Program (RMP) proposes to amend its regulations to establish and clarify which persons may be held liable for unpaid or underpaid royalties, compensatory royalties, or other payments on Federal and Indian minerals leases. The proposed rules also would establish who is required to report and pay royalties on production from leases not in approved Federal or Indian agreements or leases in approved Federal or Indian agreements containing 100 percent Federal or Indian Tribal leases with the same lessor, the same royalty rate, and the same fund code for royalty distribution (hereinafter referred to as 100 percent Federal or Indian agreements). In the near future, MMS intends to issue a further notice of proposed rulemaking regarding who is required to report and pay royalties on production from leases in all other approved Federal or Indian Agreements. DATES: Comments must be submitted on or before August 8, 1995.

ADDRESSES: Mail written comments, suggestions or objections regarding the proposed amendment to: Minerals Management Service, Royalty Management Program, Rules and Procedures Staff, P.O. Box 25165, MS 3101, Mail Stop 3101, Denver, Colorado 80225–0165.

FOR FURTHER INFORMATION CONTACT: David S. Guzy, Chief, Rules and Procedures Staff, telephone (303) 231– 3432, FAX (303) 231–3194. Minerals Management Service, Royalty Management Program, building 85, P.O. Box 25165, Mail Stop 3101, Denver, Colorado 80225–0165.

SUPPLEMENTARY INFORMATION: The principal authors of this rule are members of a team of Minerals Management Service employees led by Cecelia Williams of the Office of Enforcement, Lakewood, Colorado, and attorneys from the Office of the Solicitor in Washington, D.C.

I. General

Since its formation in 1982, and following the mandate of the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA), 30 U.S.C. 1701 *et seq.*, MMS improved substantially the process of accounting for and collecting royalties on mineral production from Federal and Indian leases. MMS implemented automated procedures to detect potentially unpaid and underpaid royalties after payors file their monthly royalty reports, and developed an effective audit program in conjunction with states and Indian tribes.

When MMS determines that royalties are underpaid for a Federal or Indian lease, MMS generally bills the person

who filed a Payor Information Form (PIF) (Form MMS-4025 for oil and gas and Form MMS-4030 for solid minerals) for that lease, and that payor usually resolves the matter with MMS. However, sometimes that royalty payor no longer is able to pay (*e.g.*, it is bankrupt or otherwise out of business), or it asserts that someone else is responsible for the royalty payment. In other situations, an interest in the lease is assigned between the time the royalty obligation accrued and the time MMS discovers and orders payment. In such events, the current payor often does not agree to pay the deficiency, requiring MMS to determine who is liable for the royalty or other payment deficiency.

The purpose of these proposed rules is to establish and clarify which persons are liable, either individually or in conjunction with others, if royalties, compensatory royalties, or other payments due for a Federal or Indian lease are unpaid or underpaid. As explained in more detail below, this includes record title owners of a lease and operating rights owners other than record title owners. In addition, MMS would amend the Payor Information Form (PIF) (Form MMS-4025 for oil and gas and MMS-4030 for solid minerals), required under 30 CFR 210.10, to expressly provide that the payor agrees to pay any additional royalties owed on the production for which it reported royalties originally. Operators and other persons could be liable for the underpayments in certain circumstances. The rules further would clarify how liability attaches, and terminates, when a record title interest is assigned or operating rights are transferred. For the most part, these proposed rules are consistent with current MMS practice and procedures.

MMS also proposes to amend its rules to provide who is required to report and pay royalties on production from, or attributable to, leases not in approved Federal or Indian agreements or leases in 100 percent Federal or Indian agreements (all leases in the agreement have the same lessor, the same royalty rate, and the same fund code for distribution, e.g. same state or county). MMS is reserving for a further notice of proposed rulemaking rules regarding who is required to report and pay royalties on production from leases in all other approved Federal or Indian agreements.

Commenters must recognize that the standards for who is required to report and pay could be different from the standards for determining liability for underpayments. For example, as explained in more detail below, if you hold half of the record title interest in

a Federal lease (that is not in an approved Federal or Indian agreement), you would be liable ultimately for 50 percent of the royalties due on production from that lease. However, under the proposed rules, the person who actually takes and sells the production from a lease that is not in an approved Federal or Indian agreement is required to report and pay each month, so you may not be the person required initially to report that production and remit the royalties. If that payor underpaid royalties, MMS may seek to collect additional monies from you, and then only for 50 percent of the production.

II. Section-by-Section Analysis

Subpart A—General Provisions

Section 211.10 Purpose

This section would explain that this part of the MMS rule is intended to address two principal issues. The first is to establish which persons are liable for royalty, compensatory royalty, and other payments on a lease by virtue of ownership of a lease interest or other connection to lease production. The second issue addressed in this part concerns which persons would be required to report and pay royalties on lease production each month or as otherwise required. However, as explained above, at this time MMS is proposing new rules addressing reporting and paying requirements only for leases not in approved Federal or Indian agreements or leases in 100 percent Federal or Indian agreements.

Section 211.11 Scope

This section would explain the general content of Subparts A, B, and C. Subpart A explains which leases the rules on liability and reporting and paying would apply to, and the definitions you would need to know. Subpart B establishes who would be liable under the leases set out in Subpart A and the extent of that liability. Subpart C explains who would be responsible for reporting and paying royalties on the leases set out in Subpart A, and would describe the obligations to report and pay properly.

Section 211.12 Leases to Which This Part Applies

This section would explain that the rules on liability contained in this part apply to all Federal and Indian mineral leases. This includes, but is not limited to, Indian oil and gas leases, onshore Federal oil and gas leases (whether on public domain or acquired lands, and regardless of the statute under which the lease was issued), oil and gas leases