

**Minutes**  
Indian Oil Valuation Rule - Public Workshop  
Albuquerque, New Mexico  
March 9, 2005

As announced in the Federal Register on February 22, 2005, the Minerals Management Service (MMS) held a public workshop in Albuquerque, New Mexico, on March 9, 2005, concerning the valuation of crude oil produced from Indian oil and gas leases.

Two industry and four Indian representatives attended the Albuquerque workshop. A summary of the comments received at the Albuquerque workshop is outlined below.

In the introductory remarks at the workshop, MMS reiterated that the February 1998 proposed Indian oil valuation rule and the January 2000 supplementary proposal have been withdrawn because of the passage of time and market changes that have occurred since their publication.

The MMS also reiterated that the agency has begun a new rulemaking process regarding the royalty valuation of crude oil produced from Indian oil and gas leases. Comments from the workshops held in Oklahoma City, Oklahoma, Albuquerque, New Mexico, and Billings, Montana, workshops will be considered in the new rulemaking process.

**Should MMS adopt certain Amendments to the Federal Oil Valuation Rule in the New Indian Oil Valuation Rule?**

As stated in the Federal Register notice announcing the public workshops, one of the workshop goals was to obtain public comment on whether certain amendments to the Federal oil valuation rule promulgated in May 2004 should be adopted in the new Indian oil valuation rule—for example, using New York Mercantile Exchange (NYMEX) prices adjusted for location/quality and transportation costs for oil that is not sold at arm's-length, and using 1.3 times the Standard & Poor's (S&P) BBB bond rate as the rate of return when calculating non-arm's-length transportation costs.

Indian comments:

- In general, an Indian representative stated that they were frustrated regarding the number of years that it has taken to address the Indian oil valuation rule and stated that their formal comments have been already heard throughout the many years of the proposed Indian oil valuation rules.
- An Indian representative did not support using the 1.3 BBB bond rate, and was concerned that other provisions from the Federal oil valuation rule would be applied to the new Indian oil valuation rule.

Industry comments:

- Industry representatives suggested that MMS consult with its Royalty-in-Kind group which has gained an understanding of spot prices and how NYMEX is used in the marketplace.
- Industry representatives supported using the 1.3 BBB bond rate. They stated that this rate was a compromise in the Federal oil valuation rule; although they believed the rate should be higher.

The MMS comments:

- The MMS does not treat the previously proposed rules as if they did not exist. The information learned in the course of the prior proposed rulemaking is valuable. However, these proposed Indian oil valuation rules were not legally finalized. MMS is starting afresh for the Indian oil valuation rulemaking.
- The MMS has committed to the Department of the Interior that it will publish a proposed rule this year.

**Should MMS use Arm’s-Length Reported Values for Production from a Reservation or Other Designated Area when calculating “Major Portion” Prices?**

Indian comments:

- The MMS needs to make certain that these issues related to major portion calculations are brought to the attention of the allottees and all tribes or this new rule will not be a valuable rule.

Industry comments:

- The basis for moving away from published spot prices happened over the past years as it became clear that spot prices could be manipulated. That’s why MMS moved towards NYMEX prices; NYMEX is an actual vs. voluntary reporting to publishers methodology.

The MMS comments:

- The MMS will evaluate how to most effectively involve the Indian tribes and allottees once there is a document (proposed Indian oil valuation rule) to review.
- In addition to the announcement of the workshops in the Federal Register, MMS also sent over 100 letters to tribes, allottee associations, and the Bureau of Indian Affairs notifying them about the public workshops. The MMS is holding the workshops to obtain input from tribes and individual Indian mineral owners on how MMS should proceed with the rulemaking.

**Should MMS Collect Information to Use in the Major Portion Calculations to Distinguish the Quality of the Oil (i.e., sweet crude, sour crude, yellow wax, black wax)?**

Industry comments:

- Industry representatives supported MMS collecting information to use in the major portion calculations to distinguish the quality of the oil. However, Industry representatives were firmly against the current Form MMS-4416, Indian Crude Oil Valuation Report.
- Industry representatives generally believed that non-arm's-length prices and NYMEX prices should be considered in the major portion arrays.
- Industry representatives stated their belief that the current Indian gas valuation rule seems to be working well and that simplicity and certainty of index-based methodology could help alleviate transportation concerns.