concerned with this rulemaking will be filed in the docket.

**Availability of NPRMs**

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

**The Proposal**

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend Class D airspace at Key West International Airport, FL, and establish Class D airspace at Key West NAS. Key West NAS currently is included in the Key West International Airport Class D area airspace. Class D airspace is required to accommodate current Standard Instrument Approach Procedures (SIAP's) and contain Instrument Flight Rules (IFR) operations at Key West NAS. As a result of this proposed action, the Key West International Airport Class D airspace would be reduced concurrent with the establishment of the Class D airspace at Key West NAS. Class D airspace designations are published in Paragraph 5000 of FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (Air).

**The Proposed Amendment**

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

## PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

### § 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

*Paragraph 5000 Class D Airspace*

* * * * *

**ASO FL D Key West NAS, FL [New]**

Key West NAS, FL
(Lat. 24°34′33″N, long. 81°41′20″W)
Key West International Airport
(Lat. 24°33′23″N, long. 81°45′34″W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 5.3-mile radius of Key West NAS, excluding that airspace within the Key West International Airport Class D airspace area. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

**ASO FL D Key West, FL [Revised]**

Key West International Airport, FL
(Lat. 24°33′23″N, long. 81°45′34″W)
Key West NAS
(Lat. 24°34′33″N, long. 81°41′20″W)

That airspace extending upward from the surface to and including 2,500 feet MSL beginning at lat. 24°37′12″N, long. 81°44′41″W; to lat. 24°33′04″N, long. 81°43′48″W; to lat. 24°31′15″N, long. 81°45′22″W; to lat. 24°30′35″N, long. 81°45′14″W; thence counterclockwise via the 5.3-mile radius of Key West NAS to the intersection of the 3.9-mile radius of the Key West International Airport, thence clockwise via the 3.9-mile radius of the Key West International Airport to the point of beginning. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on December 23, 1999.

**Wade T. Carpenter,**

*Acting Manager, Air Traffic Division, Southern Region.*

[FR Doc. 00–154 Filed 1–4–00; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF THE INTERIOR

## Minerals Management Service

## 30 CFR Part 206

## RIN 1010–AC24

## Establishing Oil Value for Royalty Due on Indian Leases

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Supplementary proposed rule.

**SUMMARY:** The Minerals Management Service (MMS) is proposing further changes to its proposed rulemaking regarding the valuation, for royalty purposes, of crude oil produced from Indian leases. The MMS is proposing to: Change which index prices would be used for valuation, change how those index prices would apply, change how transportation allowances would apply, and streamline proposed Form MMS–4416 for computing adjustments to value for royalty purposes. These amendments are intended to simplify and improve the proposed rule.

**DATES:** Your comments must be submitted on or before March 6, 2000.

**ADDRESSES:** Address your comments, suggestions, or objections regarding this supplementary proposed rule to:

*By regular U.S. mail.* Minerals Management Service, Royalty Management Program, Rules and Publications Staff, P.O. Box 25165, MS 3021, Denver, Colorado 80225–0165; or

*By overnight mail or courier.* Minerals Management Service, Royalty Management Program, Building 85, Room A613, Denver Federal Center, Denver, Colorado 80225; or

*By e-mail.* RMP.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–AC24'' 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.

Mail or hand-carry comments with respect to the information collection burden of the proposed rule to the Office of Information and Regulatory Affairs; Office of Management and Budget; Attention: Desk Officer for the Department of the Interior (OMB control number 1010–NEW); 725 17th Street, NW, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:**
David S. Guzy, Chief, Rules and Publications Staff, Royalty Management Program, Minerals Management Service, telephone (303) 231–3432, fax (303) 231–3385, or e-mail RMP.comments@mms.gov.

**SUPPLEMENTARY INFORMATION:**

## I. Background

On February 12, 1998, MMS published a notice of proposed rulemaking applicable exclusively to the valuation of crude oil produced from Indian leases (63 FR 7089). The comment period for this proposed rule was to close on April 13, 1998, but was extended to May 13, 1998 (63 FR 17249). MMS held two public workshops (63 FR 11384) on this proposed rule: one in Albuquerque, New Mexico, on March 26, 1998; and one in Lakewood, Colorado, on April 1, 1998. Comments received to date are available for public inspection at the RMP offices in Lakewood, or on the Internet at http://www.rmp.mms.gov. MMS will also place any additional comments received on this rule on the Internet. Call David Guzy at (303) 231–3432 for further information.

