

and reduce controller workload in the Southern California area.

EFFECTIVE DATES: 0901 UTC, July 7, 2005.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Airspace and Rules, Office of System Operations and Safety, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8783.

SUPPLEMENTARY INFORMATION:

History

On October 28, 2004, the FAA published in the **Federal Register** a notice proposing to revise V-208 between the Ventura, CA, VORTAC and the Santa Catalina, CA, VORTAC (69 FR 62832). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. One comment was received in support of the proposal as long as the airway is charted prior to use as an airway. We agree with the comment. The airway will be effective concurrent with charting. With the exception of editorial changes, this amendment is the same as that proposed in the notice.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 (part 71) to modify V-208 by changing the originating point of the airway from the Santa Catalina, CA, VORTAC to the Ventura, CA, VORTAC. The revision incorporates a routing that is currently issued by ATC when managing aircraft in the Los Angeles, CA, terminal area. Extending V-208 as described above will significantly reduce pilot-controller communications, alleviate radio frequency congestion, reduce the potential for pilot readback errors, and enhance the management of aircraft operations in the Southern California area.

Domestic VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.9M dated August 30, 2004, and effective September 16, 2004, which is incorporated by reference in 14 CFR 71.1. The domestic VOR Federal airway listed in this document will be published subsequently in the order.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory

Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9M, Airspace Designations and Reporting Points, dated August 30, 2004, and effective September 16, 2004, is amended as follows:

Paragraph 6010(a) Domestic VOR Federal Airways

* * * * *

V-208 [Revised]

From Ventura, CA; INT Ventura, 175° and Santa Catalina 310° radials; Santa Catalina, CA; Oceanside, CA; Julian, CA; Thermal, CA; Twentynine Palms, CA; 20 miles, 24 miles 73 MSL, Needles, CA; Peach Springs, AZ; Grand Canyon, AZ; INT Grand Canyon 095° and Tuba City, AZ, 246° radials; Tuba City; Page, AZ; Hanksville, UT; Carbon, UT; Myton, UT; 79 MSL, Vernal, UT, 25 miles, 105 MSL, Cherokee, WY. The airspace within R-2503 and the airspace below 2,000 feet MSL outside the United States is excluded. The portion outside the United States has no upper limit.

* * * * *

Issued in Washington, DC, April 21, 2005.

Edith V. Parish,

Acting Manager, Airspace and Rules.

[FR Doc. 05-8536 Filed 4-28-05; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 740, 742, 748, 762, and 764

[Docket No. 050408099-5099-01]

RIN [0694-AD48]

Revised Contact Information, Nomenclature Change and Correction of Citation Error

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: This rule revises delivery addresses, telephone and facsimile numbers; makes a nomenclature change, and corrects a citation error. This rule revises the delivery address for the ENC Encryption Request Coordinator and the office within BIS that receives encryption review requests and reports. The rule also revises the facsimile number for the Office of Exporter Services, corrects the name of the Outreach and Educational Services Division, revises the office to which a voluntary self-disclosure may be sent, revises the title and address of the official to whom a voluntary self-disclosure may be sent, and corrects a citation error. These actions are being taken to reflect the reorganization or movement of certain offices or functions, and to correct an error in the regulations. This action is not intended to have a substantive effect on the rights or obligations of the public.

DATES: This rule is effective April 29, 2005.

ADDRESSES: Send comments concerning this rule to rp2@bis.doc.gov, fax (202) 482-3355, or to Regulatory Policy Division, Bureau of Industry and Security, Room H2705, U.S. Department of Commerce, Washington DC, 20230. Please refer to regulatory identification number (RIN) 0694-AD48 in all comments, and in the subject line of e-mail comments.

FOR FURTHER INFORMATION CONTACT: William Arvin, Office of Exporter Services, Bureau of Industry and Security, Telephone: (202) 482-2440, Email: warvin@bis.doc.gov.

SUPPLEMENTARY INFORMATION: This rule makes administrative changes and corrections to the Export Administration Regulations (EAR) as described below.

