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on the Outer Continental Shelf (OCS), Federal and Indian coal leases, and Federal geothermal leases. Leases or other agreements under the Indian Mineral Development Act of 1982 also would be included.

As explained in more detail below, there will be situations where Federal or Indian leases are part of an approved Federal or Indian agreement (*e.g.*, a unit or communitization agreement) that includes state or fee leases. When the proposed rules refer to a lease, this includes only the Federal and Indian leases in that agreement.

Leases issued by private predecessors in interest to the Federal government, under which the Federal government subsequently became the lessor when it acquired land subject to such a lease, would not be included within the scope of these rules.

## Section 211.13 Definitions

This section would include definitions of certain terms that are relevant to the regulations in this part.

• Approved Federal or Indian agreement would be defined as an agreement for exploration or development of mineral resources as described by 25 CFR Subchapter I, 30 CFR Subchapter B—Offshore, and 43 CFR Part 3000. This definition basically would incorporate existing descriptions of unit agreements and communitization agreements for Federal and Indian leases.

• Compensatory Royalty would be defined as the amounts the Bureau of Land Management (BLM) or Offshore Minerals Management assesses to compensate for failure to prevent drainage. This definition would basically summarize the BLM's regulations at 43 CFR 3100.2 (1993) and 43 CFR 3162.2(a) (1993). This term is separate and distinct from "other payments" defined below.

• Operator would be defined by referencing several existing definitions in 30 CFR and 43 CFR to maintain consistency between the proposed definition and existing definitions in departmental rules.

*Operating rights owner (working interest owner)* would be defined as a person who owns or has been transferred operating rights in a lease subject to the regulations in this proposed new part. The operating rights owner could be the record title owner. However, the record title owner may transfer some or all of its operating rights to another person who may further transfer those rights. The operating rights owner has the right to take and sell production from a Federal or Indian lease, and is often referred to

as the working interest owner. (*See* BLM rules at 43 CFR 3100.0–5(d)).

Other payments would be defined to include, but not be limited to, rentals minimum royalties, bonuses, net profit share payments, gas storage agreement payments, late and erroneous reporting assessments, and late payment interest charges. The term is intended to include all payments due to MMS's Royalty Management Program (including payments directly to Indian lessors and other royalty recipients), except for compensatory royalty payments assessed for drainage. It would not include the cost of plugging and abandonment of wells, or other lease reclamation obligations.

• *Payor* would be defined by referencing several existing sections in 30 CFR to maintain consistency between the proposed definition and existing departmental rules. MMS proposes to combine the definition of payor at 30 CFR 208.2 with the payor rule at 30 CFR 210.51 which further defines payor. By combining the existent regulations, it is MMS' intent to make clear that a payor is the person who is responsible for reporting and paying royalties consistent with the liability provisions of this proposed rule in sections 211.14, 211.15, 211.16, 211.17, and 211.18.

• *Payor code* would be defined as the five-character code that MMS assigns to the persons required to report and pay royalties. The payor code uniquely identifies the persons responsible for reporting and paying royalties and other payments. The payor code is used on royalty reports, payments, and correspondence to MMS. Persons required to report and pay must obtain a payor code from MMS.

 Payor Information Form (PIF) would be defined as the Form MMS-4025 for oil and gas and geothermal resources, and Form MMS-4030 for solid minerals, as described in 30 CFR 210.10(c)(3) and (4). The PIF is a document that informs MMS who will report and pay royalties and other payments to the Federal or Indian mineral lessor. As explained below, the present PIF would be revised to provide expressly that the payor agrees to pay any additional royalties and other payments owed on production for which it reported, or should have reported, originally.

• *Person* would be defined basically the same as in FOGRMA at 30 U.S.C. § 1702(12). It would include, but not be limited to, any and all entities that report and make royalty and other payments to MMS or the Indian lessor.

• *Record title owner* would be defined as the person who has entered into a lease subject to this part or a

person to whom the responsible leasing agency has approved assignment of all or part of the record title interest. This term also means the same as record title holder, record title interest owner, or lessee of record. The record title owner may transfer all or a part of the operating rights to another person and in fact may have no involvement in lease operations or the sale of production. After the record title owner transfers its operating rights, it usually maintains an overriding royalty interest, but the record title owner has no right to the production from or allocated to the operating rights it transferred.

• *Royalty* would be defined as any payment based on the volume or value of production from a lease subject to this part. This is basically the same definition as in FOGRMA, expanded to include other minerals.

• *Take* would be defined as occurring when the operating rights owner sells or removes production from or allocated to a lease, or when such sale occurs for the benefit of an operating rights owner. Production would be "taken" when it is removed from the lease or agreement. Production would not be "taken" if it is used on or for the benefit of the lease or agreement (and not subject to royalty under MMS rules), except for lease use gas for leases issued under section 6 of the Outer Continental Shelf Lands Act, 43 U.S.C. 1335 (because that gas is subject to royalty under the lease terms). Also, for purposes of these rules, a purchaser who receives production would not be considered to have "taken" the production.

## Subpart B—Liability

Section 211.14 Who is Liable for Royalties and Other Payments Due on a Lease?

The purpose of this section is to provide a comprehensive explanation regarding which persons are liable to the MMS for royalties or other payments due on a lease. It does not apply to compensatory royalties which are addressed in the next section. It also does not apply to, or affect, other lease obligations such as plugging and abandonment.

Unless you are subject to one of the paragraphs in this part of the rule, you would have no liability. However, you may be liable under more than one paragraph. For example, as explained further below, you may be liable for royalty on half the production on the lease under paragraph (a) of this section because you own 50 percent of the record title. In addition, you could be liable for all the royalty on production under paragraph (b) of this section if