

Commenters are encouraged to submit comments on a computer disk along with a hard copy.

**FOR FURTHER INFORMATION CONTACT:** Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, 703-235-1910.

**SUPPLEMENTARY INFORMATION:** On October 31, 1995, MSHA published a document in the Federal Register (60 FR 55353) announcing the reopening of the rulemaking record on its proposed standard for flame-resistant conveyor belts used in underground mines. Comment period was scheduled to close on December 15, 1995. By this document, the Agency is extending the comment period to February 5, 1996. All interested parties are encouraged to submit comments prior to that date.

Dated: December 15, 1995.

J. Davitt McAteer,

*Assistant Secretary for Mine Safety and Health.*

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## DEPARTMENT OF THE INTERIOR

### Minerals Management Service

#### 30 CFR Part 206

RIN 1010-AC09

#### Valuation of Oil From Federal and Indian Leases

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** In response to changes in the oil and gas industry and the marketplace, the Minerals Management Service (MMS) is considering amending its regulations regarding the valuation of crude oil produced from or allocated to Federal and Indian leases.

Most Federal and Indian leases provide that the value of production for royalty purposes be determined by the Secretary. This notice is intended to solicit comments on new methodologies to establish the royalty value of oil produced from Federal and Indian leases. MMS specifically seeks comments on the use of crude oil posted prices as a means to value oil not sold under arm's-length conditions, and the meaning and application of the term "significant quantities".

**DATES:** Comments must be received on or before March 19, 1996.

**ADDRESSES:** Written comments, suggestions, or objections regarding valuation issues should be mailed to the

Minerals Management Service, Royalty Management Program, Rules and Procedures Staff, Denver Federal Center, Building 85, P.O. Box 25165, Mail Stop 3101, Denver, Colorado 80225-0165, Attention: David S. Guzy, telephone (303) 231-3432, fax (303) 231-3194.

**FOR FURTHER INFORMATION CONTACT:** David S. Guzy, Chief, Rules and Procedures Staff, MMS Royalty Management Program, at telephone (303) 231-3432, fax (303) 231-3491, e-mail David\_Guzy@smtp.mms.gov.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

All Federal and Indian oil and gas leases contain provisions for the determination of royalty obligations.

Most of these Federal and Indian leases reserve to the Secretary considerable discretion in determining value for royalty purposes. This Advance Notice of Proposed Rulemaking is intended to solicit comments on new methodologies to establish value for crude oil production from Federal and Indian leases. Comments received in response to this Advance Notice will be considered in the development of a proposed rulemaking that MMS will publish in the Federal Register.

In conjunction with the lease terms, the valuation of oil production from Federal and Indian leases is subject to the regulations at 30 CFR Part 206, Subpart C—Federal and Indian Oil. The present regulations govern the valuation of production from both Federal and Indian (Tribal and allotted) leases (except leases on the Osage Indian Reservation, Oklahoma). MMS believes it could provide an improved regulatory framework in which lease terms could be strictly enforced while requiring little or no extra information from lessees.

MMS may issue separate regulations to value oil from Indian leases because of the Secretary's trust obligation in the administration of Indian oil and gas leases. In view of this obligation, the Secretary must ensure that Indians receive the maximum benefits from mineral resources on their lands. Thus, the value of production for royalty purposes from an Indian lease should be determined considering the higher reasonable values provided by the terms of the standard lease. MMS believes this goal is consistent with: the terms of these Indian oil and gas leases, the statutes governing Indian oil and gas leases, and court decisions providing judicial guidance in the interpretation and administration of Indian oil and gas leases. Specific comments are requested

on issuing separate regulations for valuing oil from Indian leases.

##### II. Discussion of Alternatives

The Secretary's responsibility to determine the royalty value of oil produced from Federal and Indian lands has not changed, although the industry and marketplace have changed dramatically over the years. Specifically, oil posted prices may no longer represent the price a purchaser is willing to pay for a particular crude oil. MMS plans to develop a set of regulations to permit the Secretary to discharge the Department's royalty valuation responsibility in an environment of continuing and accelerating change in the industry and the marketplace. Given the ever-changing marketplace, the Secretary's responsibilities regarding oil production from Federal and Indian leases require development of flexible valuation methodologies that lessees can comply with accurately and timely. MMS specifically seeks to improve oil valuation regarding the use of oil posted prices, including methods of determining "significant quantities." A discussion of these areas follows:

##### *(a) Oil Posted Prices, Including Effects on Existing Valuation Benchmarks for Oil Not Sold Under Arm's-Length Contract*

MMS is considering modifying or replacing the current benchmark system at 30 CFR 206.102(c) used to value oil not sold under arm's-length contracts. MMS believes that the current regulations may place too much emphasis on posted prices—the lessee's and others'. The first two of the five benchmarks rely on postings if a significant quantity of like-quality crude is purchased or sold at such postings in a field or area. Likewise, the third benchmark relies at least partly on postings because it applies the average of arm's-length contract prices, which often are tied to postings, for purchases or sales of significant quantities of oil in the area. (The fourth benchmark relies on spot sales and other relevant matters, and the fifth relies on a net-back or any other reasonable method to determine value.)

MMS recently has received information indicating that oil posted prices don't always reflect market value and in fact may often be no more than a beginning point for negotiation.

MMS has found numerous examples where crude oil purchasers pay premiums over the posted price. Further, consultation with private consultants, various State government personnel, and other non-Federal