The EAR require that certain encryption review requests and reports be submitted to the ENC Encryption Request Coordinator located in Fort Meade, Maryland and to BIS. This rule

revises two delivery addresses and one name for such deliveries. Those addresses and name are:

- The suite number in the address of the ENC Encryption Request Coordinator is changed from 6131 to 6940 in § 740.8(b)(2)—(classification requests related to key escrow and key recovery products pursuant to License Exception Key Management Infrastructure (KMI)), § 740.17(e)(5)(ii)—(submission of semi-annual reports required pursuant to License Exception ENC), and Supp. No. 6 to Part 742 (Guidelines for submitting review requests for encryption items) to reflect a recent move by that organization;
- The name KMI Encryption Request Coordinator in § 740.8(b)(2) is changed to ENC Encryption Request Coordinator to reflect the current name of that organization; and
- The room number for deliveries to BIS's Information Technology Controls Division is changed from 2625 to 2093 in Supplement No. 6 to Part 742.

This rule revises the facsimile number that appears in § 748.4(h) (requests for emergency processing of export and reexport license applications) and in § 748.2(a) (requests for BIS forms from the Washington, DC facility of the Office of Exporter Services) to read “(202) 482–2927”. This rule also corrects the name of the Outreach and Educational Services Division in § 730.8 and § 748.2.

This rule removes the Office of Export Enforcement (OEE) field offices from the list of locations at which to make voluntary disclosures in § 764.5(c)(7). All such disclosures will have to be made to OEE headquarters. The rule also revises title of the headquarters official as well as the headquarters address, telephone number, and facsimile number to use when making such disclosures.

This rule corrects a citation error in § 762.1(a)(4) by revising the reference to § 734.2(b)(7) to read § 736.2(b)(7) because the latter rather than the former mentions the actions related to proliferation activities to which § 762.1(a)(4) refers.

Although the Export Administration Act expired on August 20, 2001, Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp., p. 783 (2002)), as extended by the Notice of August 6, 2004, 69 FR 48763 (August 10, 2004) continues the Regulations in effect under the International Emergency Economic Powers Act.

Rulemaking Requirements

1. This rule has been determined to be not significant for purposes of E.O. 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid Office of Management and Budget Control Number. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by Office of Management and Budget under control number 0694–0088, “Multi-Purpose Application,” which carries a burden hour estimate of 58 minutes for a manual or electronic submission, control number 0694–0104 “Encryption Items Under the Jurisdiction of the Department of Commerce, Forms BIS 742R and 742S” which carries a total estimated annual burden of 2,830 hours among an estimated 680 respondents, and 0694–0058 “Procedure for Voluntary Self-Disclosure of Violations” which carries a total estimated annual burden estimate of 670 hours. BIS believes that this rule will not materially affect the burden imposed by any of these collections. Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burden, to David Rostker, Office of Management and Budget (OMB), by e-mail to David_Rostker@omb.eop.gov, or by fax to (202) 395–7285; and to the Office of Administration, Bureau of Industry and Security, Department of Commerce, 14th and Pennsylvania Avenue, NW., Room 6883, Washington, DC 20230.

3. This rule does not contain policies with Federalism implications as that term is defined under E.O. 13132.

4. The Department finds that there is good cause under 5 U.S.C. 553(b)(B) to waive the provisions of the Administrative Procedure Act requiring prior notice and the opportunity for public comment because it is unnecessary. The changes made by this rule are not substantive changes. This regulation revises delivery addresses and telephone and facsimile numbers, corrects citation errors, and removes a redundant notification requirement. The revisions made by this rule are administrative in nature and does not affect the rights or obligations of the public. Because these revisions are not substantive changes to the EAR, it is unnecessary to provide notice and opportunity for public comment. In addition, the 30-day delay in effectiveness required by 5 U.S.C. 553(d) is not applicable because this rule is not

a substantive rule. This rule only revises two delivery addresses for certain review requests and reports, changes the facsimile number for an office, corrects the name of a division, revises the location for filing a voluntary self-disclosure, and corrects a citation error. It is purely administrative in nature and does not affect the rights of the public. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Because notice of proposed rulemaking and opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

List of Subjects

15 CFR Part 730

Administrative practice and procedure, Advisory committees, Exports, Reporting and recordkeeping requirements, Strategic and critical materials.

