Subpart I—North Carolina

2. Section 1952.154 is amended by revising paragraph (b) to read as follows:

§ 1952.154 Final approval determination.

* * * * *

(b) Except as otherwise noted, the plan which has received final approval covers all activities of employers and all places of employment in North Carolina. The plan does not cover Federal government employers and employees; the U.S. Postal Service (USPS), including USPS employees, and contract employees and contractor-operated facilities engaged in USPS mail operations; the American National Red Cross; private sector maritime activities; employment on Indian reservations; enforcement relating to any contractors or subcontractors on any Federal establishment where the land has been ceded to the Federal Government; railroad employment; and enforcement on military bases.

* * * * *

3. Section 1952.155 is amended by revising paragraph (b)(1) to read as follows:

§ 1952.155 Level of Federal enforcement.

* * * * *

(b)(1) In accordance with section 18(e), final approval relinquishes Federal OSHA authority only with regard to occupational safety and health issues covered by the North Carolina plan. OSHA retains full authority over issues which are not subject to State enforcement under the plan. Thus, Federal OSHA retains its authority relative to safety and health in private sector maritime activities and will continue to enforce all provisions of the Act, rules or orders, and all Federal standards, current or future, specifically directed to private sector maritime activities (occupational safety and health standards comparable to 29 CFR Parts 1915, shipyard employment; 1917, marine terminals; 1918, longshoring; and 1919; gear certification, as well as provisions of general industry and construction standards (29 CFR Parts 1910 and 1926) appropriate to hazards found in these employments); employment on Indian reservations; enforcement relating to any contractors or subcontractors on any Federal establishment where the land has been ceded to the Federal Government; railroad employment, not otherwise regulated by another Federal agency; and enforcement on military bases. Federal jurisdiction is also retained with respect to Federal government employers and employees; the U.S. Postal Service (USPS), including USPS employees, and contract employees and contractor-operated facilities engaged in USPS mail operations; and the American National Red Cross.

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[FR Doc. 00–26946 Filed 10–18–00; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 206

RIN 1010–AC72

Amendments to Gas Valuation Regulations for Indian Leases

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: MMS is removing the special timing requirements for adjustments and audits of royalties on gas produced from Indian leases in Montana and North Dakota. If not removed, these timing requirements could force tribal and MMS auditors to expend additional time and money or postpone ongoing audits to meet the restricted time periods. Removing these timing restrictions should increase royalties collected for Indian leases in these States.

DATES: The effective date of this final rule is November 20, 2000.

FOR FURTHER INFORMATION CONTACT: David S. Guzy, Chief, Rules and Publications Staff, Minerals Management Service, Royalty Management Program, P.O. Box 25165, MS 3021, Denver, CO 80225–0165; telephone (303) 231–3432; fax (303) 231–3385; or e-mail David.Guzy@mms.gov.

SUPPLEMENTARY INFORMATION: The principal author of this final rule is Richard Adamski, Royalty Valuation Division, Royalty Management Program (RMP), MMS.

I. Background

On August 10, 1999, MMS published a final rule titled ''Amendments to Gas Valuation Regulations for Indian Leases,'' (64 FR 43506) with an effective date of January 1, 2000. These regulations apply to all gas production from Indian (tribal or allotted) oil and gas leases (except leases on the Osage Indian Reservation). The new regulations resulted from a negotiated rulemaking among Indian tribes and allottees, the oil and gas industry, and MMS.

Among the newly adopted regulations was a provision at 30 CFR 206.174(l) requiring that for Indian leases in Montana and North Dakota, lessees must make adjustments to reported royalty values sooner, and MMS must complete its audits sooner, than either has done historically. This provision does not apply to Indian leases in other States.

The final rule limited the adjustment and audit period for Indian leases in Montana and North Dakota because, unlike most other producing regions, there are no acceptable published indexes applicable to that area (64 FR 43510). Accordingly, in areas such as Montana and North Dakota, valuation must be based on other criteria that are more difficult to determine than index prices.

