APPENDIX

Form X - Proposed form to be provided in compliance with proposed section 35.35 (h)

Company Name

	Actual	Projected				
	2006	2007	2008	2009	2010	2011
Capital Spending On Electric Transmission Facilities 1/ ($ Thousands)						

1/ Respondents are to specify their definition of electric transmission facilities, e.g., transmission lines over __kv capacity, substations, and control and visualization equipment.

Project Detail 1/

Project Name	Expected Project Completion Date (month/year)	Completion Status (%)	Is The Project On Schedule? (Y/N)	If Project Not On Schedule, Indicate Reasons For Delay

1/ Respondents Must List All Projects Included In Current and Projected Electric Transmission Capital Spending Table

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DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 205

RIN 1010–AC29

Reporting and Paying Royalties on Federal Leases on Takes or Entitlements Basis

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Advance notice of proposed rulemaking and announcement of public meeting.

SUMMARY: The MMS requests comments and suggestions to assist us in proposing regulations regarding so-called ''takes versus entitlements'' reporting and payment of royalties when oil and gas production is commingled upstream of the point of royalty measurement. See IV, Description of Information Requested, for details.

DATES: You must submit your comments by January 30, 2006. A public meeting will be held on December 14, 2005.

ADDRESSES: Please use the regulation identifier number (RIN), RIN 1010–AC29, in all your correspondence. Submit your comments, suggestions, or objections regarding the advanced notice of the proposed rulemaking by any of the following methods:

By regular U.S. mail. Minerals Management Service, Minerals Revenue Management, P.O. Box 25165, MS 302B2, Denver, Colorado 80225–0165;

By overnight mail, courier, or hand-delivery. Minerals Management Service, Minerals Revenue Management, Building 85, Room A–614, Denver Federal Center, West 6th Avenue and Kipling Blvd., Denver, Colorado 80225; or

By e-mail. mrm.comments@mms.gov. Please submit Internet comments as an ASCII file and avoid the use of special characters and any form of encryption. Also, please include ''Attn: RIN 1010–AC29'' and your name and return

address in your Internet message. If you do not receive a confirmation that we have received your Internet message, call the contact person listed below.

FOR FURTHER INFORMATION CONTACT: Sharron L. Gebhardt, Lead Regulatory Specialist, Minerals Management Service, Minerals Revenue Management, P.O. Box 25165, MS 302B2, Denver, Colorado 80225–0165, telephone (303) 231–3211, FAX (303) 231–3781, or e-mail *Sharron.Gebhardt@mms.gov.*

SUPPLEMENTARY INFORMATION:

I. Dates Information

The MMS may not necessarily consider or include in the Administrative Record, for any proposed rule, comments that MMS receives after the close of the comment period or comments delivered to an address other than those listed in the **ADDRESSES** section of this document.

II. Public Meeting Information

The MMS will hold a public meeting to allow the public an opportunity to comment on how MMS should implement the royalty reporting and payment provision at section 6(d) of the Federal Oil and Gas Royalty Simplification and Fairness Act (RSFA). The meeting will be held in Houston, Texas, on the following date at the following specified time and location: Wednesday, December 14, 2005, from 9 a.m.–1 p.m. central time, in the San Antonio Room located on the second floor of the Sheraton North Houston Hotel, located at 15700 John F. Kennedy Blvd, Houston, Texas 77032. For further information, please contact Roman A. Geissel at (303) 231–3226.

III. Public Comment and Meeting Procedures

A. Written Comment Procedures

We are particularly interested in receiving comments and suggestions about the topics identified in IV, Description of Information Requested. Your written comments should: (1) Be specific; (2) explain the reason for your comments and suggestions; (3) address the issues outlined in this notice; and (4) where possible, if you refer to the specific provision, section, or paragraph of statutory law, case law, or existing regulations, please cite that provision.

The comments and recommendations that are most useful and have greater likelihood of influencing decisions on the content of a possible future proposed rule are: (1) Comments and recommendations supported by quantitative information or studies; and/or (2) comments that include citations to, and analyses of, the applicable laws and regulations.

B. Public Meeting Procedures

At the public meeting, those attending will be able to comment on the scope, proposed action, and possible alternatives the MMS should consider. The purpose of the meeting is to gather comments and input from a variety of stakeholders and the public.