15 CFR Parts 740 and 748

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

15 CFR Part 742

Exports, terrorism.

15 CFR Part 762

Administrative practice and procedure, Business and Industry, Confidential business information, Exports, Reporting and recordkeeping requirements.

15 CFR Part 764

Administrative practice and procedure, Exports, Law enforcement, Penalties.

■ Accordingly, parts 730, 740, 742, 748, 762, and 764 of the Export Administration Regulations (15 CFR Parts 730–799) are amended as follows:

PART 730—[AMENDED]

■ 1. The authority citation for part 730 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c; 22 U.S.C. 2151 note, Pub. L. 108–175; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; E.O. 11912, 41 FR 15825, 3 CFR, 1976 Comp., p. 114; E.O. 12002, 42 FR 35623, 3 CFR, 1977 Comp., p.133; E.O. 12058, 43 FR 20947, 3

CFR, 1978 Comp., p. 179; E.O. 12214, 45 FR 29783, 3 CFR, 1980 Comp., p. 256; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 179; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 12981, 60 FR 62981, 3 CFR, 1995 Comp., p. 419; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; E.O. 13338, 69 FR 26751, May 13, 2004; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004); Notice of November 4, 2004, 69 FR 64637 (November 8, 2004).

- 2. In § 730.8, revise paragraph (c) to read as follows:

§ 730.8 How to proceed and where to get help.

* * * * *

(c) *Where to get help.* Throughout the EAR you will find information on offices you can contact for various purposes and types of information. General information including assistance in understanding the EAR, information on how to obtain forms, electronic services, publications, and information on training programs offered by BIS, is available from the Office of Exporter Services at the following locations:

Outreach and Educational Services Division, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Room H1099D, Washington, DC 20230, Tel: (202) 482-4811, Fax: (202) 482-2927, and Western Regional Office, U.S. Department of Commerce, 3300 Irvine Avenue, Suite 345, Newport Beach, California 92660, Tel: (949) 660-0144, Fax: (949) 660-9347, and U.S. Export Assistance Center, Bureau of Industry and Security, 152 N. Third Street, Suite 550, San Jose, California 95112-5591, Tel: (408) 998-7402, Fax: (408) 998-7470.

PART 740—[AMENDED]

- 3. The authority citation for part 740 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; Sec. 901-911, Pub. L. 106-387; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004).

- 4. In § 740.8, revise the second sentence of paragraph (b)(2) to read as follows:

§ 740.8 Key management infrastructure (KMI)

* * * * *

- (b) * * *

- (2) * * * Submit the original request to BIS in accordance with § 748.3 of the EAR and send a copy of the request to:

Attn: ENC Encryption Request Coordinator, 9800 Savage Road, Suite 6940, Fort Meade, MD 20755-6000.

* * * * *

- 5. In § 740.17, revise paragraph (e)(5)(ii) to read as follows:

§ 740.17 Encryption commodities and software (ENC).

* * * * *

- (e) * * *
(5) * * *

(ii) Attn: ENC Encryption Request Coordinator, 9800 Savage Road, Suite 6940, Ft. Meade, MD 20755-6000.

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PART 742—[AMENDED]

- 6. The authority citation for part 742 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; Sec. 901-911, Pub. L. 106-387; Sec. 221, Pub. L. 107-56; Sec 1503, Pub.L. 108-11,117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003-23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004); Notice of November 4, 2004, 69 FR 64637 (November 8, 2004).

- 7. In Supplement No. 6 to Part 742, revise the fifth and sixth sentences of the introductory paragraph to read as follows:

Supplement No. 6 to Part 742—Guidelines for Submitting Review Requests for Encryption Items

* * * For electronic submissions via SNAP, you may fax a copy of the support documents to BIS at (202) 219-9179 or -9182 or you may send the documents to: Bureau of Industry and Security, Information Technology Controls Division, Room 2093, 14th Street and Pennsylvania Ave., NW., Washington, DC 20230. In addition, you must send a copy of your review request and all support documents to: Attn: ENC Encryption Request Coordinator, 9800 Savage Road, Suite 6940, Fort Meade, MD 20755-6000. * * *

* * * * *

PART 748—[AMENDED]

- 8. The authority citation for part 748 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13026, 61 FR 58767,

3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004).