After the final rule was promulgated, tribal auditors informed MMS that the special timing requirements at 30 CFR 206.174(l) could force tribal and MMS auditors to expend additional time and money or postpone ongoing audits in Montana and North Dakota to meet the restricted time periods. Moreover, MMS believes that the reason for only placing time limits on Indian leases in Montana and North Dakota is not compelling. Consequently, on June 15, 2000, MMS published a proposed rulemaking (65 FR 37504) to remove the requirements. The proposed rulemaking provided for a 30-day comment period that ended July 17, 2000.

II. Comments on Proposed Rule

During the comment period for the proposed rule, MMS received two written comments: one from an Indian tribe (tribe) and one from industry. After careful consideration of the comments, MMS has decided to issue this final rule removing the special timing requirements for adjustments and audits of royalties on gas produced from Indian leases in Montana and North Dakota. This amendment to the regulations will apply prospectively to gas produced on or after the effective date specified in the **DATES** section above.

General Comments

The industry commenter opposed the removal of the time limitations. The commenter believes that industry received the earlier valuation certainty in return for agreeing to an increase in the major portion calculation percentage to the 75th percentile. The commenter suggested that if MMS removes the adjustment and audit time limits then MMS should also change the major portion calculation to reflect the historical major portion value at the 50th percentile.

The tribal commenter supported the proposed amendments. As stated previously, the final rule limited the adjustment and audit period for Indian leases in Montana and North Dakota because there are no acceptable published indexes applicable to that area. The tribal commenter believes that the lack of such an index means that the determination of value will take more time, not less time, in the audit process.

Response. MMS and tribal auditors must retain the discretion to allocate audit resources to obtain the best data when that data becomes available. MMS believes that even without absolute time limits, industry is still afforded the certainty of a binding major portion value and no late-payment interest on any underpayment until that major portion value is due. Indian members of the Indian Negotiated Rulemaking Committee were unanimous in their belief that the median pricing methodology based on the 50th percentile did not accurately reflect the intent of lease terms. In exercising its trust responsibility to Indian lessors, MMS will continue to calculate the major portion value at the 75th percentile established in the August 1999 final rule.

Comments on Specific Issues

MMS specifically sought comment on whether there is a valid reason for differentiating between leases located in other States and leases in Montana and North Dakota when they both may be required to use the same valuation standards.

The tribal commenter pointed out that under the provisions of the gas regulations that allow other tribes and allottees to opt out of the applicable indexes, no time limits for audits, adjustments, and collection are imposed. The commenter stated that the result is unfair and disparate treatment for the Montana and North Dakota tribes.

The industry commenter recognized that the Indian lessors in Montana and North Dakota are being treated differently from those groups under the index-based valuation. The commenter offered two solutions to remedy the situation:

- Apply the restricted time limits to all Indian lessors; or
- Calculate major portion at the 50th percentile.

Response. MMS concludes that there is no valid reason for differentiating between leases located in Montana and North Dakota and leases located in other States when they both may be required to use the same valuation standards. Further, we believe the suggestions proffered by the industry commenter are not in the best interests of Indian lessors and consistent with the Secretary's trust responsibilities.

MMS also sought comments on whether the time limits on adjustment and audit could have a negative revenue impact on royalties collected from gas produced from Indian lands in Montana and North Dakota.

The tribal commenter believes that the reduced time periods place a significant burden on tribes that conduct their own audit program. It may require tribes to put aside, postpone or abandon ongoing audits of earlier periods to meet the new deadlines. The reduced time period may affect tribes' abilities to do a comprehensive and thorough audit or possibly any audit at all within the shortened time period. The commenter is also concerned that MMS valuation resources may be stretched too thin. The above factors together may result in less revenues to Indian lessors located in Montana and North Dakota.

Response. MMS agrees that the timing restrictions could hinder MMS and tribal audit efforts.

The tribal commenter suggests that paragraphs (2), (3) and (4) of 30 CFR 206.174 be removed as they would no longer be necessary if paragraph (1) is removed.

Response. This comment is a misunderstanding caused by typographical errors in the June 15, 2000, proposed rule (65 FR 37504) which replaced the lowercase ''L'' with a numerical ''1'' in many parts of the text. MMS is removing 30 CFR 206.174(l) (*i.e.,* lowercase ''L'') which includes paragraphs (1)–(4). MMS corrected these typographical errors in the July 7, 2000, **Federal Register** (65 FR 42064).

