

U.S.C. 601 *et seq.*). The proposed rule will streamline and improve existing regulatory reporting requirements related to allowances that are used to calculate royalty payments on coal produced from Federal and Indian lands.

Executive Order 12630

The Department certifies that the rule does not represent a governmental action capable of interference with constitutionally protected property rights. Thus, a Takings Implication Assessment need not be prepared under Executive Order 12630, "Government Action and Interference with Constitutionally Protected Property Rights."

Executive Order 12778

The Department has certified to the Office of Management and Budget that these final regulations meet the applicable standards provided in Sections 2(a) and 2(b)(2) of Executive Order 12778.

Executive Order 12866

This document has been reviewed under Executive Order 12866 and is not a significant regulatory action.

Paperwork Reduction Act of 1980

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3501 *et seq.* and assigned Clearance Numbers 1010-0022, 1010-0074, and 1010-0099.

National Environmental Policy Act of 1969

We have determined that this rulemaking is not a major Federal action significantly affecting the quality of the human environment, and a detailed statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is not required.

List of Subjects in 30 CFR Part 206

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

Dated: May 19, 1995.

Bob Armstrong,

Assistant Secretary—Land and Minerals Management.

For the reasons set out in the preamble, 30 CFR part 206 is proposed to be amended as set forth below:

PART 206—PRODUCT VALUATION

Subpart F—Coal

1. The authority citation for Part 206 is revised 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.*, and 1801 *et seq.*

2. Section 206.259 is amended by revising paragraphs (a)(1), (b)(1), (c)(1)(i) through (iii), (c)(2)(i) through (iii), removing paragraph (c)(2)(iv), redesignating paragraphs (c)(2)(v) through (vii) as paragraphs (c)(2)(iv) through (vi), revising newly designated paragraphs (c)(2)(iv) through (vi), adding paragraph (c)(5) and revising paragraph (d) to read as follows:

§ 206.259 Determination of washing allowances.

(a) * * *

(1) For washing costs incurred by a lessee pursuant to an arm's-length contract, the washing allowance will be the reasonable actual costs incurred by the lessee for washing the coal under that contract, subject to monitoring, review, audit, and possible future adjustment. MMS' prior approval is not required before a lessee may deduct costs incurred under an arm's-length contract. Before any washing 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-4292, Coal Washing Allowance Report, in accordance with paragraph (c)(1) of this section.

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(b) * * *

(1) If a lessee has a non-arm's-length contract or has no contract, including those situations where the lessee performs washing for itself, the washing allowance will be based upon the lessee's reasonable actual costs. All washing allowances deducted under a non-arm's-length or no contract situation are subject to monitoring, review, audit, and possible future adjustment. Prior MMS approval of washing allowances is not required for non-arm's-length or no contract situations. Before any washing allowance deduction may be taken on Form MMS-2014, 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-4292 in accordance with (c)(2) of this section. MMS will monitor the allowance deduction to ensure that deductions are reasonable and allowable. When necessary or appropriate, MMS may direct a lessee to modify its actual washing allowance.

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(c) * * *

(1) * * *

(i) With the exception of those washing allowances specified in paragraphs (c)(1)(v) and (vi) of this section, the lessee must file a Form MMS-4402 for washing allowances each calendar year. The lessee must file the Form MMS-4402 by the due date of the first sales month in which a washing 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 washing 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-4292 for washing allowances within 3 months after the end of the reporting period, unless MMS approves a longer period.

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(2) * * *

(i) With the exception of those washing allowances specified in paragraph (c)(2)(iv) and (vi) of this section, the lessee must file a Form MMS-4402 for washing allowances each calendar year. The lessee must file the Form MMS-4402 by the due date of the first sales month in which a washing 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 washing 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 and all supporting schedules of Form MMS-4292 for actual washing allowances calculated for the reporting period. Form MMS-4292 is due within three months after the end of the reporting period, unless MMS approves a longer period.