

TO: Paula Neuroth Ph: (303) 231-3287
FAX: (303) 231-3700

From: David Ault
Ph: (505) 827-9858
Fax: (505) 827-9888

RE: State of New Mexico comments to the proposed changes to the MMS-2014 form

Pages to Follow 3



Gary E. Johnson
Governor

John J. Chavez
Secretary

STATE OF NEW MEXICO
Taxation and Revenue Department
An Equal Opportunity Employer

Office of the Secretary
(505) 827-0341
Administrative Services
(505) 827-0369
Audit and Compliance
(505) 827-0900
Motor Transportation
(505) 827-0321
Motor Vehicle
(505) 827-2294
Property Tax
(505) 827-0870
Revenue Processing
(505) 827-0800

April 23, 1999

Minerals Management Service
Royalty Management Program
Rules and Publications Staff
PO Box 25165, MS 3021
Denver, Colorado 80225-0165

Dear Ms. Neuroth:

By Federal Register Notice dated February 23, 1999, the Minerals Management Service requested solicitation of comments revising existing information collection. The following are comments as submitted by the State of New Mexico Taxation and Revenue Department.

General Comments

The Taxation and Revenue Department takes a special interest in what the MMS is proposing within this Federal Notice Register because of the responsibilities of auditing federal leases in New Mexico. As appropriately stated, the MMS has the responsibility to collect appropriate related royalty information to: 1. Fulfill your obligation of disbursement and distribution of funds as quickly as possible; 2. Comply with FOGRMA as it relates to detail and payment information to the revenue recipients and; 3. Collect sufficient and appropriate information to assist the RMP in the compliance and asset management process which is dependent upon the accuracy and usefulness of the royalty form data elements. In reviewing the changes being recommended, it appears that the MMS lost perspective of their responsibilities as defined and were more driven by how to reduce the number of lines in the system. While we understand that there may be a burden upon industry, this burden has existed for approximately sixteen years and it is New Mexico's position that much of the burden is the result of the industry itself. It is also our position that what is being recommended will gut the current processes developed over the past sixteen years and will not support the re-engineering process or any new valuation regulations that may be implemented and will not be in enough detail to streamline what many consider to be a long drawn out audit and compliance process.

Specific Comments

Reporting Concepts:

1. Payor Information Forms (PIF): From the Federal Register Notice, it appears that MMS bases its reasoning for eliminating the PIF because they are not submitted timely; are prepared incorrectly; or the data identified on the form does not always correspond to what is reported on the royalty report. The Register goes on to state that the RMP is proposing in lieu of the PIF that payors will report the MMS converted lease and agreement number on the royalty report. MMS emphasizes that this change will reduce industry reporting burdens, reduce costs for the MMS and significantly reduce the number of rejected lines on the royalty report.

New Mexico believes the MMS is being very short sighted in recommending that the PIF be completely done away with. While we agree that some of the data elements on the current form no longer meet the needs, there are some very useful data elements if identified and reported correctly by the payor. The reasoning identified does not justify the discontinuance. It appears that the changes being identified moves the reporting from the PIF (not a monthly type document) to a document which requires that the data be reported every month. New Mexico recommends that MMS re-look at the elements of the PIF, identify the needed elements and initiate a system that requires correct reporting rather than reducing the edit error function which allows erroneous data to be accepted. This recommendation from our perspective follows the recommendations made by the Royalty Policy Committee on royalty reporting and production accounting.

2. **Product Valuation:** The Federal Register Notice states that the RMP will require payors to report separate lines of royalty detail based upon the nature of the "sale".

The word "Sale" is being emphasized by the State because we feel that the MMS is short sighted in recommending only "sales" identified elements. A complete transaction may be recognized by arm's length and non arm's length sales, transportation and processing transactions. New Mexico recommends that the MMS maintain their current reporting requirements and develop responsible reporting regulations that require each part of the transaction to identify the arrangement. Anything less than what is requested will not be effective from an audit or compliance point of view and will be a waste of New Mexico's net receipt share of operating such a system. The State of New Mexico also feels that these regulations are at the present time a little premature based on the fact that the MMS is looking at issuing new oil regulations and based on what is being proposed would significantly alter the requirements identified in the Register.