If you do not wish to speak at the meeting but you have views, questions, or concerns with regard to the MMS's implementation of section 6(d) of RSFA, Public Law 104–185, Aug. 13, 1996, 110 Stat 1700, 1713–1714, as corrected by Public Law 104–200, Sept. 22, 1996, codified at 30 U.S.C. 1721(k), entitled ''Volume Allocations of Oil and Gas Production,'' you may submit written statements at the meeting for inclusion in the public record. You may also submit written comments and suggestions regardless of whether you attend or speak at the public meeting. See the **ADDRESSES** section of this document for instructions on submitting written comments.

The site for the public meeting is accessible to individuals with physical impairments. If you need a special accommodation to participate in the meeting (e.g., interpretive service, assistive listening device, or materials in alternative format), please notify Lonnie Kimball at (281) 987–6800, no later than 2 weeks prior to the scheduled meeting. Although we will make every effort to accommodate requests received, it may not be possible to satisfy every request.

C. Public Comment Policy

Our practice is to make comments, including names and home addresses of respondents, available for public review at our Denver office during regular business hours and on our Web site at *http://www.mrm.mms.gov/Law_R_D/FRNotices/FRHome.htm*, or on request to Sharron Gephardt at (303) 231–3211. Individual respondents may request that we withhold their individual home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comments. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

IV. Description of Information Requested

On August 13, 1996, the President signed RSFA into law. Section 6(d) of RSFA, entitled, ''Volume Allocations of Oil and Gas Production,'' amended section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA), Public Law 97–451—Jan. 12, 1983 (30 U.S.C. 1721), by adding new paragraphs (k)(1)–(5). The proposed rulemaking would implement RSFA amendments to FOGRMA section 111(k)(1)–(4).

Congress enacted these amendments to clarify and resolve the long-standing issues regarding so-called ''takes versus entitlements.'' Those issues arose primarily where the amount of natural gas taken (''takes'') and sold by a lessee from Federal leases subject to a unit or communitization agreement was not equal to the lessee's entitled share (''entitlements''), based on its ownership interest in leases in the unit or communitization agreement. These imbalances led to numerous questions about who should report and pay on what volumes and for what leases.

To obtain input from parties affected by RSFA amendments to FOGRMA section 111(k)(1)–(4), MMS formed a consultation team comprised of representatives from interested states, oil and gas trade associations, and MMS. The consultation team held meetings on October 30, November 19, and December 6, 1996. The meetings resulted in general agreement on definitions, the reporting requirements for 100-percent Federal units and communitization agreements, the definition of a ''marginal property,'' and how a marginal property reporting exception would be determined.

Subsequent to those meetings, in the process of trying to develop a proposed rule implementing RSFA amendments to FOGRMA section 111(k)(1)–(4), an issue arose regarding the commingling of oil and gas production from multiple properties upstream of the point of royalty measurement. For purposes of this discussion:

- A ''property'' is defined as a lease, unit, or communitization agreement.
- A ''100-percent Federal unit or communitization agreement'' means any unit or communitization agreement that contains only Federal leases having the same fixed royalty rate and funds distribution.
- A ''unit'' means a unit participating area, enhanced recovery unit, or field-wide unit.

• A ''mixed unit or communitization agreement'' means any unit or communitization agreement other than 100-percent Federal unit or communitization agreement. These are unit or communitization agreements that contain any mixture of Federal, Indian, state or private mineral estates, or that contain all Federal leases with different royalty rates (fixed or variable) or different funds distribution.

• A ''stand-alone lease'' means a lease or a portion of a lease that is not in a unit or communitization agreement.

The RSFA cldarly identifies when it is appropriate to initially report and pay on a ''takes'' or ''entitlements'' basis for production from leases, units or communization agreements that is not commingled with production from other properties before the royalty measurement point. For instance:

• When taking production from a 100-percent Federal unit or communitization agreement, the lessee(s) must pay on actual takes (30 U.S.C. 1721(K)(1)(A)), or

• When taking production from a mixed Federal unit or communitization agreement, the Federal lessee(s) must pay on entitlements (30 U.S.C. 1721(k)(1)(B)), or

• When taking production from a stand-alone Federal lease, the lessee(s) must pay on takes (30 U.S.C. 1721(k)(1)(C)).

