(iii) After the Form MMS-4398 reporting period, the lessee must file page one of Form MMS-4109 for processing allowances within three months after the end of the reporting period, unless MMS approves a longer period.

MMS proposes to amend § 206.159(c)(2) by deleting existing paragraphs (i), (ii), (iii), (iv), and (vi) and replacing them with new paragraphs that read:

(i) With the exception of those processing allowances specified in paragraph (c)(2) (v) and (vi) of this section, the lessee must file a Form MMS–4398 for processing allowances for each calendar year by the due date of the first sales month in which a processing 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 processing 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 and all supporting schedules of Form MMS–4109 which show actual processing costs within 3 months after the end of the reporting period, unless MMS approves a longer period.

(iv) MMS may require that a lessee submit all data used by the lessee to prepare the actual costs submitted on its Form MMS– 4109. The data must be provided within a reasonable period of time, as determined by MMS

Consistent with this change, paragraphs (vii) and (viii) would be redesignated paragraphs (vi) and (vii).

These changes would incorporate the new reporting form for gas processing allowances, Form MMS–4398.

MMS proposes to amend § 206.159(c) by adding paragraph (5) to state:

A lessee is required to file a new Form MMS-4109 if adjustments are made to actual

non-arm's-length processing allowances on Form MMS–2014.

MMS proposes to amend $\S 206.159(d)$ and add the words "* * * charges and * * *" to the title so it reads:

f. Interest charges and assessments for incorrect or late reports and failure to report

This change to the title would be necessary to reflect the changes in the content of the section.

MMS proposes to further amend § 206.159(d) by deleting paragraph (1), (2) and (3) and replacing them with the following schedule:

(d) Interest charges and assessments for incorrect or late reports and failure to report MMS shall levy assessments and interest charges in accordance with the table below. MMS will determine interest rates in accordance with 30 CFR 218.202.

| If a lessee * * * | The assessment is * * * | Plus interest calculated * * * |
|---|---|---|
| Files an inaccurate or Late Form MMS-4398 | \$10 per allowance line required on Form MMS–4398. | |
| Deducts a processing allowance on Form MMS–2014 without complying with requirements for actual cost reporting on Form MMS–4109. | An amount equal to 10 percent of the total allowance amount deducted on Forms MMS-2014 during the year. | From the date that Form MMS– 4109 was due until the date that the form was received. |
| Takes a processing allowance on Form MMS–2014 by improperly netting the allowance against the sales value of the gas 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 discovers the netted amount. |
| Erroneously reports a processing allowance that results in an underpayment of royalties. | | On the amount of the underpayment. |

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 froms 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.

These changes would add specific language for interest charges and assessments for incorrect or late reports and for failure to report. These changes would implement the recommendations in the study group report for sanctions.

VII. Other Matters

Separate regulations concerning valuation of natural gas for royalty purposes are currently being developed for Federal leases and for Indian leases through two separate negotiated rulemaking committees. These committees are addressing both natural gas valuation and transportation and processing allowance issues.

The committee addressing natural gas valuation for Federal leases recommended in its March 1995 report that transportation and processing allowance forms no longer be required. This recommendation is one of numerous recommendations for broad changes to existing regulations governing the valuation of natural gas produced from Federal leases. The future rulemaking to be prepared considering the recommendations of the Federal negotiated rulemaking committee will include the proposal for eliminating the requirement for allowance forms. Thus the amendments being proposed today to change the oil and gas valuation regulations governing

transportation and processing allowances may be impacted by the results of the future rulemaking. Similar impacts may occur for natural gas produced from Indian leases depending on the outcome of the negotiated rulemaking committee addressing the valuation of natural gas production from Indian lands.

MMS also would like comment on the effective date for the final rule. One option is to make any final rule effective as of January 1, 1995, the beginning of the current allowance year. Another option is to make the rule effective as of the date of publication of this proposed rule since royalty payors are on notice of the possible rule change on that date. Commenters should address this issue in their comments.

VIII. Procedural Matters

The Regulatory Flexibility Act

The Department has determined that this rulemaking will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5