. Querques,
Associate Director for Royalty Management.
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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 223 and 239

[FRA Docket No. PTEP-1, Notice No. 2]

RIN 2130-AA96

Passenger Train Emergency Preparedness

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking; dates and locations of public hearings.

SUMMARY: By notice of proposed rulemaking (NPRM) published on February 24, 1997 (62 FR 8330), FRA proposed a rule to require minimum Federal safety standards for the preparation, adoption, and implementation of emergency preparedness plans by railroads connected with the operation of passenger trains, including freight railroads hosting the operations of rail passenger service. In that notice, FRA

announced that it would soon schedule two public hearings to allow interested parties the opportunity to comment on issues addressed in the NPRM.

DATES: Public Hearings: The date of the first public hearing is Friday, April 4 at 8:30 a.m. in Chicago, Illinois, and the date of the second public hearing is Monday, April 7 at 8:30 a.m. in New York City, New York. Any person wishing to participate in a public hearing should notify the Docket Clerk by telephone (202-632-3198) or by mail at the address provided below at least five working days prior to the date of the hearing and submit three copies of the oral statement that he or she intends to make at the hearing. The notification should identify the hearing in which the person wishes to participate, the party the person represents, and the particular subject(s) the person plans to address. The notification should also provide the Docket Clerk with the participant's mailing address. FRA reserves the right to limit participation in the hearings of persons who fail to provide such notification.

ADDRESSES: (1) *Docket Clerk:* Written notification should identify the docket number and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, RCC-10, 400 Seventh Street, S.W., Washington, D.C. 20590. (2) *Public Hearings:* The hearing scheduled for April 4 in Chicago will be held in the Special Events Room, Suite 200 on the Second Floor, Corporate Conference Center, 200 W. Adams Street, Chicago, Illinois 60606. The hearing scheduled for April 7 in New York City will be held in Room 305C of the Federal Building at 26 Federal Plaza, New York, N.Y. 10278.

FOR FURTHER INFORMATION CONTACT: Mr. Edward R. English, Director, Office of Safety Assurance and Compliance, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590 (telephone number: 202-632-3349), or David H. Kasminoff, Esq., Trial Attorney, Office of Chief Counsel, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590 (telephone: 202-632-3191).

Issued in Washington, D.C., on March 3, 1997.

Donald M. Itzkoff,
Deputy Federal Railroad Administrator.
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