- 9. In § 748.2 revise paragraph (a) to read as follows:

§ 748.2 Obtaining forms; mailing addresses.

(a) You may obtain the forms required by the EAR from any U.S. Department of Commerce District Office; or in person or by telephone or facsimile from the following BIS offices:

Outreach and Educational Services Division, U.S. Department of Commerce, 14th Street and Pennsylvania Ave., NW., Room H1099D, Washington, DC 20230, Tel: (202) 482-4811, Fax: (202) 482-2927, or Western Regional Office, U.S. Department of Commerce, 3300 Irvine Avenue, Suite 345, Newport Beach, CA 92660, Tel: (949) 660-0144, Fax: (949) 660-9347, or U.S. Export Assistance Center, Bureau of Industry and Security, 152 N. Third Street, Suite 550, San Jose, CA 95112-5591, Tel: (408) 998-7402, Fax: (408) 998-7470.

* * * * *

- 10. In § 748.4, revise the first sentence of paragraph (h) to read as follows:

§ 748.4 Basic guidance related to applying for a license.

* * * * *

(h) *Emergency processing.* Applicants may request emergency processing of license applications by contacting the Outreach and Educational Services Division of the Office of Exporter Services by telephone on (202) 482-4811 or by facsimile on (202) 482-2927.

PART 762—[AMENDED]

- 11. The authority citation for part 762 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004).

- 12. In § 762.1, revise the first sentence of paragraph (a)(4) to read as follows:

§ 762.1 Scope.

* * * * *

(a) * * *
(4) Any other transactions subject to the EAR, including, but not limited to, the prohibitions against servicing, forwarding and other actions for or on behalf of end-users of proliferation concern contained in §§ 736.2(b)(7) and 744.6 of the EAR. * * *

* * * * *

PART 764—[AMENDED]

- 13. The authority citation for part 764 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 et. seq.; 50 U.S.C. 1701 et. seq.; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004).

■ 14. In § 764.5 revise paragraph (c)(7) to read as follows:

§ 764.5 Voluntary self-disclosure.

* * * * *

(c) * * *

(7) *Where to make voluntary self-disclosures.* The information constituting a voluntary self-disclosure or any other correspondence pertaining to a voluntary self-disclosure may be submitted to: Director, Office of Export Enforcement, 1401 Constitution Ave., Room H4514, Washington, DC 20230, Tel: (202) 482-5036, Facsimile: (202) 482-5889.

* * * * *

Dated: April 21, 2005.

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 05-8535 Filed 4-28-05; 8:45 am]

BILLING CODE 3510-33-U

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 203

RIN 1010-AD01

Technical Amendment to Oil and Gas and Sulphur Operations in the Outer Continental Shelf (OCS)—Relief or Reduction in Royalty Rates—Deep Gas Provisions

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: This rule amends regulations to correct an unintended potential gap and administrative oversight in the original deep gas royalty rule by making leases located partly in water deeper than 200 meters and issued during lease sales held in 2001 and later years expressly eligible for royalty relief for drilling deep gas wells on leases not subject to deep water royalty relief.

DATES: *Effective date:* This rule is effective on April 29, 2005.

FOR FURTHER INFORMATION CONTACT:

Marshall Rose, Chief, Economics Division, Minerals Management Service, at (703) 787-1536. E-mail:

Marshall.Rose@mms.gov. Address: Minerals Management Service, MS 4050, 381 Elden Street, Herndon, Virginia 20170.

SUPPLEMENTARY INFORMATION: Title 30 CFR part 203 regulates the reduction of

oil and gas royalty under 43 U.S.C. 1337(a)(3). Under section 1337(a)(3)(B), MMS may reduce, modify, or eliminate royalties on certain producing or non-producing leases or categories of leases to promote development or increased production or to encourage production of marginal resources, in the Gulf of Mexico (GOM) west of 87 degrees, 30 minutes West longitude. A final rule published January 26, 2004 (69 FR 3492), and amended April 30, 2004 (69 FR 24052), offered an incentive for certain lessees to explore for and develop deep well gas reserves more rapidly. The objective of the gas incentive is to increase the volume of natural gas production from the OCS by encouraging deep drilling on leases in the shallow water areas of the GOM, *i.e.*, water less than 200 meters deep.