Because of the substantial comments received on the initial proposal, comments made at the public workshops, and other feedback from the Indian community, MMS is reopening certain provisions of the rulemaking to public comment.

## II. Revisions to Proposed Rule

After hearing public comments, MMS is proposing some changes to the February 12, 1998, proposed rule. We summarize the proposed changes below, as well as the related comments that prompted the changes. MMS is requesting public comments on these proposed provisions.

*Use of Spot Prices vs. New York Mercantile Exchange (NYMEX) Futures Prices*

In response to the February 12, 1998, proposed rule, several commenters objected to the inclusion of NYMEX prices as one of the three values compared to determine royalty value on Indian leases. They argued that NYMEX prices are not attainable by everyone, that use of NYMEX prices effectively moves valuation away from the lease, and that using these prices would add administrative complexity. One comment from an Indian tribe, however, said that use of NYMEX prices was long overdue.

MMS now is proposing to use spot, rather than NYMEX, prices for several reasons. First, we believe that when the NYMEX futures price, properly adjusted for location and quality differences, is compared to spot prices, it nearly duplicates those spot prices. Second, application of spot prices would remove one portion of the necessary adjustments to the NYMEX price—the leg between Cushing, Oklahoma, and the market center location.

This supplementary proposed rule states, at proposed § 206.52(a), that one of the three comparative values used to determine royalty value is the spot price:

(1) For the market center nearest your lease where spot prices are published in an MMS-approved publication;

(2) For the crude oil most similar in quality to your oil; and

(3) For deliveries during the production month.

One exception is that for leases in the Rocky Mountain Region, the appropriate market center and spot price would be at Cushing, Oklahoma (redesignated paragraph (a)(1); previous paragraph (a)(1) was deleted because it related to prompt months under NYMEX pricing). This is because the otherwise-nearest spot price location is at Guernsey, Wyoming, where we believe actual trading is too limited to result in a reliable spot price.

To complement the change from NYMEX to spot prices, § 206.51 of this supplementary proposed rule is amended by revising the definitions of ''Index pricing'' and ''MMS-approved publication'' and adding a definition for ''Rocky Mountain Region'' as follows:

''Index pricing'' would mean using spot prices for royalty valuation.

''MMS-approved publication'' would mean a publication MMS approves for determining spot prices.

''Rocky Mountain Region'' would mean the States of Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.

We have also added, at proposed paragraph 206.52(a)(6), that MMS periodically would publish in the **Federal Register** a list of approved spot price publications based on certain criteria, including but not limited to:

(i) Publications that buyers and sellers frequently use;

(ii) Publications frequently mentioned in purchase or sales contracts;

(iii) Publications that use adequate survey techniques, including development of spot price estimates based on daily surveys of buyers and sellers of crude oil; and

(iv) Publications independent from MMS, other lessors, and lessees.

Proposed new paragraph (a)(7) states that any publication may petition MMS to be added to the list of acceptable publications. Proposed new paragraph (a)(8) states that MMS will specify the tables you must use in the publications to determine the associated spot prices.

*Use of Average of High Daily Spot Prices Rather Than Average of Five Highest NYMEX Settle Prices in a Given Month*

We received a number of comments that applying the average of the five highest NYMEX settle prices was unfair and unrealistic and that this represented a price most sellers could not obtain under any circumstances. We agree with this comment and, in addition to changing from NYMEX to spot prices, have modified the subset of spot prices to be used. Rather than applying the five highest spot prices in any given month, we propose at § 206.52(a) to use the average of the daily high spot prices for that month in the selected publication. This should better reflect values generally obtainable, while at the same time fulfilling MMS's trust responsibility to Indian lessors.