It is important to note that, while RSFA section 6(d) amended FOGRMA by adding section 111(k)(1), which addressed the reporting and payment requirements, the addition of section 111(k)(2) went on to clarify that the requirements outlined in section 111(k)(1) ''apply only to requirements for reporting and paying royalties. Nothing in this subsection is intended to alter a lessee's liability for royalties on oil or gas production allocated to lease, in accordance with the terms of the lease, a unit or communitization agreement, or any other agreement.'' Thus, the lessee's ultimate liability to pay royalties on its entitled share of production is not changed.

Commingling adds additional complications to the issue of how to report and pay royalties. Not only do imbalances between operating rights owners within a property occur, but imbalances between properties also are commonplace.

Commingling is the combining of production from multiple properties before measurement for royalty purposes and requires approval of the MMS Offshore Minerals Management program for offshore leases or the Bureau of Land Management for onshore leases. The commingling approval identifies where the volume is measured by royalty purposes and how that volume must be allocated to each property that is subject to the commingling approval. It does not affect how volume is allocated to leases within a unit or communitization agreement. Commingling can be, and often is, approved between properties with the same royalty rate and funds distribution and between properties with different royalty rates or different funds distributions.

The RSFA provision added to FOGRMA at 30 U.S.C. 1721(k)(1)–(5) does not address the effect of commingling or commingling imbalances. Commingling complicates reporting requirements because there is an impact on royalty payments when there are properties with mixed royalty rates or funds distribution upstream of the approved commingling point. For example, assume that production from two stand-alone Federal leases that are not unitized or communitized, each with a different royalty rate, is commingled before the royalty measurement point. Assume that each lease receives a 50 percent allocation of the total measure production (1,000 Mcf) under the commingling approval. The lessee of the lease with a 16⅔ percent royalty rate actually sells (takes) 750 Mcf of gas and the lessee of the lease with the 12½ percent royalty rate actually sells (takes) 250 Mcf of gas. Based on the commingling approval, the leases are out of balance. The commingling approval determines the volume deemed to have been removed or sold from each lease upon which the lessees ultimately must pay royalty. Should each lessee pay royalties on its actual sales (takes), the Federal Government initially would be paid more than the royalty ultimately owed. If the sales were reversed, the Federal Government initially would be paid on less than the royalty ultimately owed.

RSFA prescribes how lessees should initially report and pay royalty on production removed or sold from a lease or unit or communitization agreement. The commingling approval determines the volume removed or sold from the leases or unit or communitization agreements subject to the commingling approval. RSFA was silent on the effect of commingling approvals. We are asking for your input on several questions regarding RSFA's application to production subject to a commingling approval before the royalty measurement point. Those questions include the following:

(1) Should lessees of a lease or a 100-percent Federal unit or communitization agreement report and pay initially on their takes in a situation where production from that lease or unit or communitization agreement is commingled with other production upstream of the royalty measurement point:

(2) RSFA requires that Federal lessees in mixed unit or communitization agreements report royalties on an entitlement basis, regardless of whether the unit or communitization agreement is subject to a commingling approval. Should MMS treat a commingling approval as the equivalent of a unit or communitization agreement and apply the RSFA reporting and payment provisions on that basis? For example, if all properties measured at the commingling point are 100 percent Federal leases or units or communitization agreements with the same fixed royalty rate and funds distribution, then payments could be made on takes. If one or more of the properties measured at or after the commingling point have different royalty rates (fixed or variable, different funds distribution, or are not 100 percent Federal, all lessees would pay on entitlements.

The three examples presented below illustrate some alternative methodologies to apply the provisions of RSFA to situations where production is commingled before royalty measurement. For each example, assume there is a stand-alone Federal lease with two lessees (lessee A and lessee B, each of whom owns 50 percent of the working interest), a 100-percent Federal unit or communitization agreement with two lessees (with lessee C owning 75 percent of the combined working interest in the two leases, and lessee D owning the remaining 25 percent), and a state lease, all of which are subject to a commingling approval. (For simplicity, assume that all of the Federal leases have the same royalty rate.) Additionally, assume that for each example, the total commingled production allocated to the properties is 100,000 Mcf of gas. Further assume that, for the month shown in the examples, the stand-alone Federal lease and the state lease are each allocated 25 percent of the commingled production under the commingling approval, and that the Federal unit or communitization agreement is allocated 50 percent. Further, assume that lessee A takes and sells 20,000 Mcf of gas. Assume that lessee B has no takes. Assume that lessee C takes and sells 30,000 Mcf of gas while lessee D takes and sells 23,000 Mcf of gas. Assume that the lessee of the state lease takes and sells 27,000 Mcf of gas. In each example, lessee ownership percentages and liability remain the

same, but the volume on which royalty initially must be paid varies depending on the methology used. (The numbers used in the following examples are rounded to the nearest whole number.)