One important subset of these leases was inadvertently not expressly included in this incentive: Those leases straddling the deep water/shallow water depth line issued between January 1, 2001, and April 1, 2004, that did not contain deep well drilling relief terms that the lessee would have to renounce under § 203.48 of the January 26, 2004, final rule. Those leases were intended to be included and were explicitly included and addressed in the preamble to the final rule published January 26, 2004. Briefly, § 203.40 provides deep gas royalty relief to leases meeting various combinations of vintage, location, and production conditions. One of the changes between the proposed and final rule addressed comments on the proposed rule by adding eligibility for certain leases straddling the 200 meter water depth line. MMS intended to allow the incentive for all the leases that straddle this depth line that existed on the date of the final rule and to future such leases that straddle this depth line issued while the temporary incentive period is in effect as long as they were not “double dipping” in incentive programs. The preamble to the final rule explains that change as follows:

For leases lying partly in deep water, MMS prefers to avoid a situation in which any such lease can obtain non-discretionary relief from more than one categorical royalty relief program, *e.g.*, deep water and deep depth drilling. The framework and parameters of each program were designed assuming no further categorical royalty relief would be provided. As of the summer of 2003, there were 132 leases issued before 2001, and lying partly in water depths greater than 200 meters eligible for case-by-case or categorical royalty relief under Sections 302 and 304 of the Deep Water Royalty Relief Act (DWRRA). Eighty-two of these leases were issued from 1996-2000, and are covered under the categorical royalty relief program under

section 304 of the DWRRA [43 U.S.C. 1337 note]. They are not eligible for the deep gas program. Fifty of the leases were issued before 1996, and are covered only by the discretionary royalty relief provisions of section 302 of the DWRRA, 43 U.S.C. 1337(a)(3)(c). MMS's final rule extends eligibility for deep gas drilling relief to these 50 leases, as well as to any lease issued from sales held in 2001, or thereafter, without DWRRA royalty relief eligibility and lying at least partly in less than 200 meters of water depth.

The last sentence in the above paragraph explains and confirms that MMS intended to offer deep gas royalty relief to leases straddling the 200 meter water depth line that did not have DWRRA section 304 non-discretionary royalty relief. Because non-discretionary deep water royalty relief has not been provided to leases in less than 400 meters of water since 2000, two kinds of leases meet those criteria—pre-DWRRA leases and leases issued in sales held in 2001-2004. As the preamble mentions, there were 50 leases in the former category, from lease sales held before enactment of the DWRRA that are still active. The latter category numbers 81 leases issued in lease sales held in 2001-2004. Additional such leases may be issued in lease sales held in the next several years. Modifications in the final rule explicitly made the 50 pre-DWRRA leases that meet those criteria eligible for royalty relief for drilling deep gas wells on leases not subject to deep water royalty relief (§ 203.40(a)(1) and (b)(2)).

Unfortunately, contrary to MMS's intent as expressed in the preamble to the final rule, the language in § 203.40(a)(2) does not make expressly eligible for deep gas royalty relief leases located partly in water less than 200 meters deep that were issued between January 1, 2001, and April 1, 2004. This is the case because such leases did not have any royalty incentives for deep well gas drilling included as part of their lease terms. Likewise, also contrary to MMS's intent as expressed in the preamble, language in § 203.40(a)(3) does not make similarly located leases issued on and after April 1, 2004, expressly eligible for deep gas relief. Under § 203.40(a)(2) and (a)(3), leases issued after 2001 need to exercise the option under § 203.48 to replace incentive terms in their original lease document with those in the regulation. However, leases have this option under § 203.48 only if they were issued with royalty relief provisions for deep well drilling. Leases located partly in water less than 200 meters deep were not issued with any royalty relief provisions for deep well drilling, and hence do not have any option to exercise. In fact, they do not need to have an option to