3. **Reporting Adjustments:** The Federal Register states that the RMP is proposing that the reporting of prior period adjustments be on a "net" basis.

From New Mexico's perspective, we understand the basis for the proposal, however we feel it would reduce the ability of the AFS system to properly monitor adjustments to a sales, transportation or processing line. Additionally it impacts the effectiveness of audits and the ability to understand adjustment entries. From an audit point of view we recognize benefits to the current reporting requirements where royalty payors break out their payments to a well reporting level or where they may be paying for multiple parties. By moving to a net entry basis of reporting, we lose the ability to recognize what adjustments apply to original entries. One option we request MMS investigate is the possibilities of recognizing tolerances to entries where reporting would not be required or maybe net entry reporting would be allowed. For instance, many times we have recognized adjustments being made where the value or royalty impact is considered immaterial, however adjustments like this are being made each month. Exceptions to the rule could support the reduction of the number of lines submitted in instances like this.

4. **Transportation and Processing Allowance Deductions:** The Federal Register states that the RMP is proposing that these elements be reported within a single line. The MMS justifies this change by saying that it will streamline and improve the accuracy of the payor's initial reporting of allowances by automatically assigning the deductions to the associated royalty value.

New Mexico feels that the MMS is remiss in not recognizing the appropriate needs of royalty reporting to do an efficient job of tracking questionable reporting of volumes, values and deductions. We further believe that the MMS should require more information from a transactional point rather than less as is being proposed. New Mexico recommends that MMS require detail allowance reporting where multiple transportation or processing transaction occur on a lease. This type of requirement would fully support MMS's ability to question specific transportation/processing costs related to a specific contract or non-arm's length arrangement and support the compliance re-engineering concepts.

5. Agreement Level Reporting: The Federal Register is requesting comments related to agreement level reporting. New Mexico considers this request to be of no value.

By recognizing reporting at this level abrogates the requirements of the lease and the lessee, payor, lessor relationship. We see no benefit to this change other than to reduce the industry reporting burden and we see additional costs from the MMS perspective as it relates to rolling down the information to a level that means nothing to the lease and its related production. We also question the appropriateness of this type of reporting in instances where an agreement carries with it multiple royalty rates at a lease level or the agreement carries with it multiple fund codes.

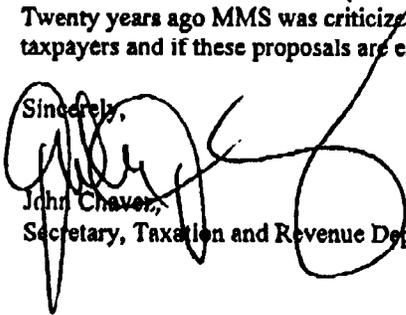
6. Form-2014-Royalty Report

In reviewing the data elements identified, New Mexico does not see the need for industry to report "royalty rates", "unit price" or "API Gravity". Both the "royalty rate" and the "unit price" elements on the 2014 must still be imputed by the MMS when editing the royalty detail or deriving data for distribution reports. Concerning "API Gravity", the best means to recognize accurate gravity data is from the Form 3160. This form is controlled by the operator and it is a required field which they recognize through the measurement processes. A direct link should exist between the Form 3160 and the Form 2014 reporting fields, which we understand does not exist today but should exist in the future.

Conclusion

While we understand the direction that was mandated to the MMS through the Royalty Policy Committee, New Mexico feels that what is being proposed is not justified based on the requirements of the MMS to ensure that fair market value is paid on federal production and to ensure that it is reported correctly. Twenty years ago MMS was criticized for not managing the royalty program in the best interest of the taxpayers and if these proposals are enacted upon MMS will regress.

Sincerely,


John Chaver,
Secretary, Taxation and Revenue Department