If a lessee * * *	The assessment is * * *	Plus interest calculated * * *
Takes a washing allowance on Form MMS–2014 by improperly netting the allowance against the sales value of the coal instead of reporting the allowance as a separate line item on Form MMS–2014 as required by paragraph (c)(4) of this section.	the total allowance amount net-	
Erroneously reports a transportation allowance that results in an underpayment of royalties.		

These changes would adopt the study group's recommendations concerning the need for and equity of allowance payback and late-payment interest charges for failure to file allowance forms. The study group also determined that the current payback sanction is excessive. However, MMS' objective is to gather timely and accurate actual cost information to assess the legitimacy of allowance deductions. Accordingly, the study group recommended that payors failing to timely file required forms would be assessed an amount equal to a fixed percent of the total allowance amount deducted during the year plus an amount calculated as equal to latepayment interest from the date the actual cost was due until the date the form was actually received.

b. Coal Transportation Allowances

MMS proposes to amend § 206.262 by deleting the third and fourth sentences of paragraph (a)(1) that state:

However, before any deduction may be taken, the lessee must submit a completed page one of Form MMS–4293, Coal Transportation Allowance Report, in accordance with paragraph (c)(1) of this section. A transportation allowance may be claimed retroactively for a period of not more than 3 months prior to the first day of the month that Form MMS–4293 is filed with MMS, unless MMS approves a longer period upon a showing of good cause by the lessee.

MMS proposes adding in place of the two deleted sentences the following two sentences:

Before any transportation allowance deduction may be taken on Form MMS–2014, Report of Sales and Royalty Remittance, the lessee must file a Form MMS–4402, Notice of Intent To Take Transportation and Washing Allowances, in accordance with paragraph (c)(1) of this section. After the Form MMS–4402 reporting period, the lessee must file a Form MMS–4293, Coal Transportation Allowance Report, in accordance with paragraph (c)(1) of this section.

By implementing these changes, MMS would adopt the recommendations of the study group's report. These changes allow MMS to: (1) Focus its allowance administration efforts on actual data reported annually to MMS rather than on estimated allowance rates reported at the beginning of the allowance year; (2) eliminate the retroactive three-month

filing limitation, and (3) simplify allowance reporting procedures by incorporating the new reporting form for coal transportation allowances.

MMS proposes to amend § 206.262(b)(1) by deleting the fourth and fifth sentences that state:

However, before any estimated or actual deduction may be taken, the lessee must submit a completed Form MMS–4293 in accordance with paragraph (c)(2) of this section. A transportation allowance may be claimed retroactively for a period of not more than three months prior to the first day of the month that Form MMS–4293 is filed with MMS, unless MMS approves a longer period upon a showing of good cause by the lessee.

MMS proposes adding in place of the two deleted sentences the two following sentences:

Before any transportation allowance deduction may be taken on Form MMS–2014, Report of Sales and Royalty Remittance, the lessee must file a Form MMS–4402, Notice of Intent to Take Coal Transportation and Washing Allowances, in accordance with paragraph (c)(2) of this section. After the Form MMS–4402 reporting period, the lessee must file a Form MMS–4293 in accordance with paragraph (c)(2) of this section.

MMS is proposing these changes to keep in line with the recommendations of the study group. These changes would allow MMS to: (1) Focus its allowance administrative efforts on actual cost data rather than on estimated cost data; (2) eliminate the three-month filing limitation for coal transportation allowance; and (3) simplify allowance reporting requirements.

MMS proposes to further amend § 206.262(b)(1) by deleting from the seventh sentence the phrase "* * estimated or * * *" The seventh sentence would read:

When necessary or appropriate, MMS may direct a lessee to modify its actual transportation allowance deduction.

This change would simplify MMS' coal transportation allowance reporting requirements in accordance with the study group's report.

MMS proposes to amend § 206.262(c)(1) by deleting existing paragraphs (i), (ii), (iii), and (iv) and replacing them with new paragraphs (i), (ii), (iii), and (iv) that read:

- (i) With the exception of those transportation allowances specified in paragraph (c)(1)(v) and (vi) of this section, the lessee must file a Form MMS–4402 for transportation allowances each calendar year. The lessee must file the Form MMS–4402 by the due date of the first sales month in which a transportation allowance is reported on Form MMS–2014. A Form MMS–4402 received by the end of the month that Form MMS–2014 is due will be considered timely received.
- (ii) The Form MMS-4402 will be effective for a reporting period beginning the month that the lessee is first authorized to deduct a transportation allowance and will continue until the end of the calendar year.

(iii) After the Form MMS-4402 reporting period, the lessee must file page one of Form MMS-4293 for the actual transportation allowances calculated for the reporting period. Form MMS-4293 is due within 3 months after the end of the reporting period, unless MMS approves a longer period.

(iv) MMS may require that a lessee submit arm's-length transportation contracts and related documents. Documents will be submitted within a reasonable time, as determined by MMS.

MMS proposes these changes to implement the study group's recommendations. These changes would: (1) simplify coal transportation allowance reporting procedures; (2) implement a new allowance form to show the payor's intent to take transportation allowances for the current year; and (3) provide greater administrative focus on actual data rather than on estimated data submitted by the payor.

MMS proposes to amend § 206.262(c)(2) by deleting existing paragraphs (i), (ii), (iii), and (iv), and replacing them with new paragraphs (i), (ii), and (iii) that read:

- (i) With the exception of those transportation allowances specified in paragraph (c)(2)(iv) and (vi), of this section, the lessee must file a Form MMS–4402 for transportation allowance estimates for each calendar year. The lessee must file the Form MMS–4402 by the due date of the first sales month in which a transportation allowance is reported on Form MMS–2014. A Form MMS–4402 received by the end of the month that Form MMS–2014 is due will be considered timely received.
- (ii) The Form MMS-4402 will be effective for a reporting period beginning the month that the lessee is first authorized to deduct