EXAMPLE 1—''PURE TAKES'' REPORTING AND PAYING

Property	Allocated volume per commingling approval (Mcf)	Lessee	Ownership percentage	Entitled share of allocated volume (Mcf)	Sales by lessees (Mcf)	Volume on which royalty paid to MMS (Takes) (Mcf)
Federal Lease (2 lessees)	25,000	A	50	12,500	20,000	20,000
		B	50	12,500	0	0
100-percent Federal Unit or Communitization Agreement (2 lessees).	50,000	C	75	37,500	30,000	30,000
		D	25	12,500	23,000	23,000
State Lease	25,000			25,000	27,000	0
Totals	100,000			100,000	100,000	73,000

By using a pure takes methodology, the volume deemed sold and removed from each lease and the unit or communitization agreement as determined under the commingling approval is not properly accounted for. Under this methodology, MMS could be paid on a volume either greater than or less than that on which the lessees ultimately owe royalty because the takes on which the Federal lessees reported and paid royalty would not always equal the volume on which royalty is due under the commingling approval. In this example, the MMS would be paid royalty on 2,000 Mcf less than the volume on which the Federal lessees ultimately owe royalty because under the commingling approval the Federal lessees owe royalty on 75,000 Mcf and on a pure takes basis, the Federal lessees only paid on 73,000 Mcf. Therefore, adopting this methodology presumably would require each royalty reporter to adjust royalty payments (at least on an annual basis) to its entitled volume (equal to its ownership percentage times the volume allocated to its lease or unit or communitization agreement under the commingling approval).

EXAMPLE 2.—''PURE ENTITLEMENTS'' REPORTING AND PAYING

Property	Allocated volume per commingling approval (Mcf)	Lessee	Ownership percentage	Entitled share of allocated volume (Mcf)	Sales by lessee (Mcf)	Volume on which royalty paid to MMS (entitlements) (Mcf)
Federal Lease (2 lessees)	25,000	A	50	12,500	20,000	12,500
		B	50	12,500	0	12,500
100-percent Federal Unit or Communitization Agreement (2 lessees).	50,000	C	75	37,500	30,000	37,500
		D	25	12,500	23,000	12,500
State Lease	25,000			25,000	27,00	0
Totals	100,000			100,000	100,000	75,000

Reporting on a ''pure entitlements'' basis that the Federal government is made whole with respect to royalties, but would not allow for initial reporting and payment based on takes if production is commingled before the royalty measurement point. Under this methodology, MMS would be made whole each month because lessees would report and pay on their entitled volume each month, even if a particular lessee (lessee B in this example) took no production. Therefore, an adjustment to the entitled volume, as discussed above for Example 1, would not be necessary.

EXAMPLE 3.—''PROPORTIONATE TAKES'' REPORTING AND PAYING

Property	Allocated volume per commingling approval (Mcf)	Lessee	Ownership percentage	Entitled share of allocated volume (Mcf)	Sales by lessee (Mcf)	Volume on which royalty paid to MMS (proportionate takes) (Mcf)
Federal Lease (2 lessees)	25,000	A	50	12,500	20,000	25,000
		B	50	12,500	0	0
100-percent Federal Unit or Communitization Agreement (2 lessees).	50,000	C	75	37,500	30,000	28,302
		D	25	12,500	23,000	21,698
State Lease	25,000			25,000	27,000	0
Totals	100,000			100,000	100,000	75,000

This methodology would combine takes and entitlements by requiring lessees to report and pay on volumes equal to the sales by the lessee divided by the total sales for the property times the allocated volume under the commingling approval for the property. Consider lessees C and D: In this example, lessee C would report and pay on 28,302 Mcf, even though it actually took 30,000 Mcf, and its entitled volume is 37,500 Mcf. The 28,302 Mcf is computed as follows:

(30,000 Mcf/53,000 Mcf) × 50,000 Mcf = 28,302 Mcf for lessee C, where 53,000 Mcf (total sales for the property) is the sum of 30,000 Mcf (lessee C's total sales) and 23,000 Mcf (lessee D's total sales), and 50,000 Mcf is the allocated volume under the commingling approval for the property. Lessee D's initial reporting and payment would be computed similarly.