*Modifications to Major Portion Notification by MMS*

Previously-proposed paragraph 206.52(c)(1) would have required MMS to calculate major portion values within 120 days of each production month. Although this should be possible in most cases, MMS can foresee occasional problems in acquiring the needed data and performing the major portion calculations within 120 days. Consequently, MMS proposes to change paragraph 206.52(c)(1) by dropping the 120-day provision and stating that MMS would notify lessees by publishing the major portion value in the **Federal Register**. This should have no adverse impact on royalty payors, because late payment interest would not begin to accrue on any underpayment based on any additional amount owed as a result of the higher major portion value until the due date of the amended Form MMS–2014. Thus, no late payment interest would accrue on the higher major portion value if the payor submitted an amended Form MMS–2014 within 30 days after MMS published the major portion value in the **Federal Register**.

MMS also proposes to make changes in paragraphs 206.52(c)(4) and 206.52(d) to reflect that MMS would notify lessees of the major portion value by publication in the **Federal Register**.

*Transportation Costs From Lease Versus Reservation Boundary*

We received a number of comments that MMS should not limit transportation deductions to those incurred beyond the reservation boundary. The commenters said that there is no requirement that lessees transport oil within a designated area at no cost to the lessor, and that transportation costs should be calculated from the point where oil is measured for sale. We agree with these comments and propose to change previously-proposed §§ 206.60 and 206.61 to reflect the permissibility of transportation deductions from the lease or unit rather than the designated area, as well as the reality of exchange agreements whose first transfer point is at the lease or unit or an associated aggregation point.

To complement the change to permitting transportation allowances from the lease or unit rather than the designated area, and to better represent exchange agreements whose initial transfer point is at an aggregation point away from the lease or unit, § 206.51 of this supplementary proposed rule is amended by adding a definition of ''Aggregation point'' as follows:

''Aggregation point'' would mean a central point where production is aggregated for shipment to market centers or refineries. It would include, but not be limited to, blending and storage facilities and connections where pipelines join. Pipeline terminations at refining centers also would be classified as aggregation points. MMS periodically would publish in the **Federal Register** a list of aggregation points and associated market centers.

Proposed changes at § 206.60 include:

(1) Modifying the table at paragraph (a)(1) to reflect permissibility of transportation from the lease or unit, rather than the designated area, to the point of sale;

(2) Eliminating existing paragraph (a)(2)(ii) to delete the provision that transportation deductions are not permitted when the sale or transfer takes place in the designated area;

(3) Redesignating existing paragraph (a)(2)(iii) as paragraph (a)(2)(ii);

(4) Modifying the table at paragraph (b)(1) to reflect that the transportation allowance may not exceed 50 percent of the calculated spot, rather than NYMEX, price; and

(5) Amending paragraph (d) to reflect permissibility of location and quality adjustments between the lease or unit and index pricing point.

Proposed changes at § 206.61 include:

(1) Modifying paragraph (c)(1) to reflect permissibility of location and quality adjustments between the lease or unit and market center;

(2) Eliminating existing paragraph (c)(1)(i) to acknowledge the elimination of location differentials based on the difference in crude oil values at the index pricing point and the appropriate market center, due to the proposed change to begin with spot, rather than NYMEX, prices;

(3) Rewording existing paragraph (c)(1)(ii) to reflect location differentials between aggregation points and market centers, rather than designated areas and market centers, and redesignating it as paragraph (c)(1)(i);

(4) Rewording existing paragraph (c)(1)(iii) to similarly reflect location differentials between aggregation points and market centers, and redesignating it as paragraph (c)(1)(ii);

(5) Inserting new paragraph (c)(1)(iii) to reflect permissibility of transportation deductions between the aggregation point and the lease or unit;

(6) Rewording existing paragraph (c)(1)(iv) to reflect permissibility of transportation deductions between the market center and the lease or unit;

(7) Inserting new paragraph (c)(1)(v) to reflect potential quality adjustments at the market center or other intermediate points;

(8) Modifying the table at paragraph (c)(2) to reflect changes related to the permissibility of transportation deductions within the designated area;

(9) Deleting paragraph (c)(2)(i) because it becomes unnecessary given the proposed change to permit transportation deductions within the designated area and the proposed changes regarding spot prices and market centers at § 206.52(a);

(10) Deleting paragraph (c)(2)(ii) because this language is now in the table at paragraph (c)(2);

(11) Rewording paragraphs (c)(3) and (c)(3)(iii) to refer to paragraph (c)(1)(ii) instead of (c)(1)(iii);

(12) Deleting paragraphs (c)(4), (c)(5), and (c)(6) relating to publications used to calculate differentials in the previously-existing but now-deleted paragraph (c)(1)(i); and

(13) Redesignating existing paragraph (c)(7) as paragraph (c)(4).