III. Procedural Matters

1. Summary Cost and Benefit Data.

The objective of this rule is to remove the special timing requirements for adjustments and audits of royalties on gas produced from Indian leases in Montana and North Dakota. We have summarized below the estimated costs and benefits of this rule to the three affected groups: Indian lessors in Montana and North Dakota, industry, and the Federal Government. The cost and benefit information in this Item 1 of Procedural Matters is used as the basis for the departmental certifications in Items 3–10.

A. Indian Lessors in Montana and North Dakota

We estimate that in 1997, through audits, MMS identified and collected unpaid revenues amounting to 2 percent of the total royalties paid for gas production on certain Indian leases located in Montana.

In 1999, payors submitted about $420,000 in royalties from gas produced from Indian leases in Montana and $49,000 in royalties from gas produced from Indian leases in North Dakota. Using 2 percent to calculate the additional audit revenues that may be expected for the 1999 sales year, MMS should collect an additional $8,400 from leases in Montana and $980 from leases in North Dakota. We conclude that if audits cannot be completed within one year of the royalty line adjustments timeframes, Indian lessors could potentially lose these uncollected revenues, plus applicable late payment interest, annually.

B. Industry

This rule will impose no new reporting burdens on industry. Industry will benefit from the final rule by being able to make adjustments to royalty lines beyond the current 1-year period. However, industry will pay an undetermined amount of additional interest on any underpayments discovered during audits that take longer than 1 year to complete.

Small Business Issues. Approximately 17 entities in Montana and 5 in North Dakota—most of which are small businesses because they employ 500 or less employees—pay royalties to MMS on gas produced from Indian leases. As discussed in A. above, these 22 entities collectively will pay less than $10,000 in uncollected royalties annually as a result of an extended adjustment and audit period. The average estimated impact would be $426 in uncollected royalties affecting about 4 percent of the small businesses reporting gas royalties for Indian leases. This rule benefits small tribes that would otherwise have to hire additional audit staff to handle the burden of performing both past and present audits concurrently. From this information, we conclude that this rule will not have a significant economic impact on a substantial number of small entities.

C. Federal Government

Removing the time limits on audit will help to ensure that Indian mineral lessors receive the maximum revenues from mineral resources on their land consistent with the Secretary's trust responsibility and lease terms.

D. Summary of Costs and Benefits to Affected Groups

Description (See corresponding narrative above)	<Cost>/Benefit Amount	
	First Year	Subsequent Years
Indian Lessors in Montana and North Dakota	$9,380 plus interest	$9,380 plus interest
Industry	<$9,380 plus interest>	<$9,380 plus interest>
Federal Government	−0−	−0−

2. Regulatory Planning and Review (E.O. 12866)

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

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

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

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

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

3. The Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). See Small Business Issues in Item 1.B. above.

Your comments are important. The Small Business and Agricultural Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions in this rule, call 1–888–734–3247.

4. Small Business Regulatory Enforcement Act (SBREFA)

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

a. Will not have an annual effect on the economy of $100 million or more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

5. Unfunded Mandates Reform Act

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

6. Takings (E.O. 12630)

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

7. Federalism (E.O. 13132)

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

8. Civil Justice Reform (E. O. 12988)

Under Executive Order 12988, the Office of the Solicitor has determined that this proposed rule will not unduly burden the judicial system and does meet the requirements of sections 3(a) and 3(b)(2) of the Order.

9. Paperwork Reduction Act of 1995

This rule does not contain an information collection, as defined by the Paperwork Reduction Act, and the submission of Office of Management and Budget Form 83–I is not required.

10. National Environmental Policy Act

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

List of Subjects in 30 CFR 206

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

Dated: October 10, 2000.

Sylvia V. Baca,

Assistant Secretary, Land and Minerals Management.

For reasons stated in the preamble, MMS amends part 206 as follows:

PART 206—PRODUCT VALUATION

1. The authority citation for part 206 continues to read as follows:

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

§ 206.174 [Amended]

2. In § 206.174, remove paragraph (l).

[FR Doc. 00–26932 Filed 10–18–00; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General of the Navy (Admiralty and Maritime Law) has determined that USS *Mitscher* (DDG 57) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.