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 submitted within a reasonable period of time, as determined by MMS.

* * * * * * (2) * * *

- (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 Form MMS–4398 reporting period, lessees must file a page one and all supporting schedules of Form MMS–4295 which show actual transportation costs within three months after the end of the reporting period, unless MMS approves a longer period.
- (iv) Non-arm's-length contract or nocontract based transportation allowances which are in effect at the time these regulations become effective will be allowed to continue until such allowances terminate. For the purposes of this section, only those allowances that have been approved by MMS in writing shall qualify as being in effect at the time these regulations become effective.
- (v) Upon request by MMS, the lessee shall submit all data used to prepare its Form MMS–4295. The data shall be provided within a reasonable period of time, as determined by MMS.
- (vi) MMS may establish in appropriate circumstances, reporting requirements which are different from the requirements of this section.
- (vii) If the lessee is authorized to use its FERC-approved or State regulatory agency-approved tariff as its transportation cost in accordance with paragraph (b)(5) of this section, it shall

follow the reporting requirements of paragraph (c)(1) of this section.

* * * * *

- (5) A lessee is required to file a new Form MMS-4295 if adjustments are made to actual non-arm's-length transportation allowances on Form MMS-2014.
- (d) Interest charges and assessments for incorrect or late reports and failure to report.
- (5) Interest required to be paid by this section shall be determined in accordance with 30 CFR 218.54.
- 4. Section 206.159 is proposed to be amended by revising paragraphs (a)(1)(i), (b)(1), (b)(2)(iv), (c)(1)(i), (ii), (iii), (c)(2)(i), (iii), (iii) and (iv), removing paragraph (c)(2)(vi), redesignating paragraphs (c)(2)(vi) and (vii) as paragraphs (c)(2)(vi) and (vii), revising newly redesignated paragraphs (c)(2)(vi) and (c)(2)(vii) adding paragraph (c)(5), and revising paragraphs (d) to read as follows:

§ 206.159 Determination of processing allowances.

(a) * * *

(1)(i) For processing costs incurred by a lessee pursuant to an arm's-length contract, the processing allowance shall be the reasonable actual costs incurred by the lessee for processing the gas under that contract, except as provided in paragraphs (a)(1) (ii) and (iii) of this section, subject to monitoring, review, audit, and adjustment. The lessee shall have the burden of demonstrating that its contract is arm's-length. Before any processing 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-4109, Gas Processing Allowance Summary Report, in accordance with paragraph (c)(1) of this section.

* * * * * (b) * * *

(1) If a lessee has a non-arm's-length processing contract or has no contract, including those situations where the lessee performs processing for itself, the processing allowance will be based upon the lessee's reasonable actual costs as provided in this paragraph. All processing allowances deducted under a non-arm's-length or no-contract situation are subject to monitoring, review, audit, and adjustment. Before any processing allowance 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. After the Form MMS–4398 reporting period, the lessee must file a Form MMS–4109 in accordance with paragraph (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 processing allowance.

(2) * * *

(iv) A lessee may use either depreciation and a return on undepreciated capital investment in accordance with paragraph (b)(2)(iv)(A) of this section, or a cost equal to the initial capital investment in the processing plant multiplied by a rate of return in accordance with paragraph (b)(2)(iv)(B) of this section. When a lessee has elected to use either method for a processing plant, the lessee may not later elect to change to the other alternative without approval of MMS.

* * * * *

(1) * * *

- (i) With the exception of those processing allowances specified in paragraph (c)(1)(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 Form MMS-4398 reporting period, the lessee must file page one of Form MMS-4109 for processing allowances within 3 months after the end of the reporting period, unless MMS approves a longer period.

* * * * * (2) * * *

(i) With the exception of those processing allowances specified in paragraphs (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