

royalty-owners indicates a consistent belief that oil posted prices may not represent market value. And, while posted prices historically were presumed to represent actual prices offered for a particular crude oil, postings no longer necessarily represent an offer to buy at that price.

Revising the benchmark system in the regulations could remove some of the current heavy reliance on posted oil prices and provide MMS more flexibility in determining proper royalty value.

MMS is soliciting comments on the continued applicability of oil posted prices as a fair and reasonable indicator of royalty value. Specifically, MMS seeks input on how oil marketing takes place today and whether and how oil posted prices typically factor into oil sales/purchases/exchanges.

MMS invites specific comments on various aspects of posted prices as applied to crude oil sales and royalty value for Federal and Indian leases, including the option of separate oil valuation regulations for Indian leases. MMS would like examples demonstrating whether crude oil price postings form the true basis for oil values in given fields or areas—and, to the extent possible, nationwide. And, if the commenter feels postings don't reflect market value for the field or area, MMS would like specific suggested alternative royalty valuation methodologies for oil not sold under arm's-length conditions. That is, if postings don't reflect market value and because the existing benchmarks for oil not sold under arm's-length conditions rely heavily on posted prices, what are some suggested alternative valuation benchmarks? For example:

- Are there indices or other published prices that better reflect actual market value than oil postings?
- Where prices posted by individual companies differ considerably within the same field or area, how are these differences best reconciled?
- Are there fixed "reference" prices against which quality, transportation, and other adjustments can be made to develop reasonable royalty values (e.g., West Texas Intermediate)?
- Are spot prices of sufficient reliability and do they cover wide enough geographic areas to use as value bases?
- Do oil "futures" prices provide meaningful bases for royalty valuation?
- What alternative valuation method(s) best balance the needs to (a) reflect the market value of the oil as sold, exchanged, or otherwise disposed of; and (b) maximize administrative efficiency for all concerned? (Please

consider the amount of information needed by the lessee and MMS, and the overall administrative costs of all parties.)

For royalty valuation involving arm's-length transactions, MMS generally accepts the contractual terms, which may include postings. MMS further requests comments on whether the use of alternative methods for valuing oil not sold under arm's-length conditions would impact the acceptability of posted prices for valuing oil sold at arm's-length.

(b) Quantifying "Significant Quantities" of Oil

The current MMS royalty valuation benchmarks for oil not sold under arm's-length contract rely on "significant quantity" determinations. Under the benchmarks, the lessee's or others' posted or contract prices used in arm's-length purchases or sales of "significant quantities" of like-quality oil from the same field or area establish royalty value. The first applicable of the five benchmarks is to be used, and the first four rely on "significant quantity" determinations. For example, if the lessee sells "significant quantities" of its field production at arm's-length, the arm's-length contract sales price may apply to the lessee's other, internally-transferred crude oil from the same field. But the existing regulations contain no fixed definition of "significant quantities," either on an absolute or relative basis. Thus, MMS would like comments on the best ways to determine what constitutes "significant quantities." For example:

- Is there an absolute volume measure (barrels per day/month/year, etc.) that would allow MMS to determine whether specific arm's-length sales involve "significant quantities"? If so, should this volume vary by field or area?
- Is there a fixed percentage of field or area production that MMS can use as a comparison basis to determine whether specific arm's-length sales represent "significant quantities"?
- What should be the comparative basis for "significant quantity" determinations? Should individual arm's-length transactions be related to *all* field production, or should some volumes such as internal company transfers of production or exchanges or buy/sell exchanges with other oil companies first be excluded from field production?
- Are there measures other than "significant quantities" that may better apply given alternative valuation scenarios?

In providing comments on (a) and (b) above, please consider not only current oil marketing practices, but also any changes that may be foreseen. MMS intends for any oil valuation rule changes to be flexible enough to accommodate future oil marketing changes as much as possible to avoid ongoing rule modification.

In addition to comments on (a) and (b) above, MMS would like comments on the process to use and make potential changes to the oil valuation rules. Specifically, MMS would like comments on whether any oil valuation regulatory changes should be subject to negotiated rulemaking procedures or other consensual mechanisms for developing regulations.

Dated: December 8, 1995.

Bob Armstrong,

Assistant Secretary for Land and Minerals Management.

[FR Doc. 95-30767 Filed 12-19-95; 8:45 am]

BILLING CODE 4310-MR-P

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

[IN-110, Amendment Number 93-7, Part II]

Indiana Permanent Regulatory Program Amendment

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

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: OSM is announcing receipt of additional changes to an amendment previously submitted by Indiana as a modification to the State's permanent regulatory program (hereinafter referred to as the Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The changes add new language concerning minor field revisions to the second of three subparts of the original amendment. The changes are intended to incorporate language desired by the State.

This notice sets forth the times and locations that the Indiana program and the proposed amendment to that program will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed for a public hearing, if one is requested.

DATES: Written comments must be received on or before 4:00 p.m. on