*Modifications to Proposed Form MMS–4416*

We received a number of comments that the data requirements for completing Form MMS–4416 are too burdensome and the resultant MMS calculations of location differentials would not be reliable. While we do not agree with the latter comment, we agree that Form MMS–4416 can be streamlined by eliminating or simplifying certain data requirements and clarifying the instructions included with the form. In addition to revising and clarifying the instructions, we propose to change § 206.61(d)(5) by stating that you must submit information on Form MMS–4416 related to all of your crude oil production from *Indian leases* in designated areas, rather than *all* production from designated areas.

This change should help to limit the administrative burden of the information collection while still permitting MMS to acquire the information needed to calculate relevant location differentials and verify royalty values and differentials reported on Form MMS–2014. We have attached a copy of the revised Form MMS–4416 and the associated instructions for comment.

MMS specifically requests comments on the revised paragraphs addressed in this notice. If you have commented already on other portions of the rule, you do not need to resubmit those comments. MMS will respond to all comments in the final rule.

## III. Procedural Matters

*1. Public Comment Policy*

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours and on our Internet site at www.rmp.mms.gov. Individual respondents may request that we withhold their 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.

*2. Summary Cost and Benefit Data*

We have summarized below the estimated costs and benefits of this supplementary proposed rule to all potentially affected groups: industry, State and local governments, Indian tribes and allottees (by fund code), and the Federal Government. The costs are segregated into two categories—those costs that would be incurred in the first year after this rule is effective and those costs that would be incurred on a continuing basis each year thereafter. The cost and benefit information in this Item 2 of Procedural Matters is used as the basis for the Departmental certifications in Items 3 through 11 below.

a. Industry

| Description (see corresponding narrative below) | <Cost>/benefit amount | |
|---|---|---|
| | First year | Subsequent years |
| (1) Cost—Net Negative Revenues | $<4,667,510> | <4,667,510> |
| (2) Cost—Equipment/Compliance | <1,687,500> | <1,125,000> |
| (3) Cost—Completing Form MMS–4416 | <118,125> | <118,125> |
| (4) Cost—Filing new 2014 with Major Portion Uplift | <50,000> | <50,000> |
| (5) Benefit—Administrative Savings | 1,100,000 | 1,100,000 |
| Net Costs to Industry | $<5,423,135> | $<4,860,635> |

(1) *Cost—Net Negative Revenues.* We estimate that the oil valuation changes proposed in this rule would increase the annual royalties industry must pay to Indian tribes and allottees by $4,667,510. While many variables (price of oil, change in lease operations, possible royalty in kind sales, etc.) could influence the estimate up or down in subsequent years, we did not make any assumptions regarding these variables. Based on reported revenues by company in 1997, we calculate that small businesses (by U.S. Small Business Administration criteria) would pay approximately $1.4 million or roughly 30 percent of the increase. Based on a study for 1997, there were 225 companies that paid royalties for oil produced from Indian leases. Of that number, 173 were small businesses. The computation of the additional mineral revenues payable to Indian tribes and allottees can be found in section c below.

(2) *Cost—Equipment/Compliance.* Industry would also incur computer, software acquisition, and other costs in order to conform with the new reporting requirements. We estimate that to comply with the rule, industry would need:

—A subscription to an industry newsletter (Platt's Oilgram or similar publication).
—A computer with enough power to effectively run a spreadsheet.
—Spreadsheet software.
—Office space and filing equipment dedicated to maintenance of records relating to the rule.

Although many companies already have these resources available and would incur little additional expense, we estimate the following additional costs:

Newsletter subscription: $2,000 per year
Computer acquisition: 2,000 one-time
Spreadsheet software: 500 one-time
Office space and file equipment ($250 per month for one year: 3,000 per year
Total: $7,500

Because some of the costs are not incurred every year, we reduced the costs for subsequent years' compliance to $5,000. There are approximately 225 oil royalty payors on Indian leases. This equates to $1,687,500 for all 225 payors to comply with the rule in the first year and $1,125,000 in each subsequent year.

(3) *Cost—Completing Form MMS–4416.* Industry would also incur costs to complete the proposed new information collection, Form MMS–4416. Part of the Indian oil valuation comparison would rely on price indexes that lessees may adjust for locational differences between the index pricing point and the aggregation point. Indian land lessees and their affiliates, as well as oil purchasers, would be required to give MMS information on the location/quality differentials included in their various oil exchange agreements and sales contracts. From this data MMS would calculate and publish representative location/quality differentials for lessees' use in reporting royalties in different areas. Data from oil purchasers also would be used by MMS and Indian personnel to verify royalty values and differentials reported on Form MMS–2014.

We estimate the annual costs to industry to submit the Form MMS–4416 to be $118,125. MMS estimates that, on average, a payor would have six exchange agreements or sales contracts to dispose of the oil production from the Indian lease(s) for which it makes royalty payments. Compared to the February 12, 1998, proposal, we revised the number of exchange agreements upward from three to six per payor based on additional information from Indian lessors. We estimate that a payor would need about one-half hour on average to gather the necessary contract information and complete Form MMS–4416.

*Filing Due to Contract Changes*

We estimate the payor would have to submit the form twice a year because of contract changes in addition to the required annual filing discussed below.

225 payors × 6 agreements or contracts/payor × ½ hour/submission × 2 submissions/year = 1,350 burden hours

MMS estimates that in addition to the 1,350 agreements or contracts submitted by payors, non-payor purchasers of crude oil from Indian leases would also submit about half that amount (675 agreements or contracts) as required by proposed § 206.61(d)(5) (1998). Again, we estimate that the filing of Form MMS–4416 would take 30 minutes per report to gather the necessary documents and extract the data from individual exchange agreements and sales contracts; we also estimate that a non-payor purchaser would file a report twice a year for each agreement/contract.

675 agreements or contracts × ½ hour/submission × 2 submissions/year = 675 burden hours

*Annual Filing*

We would also require payors and non-payor purchasers to submit an annual Form MMS–4416 for their agreements or contracts. The annual filing requirement would assure Indian lessors, tribes and allottees that all payors and non-payor purchasers are complying with these proposed Indian valuation regulations. We estimate that this annual filing would require 10 minutes per report to indicate a no-change situation.

(1,350 + 675) agreements or contracts × 1 annual submission × ⅙ hour/submission = 337.5 burden hours

*Total Filing Burden*

Based on $50 per hour (revised upward from $35 per hour in our February 12, 1998, analysis to better reflect current conditions), we estimate the annual cost to industry in subsequent years would be $118,125, computed as follows:

(1,350 + 675 + 337.5 burden hours) × $50/hour = $118,125

(4) *Cost—Filing Supplemental Report of Royalty and Remittance (Form MMS–2014) with Major Portion Uplift.* As mentioned earlier in the provisions of the supplementary proposed rule, MMS would calculate a major portion value specific to each tribe. This value would be based on reported values on the Form MMS–2014. If the MMS-calculated value were greater than what the lessee initially reported, they would have to file a revised Form MMS–2014, and pay additional royalties.

Industry would incur an administrative burden from additional filing of Form MMS–2014 lines to comply with the rule's major portion provision. MMS analyzed reported royalty data for Indian leases for 1997. There were approximately 33,000 individual lines reported for oil and about 6,000 lines for condensate on Form MMS–2014. We estimate that if the proposed rule had applied to this production, there could have been as many as 20,000 additional lines reported annually, or 1,667 lines monthly. This estimate is based on comparisons of the major portion price with initially reported prices and replacing the original price when the major portion price is higher. This estimate includes backing out previously-reported lines and reporting new lines, or effectively deleting and replacing up to 10,000 lines based on the major portion calculations.