Considering lessees A and B: If a lessee took no production (lessee B in this example), it would not have to pay any royalty. However, a lessee (lessee A in this example) could pay royalty on a volume greater than either its actual takes or its entitled share. Under this methodology, MMS would be made whole each month because it would receive royalty based on the total Federal production subject to the commingling approval each month. Therefore, an adjustment to the entitled volume, as discussed above for Example 1, would not be necessary. In Example 3, lessees would have to adjust their payments among themselves.

As explained above, in instances where a lessee pays on ''Pure Entitlements'' such as Example 2, or ''Proportionate Takes'' such as Example 3, the lessee may take production that is more or less than its entitled share. In that case, a lessee would need to value its entitled share. The MMS believes that the best means of valuing the entitled share is to apply a volume weighted average of the royalty values of the volumes actually taken to the entitled shared volumes. The MMS requests comments on any other alternatives for valuing such volumes.

In addition, MMS is interested in receiving comments on these three Examples which describe alternative methodologies. The MMS is also interested in receiving comments on any other alternative methodologies. If you propose a methodology different from those discussed above, please use our example criteria and explain why you believe your methodology is the best alternative. In addition, MMS would like your input on how the various methodologies would affect your business practices, bookkeeping, etc.

Dated: November 14, 2005.

R.M. ''Johnnie'' Burton,

Assistant Secretary for Land and Minerals Management.

[FR Doc. 05–23380 Filed 11–28–05; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 925

[Docket No. MO–038–FOR]

Missouri Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are announcing receipt of a proposed amendment to the Missouri regulatory program (Missouri program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Missouri intends to revise its program to improve operational efficiency.

Currently, we are substituting direct Federal enforcement for portions of the Missouri program. With the substitution of Federal enforcement authority, we outlined a process by which Missouri could regain full authority for its program. As part of this process, Missouri proposes to amend its approved regulatory program and submitted a temporary emergency regulatory program rule (emergency rule). The purpose of the emergency rule is to revise Missouri's regulations regarding bonding of surface coal mining and reclamation operations to allow Missouri to transition from a ''bond pool'' approach to a ''full cost bond'' approach. We are announcing receipt of the emergency rule in this rulemaking. Missouri has indicated that, in the near future, it will submit a permanent regulatory program rule (permanent rule) regarding its bonding regulations and that this rule will contain regulatory language that is substantially identical to the language in this emergency rule. If we approve the emergency rule and Missouri submits the permanent rule with language that has the same meaning as the emergency rule, we will publish a final rule and the permanent rule will become part of the Missouri program.

This document gives the times and locations that the Missouri program and proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4 p.m., c.t., December 29, 2005. If requested, we will hold a public hearing on the amendment on December 27, 2005. We will accept requests to speak at a hearing until 4 p.m., c.t. on December 14, 2005.

ADDRESSES: You may submit comments, identified by Docket No. MO–038–FOR, by any of the following methods:

- E-mail: *IFOMAIL@osmre.gov*. Include Docket No. MO–038–FOR in the subject line of the message.
- Mail/Hand Delivery: Andrew R. Gilmore, Chief, Alton Field Division, Office of Surface Mining Reclamation and Enforcement, 501 Belle Street, Alton, Illinois 62002.
- Fax: (618) 463–6470
- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Comment Procedures'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to review copies of the Missouri program, this amendment, and all written comments received in response to this document, you must go to the address listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Alton Field Division. Andrew R. Gilmore, Chief, Alton Field Division, Office of Surface Mining Reclamation and Enforcement, 501 Belle Street, Alton, Illinois 62002, Telephone: (618) 463–6460, E-mail: *IFOMAIL@osmre.gov*.

In addition, you may review a copy of the amendment during regular business hours at the following location: Missouri Department of Natural Resources, Land Reclamation Program, 205 Jefferson Street, P.O. Box 176, Jefferson City, Missouri 65102, Telephone: (573) 751–4041.

FOR FURTHER INFORMATION CONTACT: Andrew R. Gilmore, Chief, Alton Field Division. Telephone: (618) 463–6460. E-mail: *IFOMAIL@osmre.gov*.

SUPPLEMENTARY INFORMATION: