If a lessee * * *	The assessment is * * *	Plus interest calculated * * *
Takes a transportation allowance on Form MMS–2014 by improperly netting the allowance against the sales value of the coal oil instead of reporting the allowance as a separate line item on Form MMS–2014 as required by paragraph (c)(4) of this section.	An amount equal to 20 percent of the total allowance amount netted on Form MMS-2014.	From the end of the month in which Form MMS–2014 containing the netted allowance was submitted to the date MMS dis-
Erroneously reports a transportation allowance that results in an underpayment of royalties.		covers the netted amount. Payment of interest on the amount of the underpayment.

These changes would adopt the study group's recommendations concerning the need for and equity 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 recommend that payors failing to timely file required forms would be assessed an amount equal to a fixed paercent 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.

These changes would add specific language for assessments for incorrect or late reports and for failure to report. These changes implement the recommendation of the study group report on sanctions.

c. Gas Transportation Allowances

MMS proposes to amend § 206.157 by deleting the fourth and fifth sentences of paragraph (a)(1)(i) that state:

Before any deduction may be taken, the lessee must submit a completed page one of Form MMS–4295 (and Schedule 1), Gas 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–4295 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 deleted sentences the 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–4398, Notice of Intent To Take Oil And Gas Transportation and Processing Allowances, in accordance with paragraph (c)(1) of this section. After the Form MMS–4398 reporting period, the lessee must file a Form MMS–4295, Gas Transportation Allowance Report, in accordance with paragraph (c)(1) of this section.

These changes would remove the retroactive three-month limit for gas transportation and incorporate the new

reporting form, Notice of Intent to Take Oil and Gas Transportation and Processing Allowance, Form MMS– 4398. MMS further proposes to remove § 206.157(a)(5) as follows:

(5) Where an arm's-length sales contract price or a posted price includes a provision whereby the listed price is reduced by a transportation factor, MMS will not consider the transportation factor to be a transportation allowance. The transportation factor may be used in determining the lessee's gross proceeds for the sale of the product. The transportation factor may not exceed 50 percent of the base price of the product without MMS approval.

MMS proposes to amend § 206.157(b)(1) by deleting the third and fourth sentences that state:

Before any estimated or actual deduction may be taken, the lessee must submit a completed Form MMS–4295 in accordance with paragraph (c)(2) 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–4295 is filed with MMS, unless MMS approves a longer period upon a showing of good cause by the lessee.

MMS proposes replacing the two deleted sentences with the following sentences:

Before any transportation deduction may be taken on Form MMS–2014, the lessee must file a Form MMS–4398, Notice of Intent to Take Oil and Gas Transportation and Processing Allowances, in accordance with paragraph (c)(2) of this section. For the actual transportation allowance incurred after the Form MMS–4398 reporting period, the lessee must file a Form MMS–4295 in accordance with paragraph (c)(2) of this section.

These changes would remove the retroactive 3-month limit for gas transportation and incorporate the new reporting form, Notice of Intent to Take Oil and Gas Transportation and Processing Allowances, Form MMS–4398.

MMS proposes to further amend § 206.157(b)(1) by deleting from the sixth sentence the phrase "* * * estimated or * * *"

The sixth sentence would read:

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

These changes would be technical corrections that improve the clarity of the language.

MMS proposes to amend § 206.157(c)(1) by deleting existing paragraphs (i), (ii), (iii), and (iv) and replacing them with new paragraphs 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–4398 for transportation allowances for each calendar year by the due date of the first sales month in which a transportation allowance is reported on Form MMS–2014. A Form MMS–4398 received by the end of the month that Form MMS–2014 is due will be considered timely received.
- (ii) The Form MMS–4398 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–4398 reporting period, the lessee must file page one of Form MMS–4295 for transportation allowance actuals 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 period of time, as determined by MMS.

These changes incorporate the new reporting form for gas transportation allowances, Form MMS-4398.

MMS proposes to amend § 206.157(c)(2) by deleting existing paragraphs (i), (ii), (iii), and (iv), and adding new paragraphs that read:

- (i) With the exception of those transportation allowances specified in paragraphs (c)(2) (iv), (vi) and (vii) of this section, the lessee must file a Form MMS–4398 for transportation allowances for each calendar year by the due date of the first sales month in which a transportation allowance is reported on Form MMS–2014. A Form MMS–4398 received by the end of the month that Form MMS–2014 is due will be considered timely received.
- (ii) The Form MMS-4398 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-4398 reporting period, the lessee must file a page one and all supporting schedules of Form MMS-4295