Electronic reporting accounts for about 80 percent of the lines reported to MMS by lessees on Form MMS–2014. Thus there would have been about 16,000 lines reported electronically. Based on an average of 2 minutes per line at a cost of $50 per hour, we estimate the administrative burden would be $26,667 annually. MMS estimates that there would have been 4,000 lines reported manually (20 percent of the overall burden) and that this effort would stay the same in the future. Based on an average of 7 minutes per line at $50 per hour, the administrative burden for manual payors would be $23,333 annually. The total estimated cost for filing additional Form MMS–2014 lines is ($26,667 + $23,333) = $50,000.

(5) *Benefits—Administrative Savings.* Industry would realize administrative savings because of the reduced complexity in royalty determination and payment in this proposed rule. Specifically, the proposed rule would result in:

(i) *Simplification of reporting and pricing, coupled with certainty.*

We anticipate that the proposed rule would significantly reduce the time involved in the royalty calculation process. In the proposed framework, the lessee would either report its gross proceeds or the adjusted spot price applicable to its production. The need to work through and apply the current benchmarks for non-arm's-length transactions would be eliminated. Further, once MMS calculates a major portion price, the lessee would compare this price to what they reported and make adjustments as necessary.

It is difficult to quantify the amount of savings by simpler reporting. The current level of time spent calculating royalties varies greatly by company depending on many variables such as the complexity of the disposition or sale of the product, the amount of production to account for, and the computation of any necessary adjustments.

However, we assume that simpler reporting would save each payor at least 30 minutes per month to report. This conservative figure amounts to a reduction of 6 hours per year per payor for a savings of $300. Over the 225 payors, this would amount to a total savings of $67,500 due to the reduced reporting burdens of the proposed rule.

(ii) *Reductions in audit efforts.*

When a company is audited, it incurs significant costs. It may be required to gather records, provide documents, and in some cases provide space and facility resources. Although these costs vary significantly by company and by the nature of the audit, we believe that cost savings at least as great as those for simplified reporting would result.

The MMS audit tracking system indicates that approximately 500 Indian oil and gas leases had some type of audit work initiated in 1997. This estimate does not include leases that may have been audited in 1997, but initiated in another year. Also, this figure does not include company audits where auditors examined a sample of leases that may have contained Indian leases. These 500 leases involved approximately 100 companies. Although it is difficult to quantify the future dollar savings for a similar sample of 100 companies, we believe that the expected reduced audit burden would be a significant industry benefit.

(iii) *Reductions in valuation determinations and litigation.*

The proposed rule would increase certainty for Indian royalty payors. Payors would be assured that if they apply the adjustments required by the proposed rule correctly and remit any additional monies due under the major portion calculation, the amount they report likely would be correct. Additionally, such payors would not be subject to additional bills for additional royalties due with late-payment interest attached. We expect that valuation disputes and requests for valuation determinations would decrease significantly under the proposed rule. Valuation determinations and disputes are very costly for both industry and the Federal Government. Some statistics follow:

- Over the last 10 years, MMS auditors identified more than 50,000 instances dealing with royalty underpayments for both oil and gas from Federal and Indian lands. MMS resolved most of the issues underlying the underpayments before the actual issuance of an order to pay. In fact, MMS issued only 2,100 appealable orders during the same period. Of those, 925 appeals resulted. These audit efforts resulted in the collection of $1.16 billion in additional royalties that otherwise would have gone uncollected. About 20 percent of MMS audit activity is focused on Indian lands. Most Indian audits involve gas because royalties for gas produced from Indian lands exceed oil by almost two-to-one. However, the savings from reduced Indian oil audits would still be substantial.
- Over the past 10 years, Royalty Valuation Division (RVD) Staff responded to over 5,000 separate requests by Federal and Indian lessees for advice on valuation procedures and transportation/processing allowances for royalty calculation purposes. These responses resulted in 247 disputes (about 5 percent of all RVD responses) between MMS and the payor over this same time period. These included disputes over product value (131 separate issues) and allowances for transportation or processing (116 separate issues).
- The Department of the Interior Solicitor's Office reported at least 47 separate cases since 1988 that they believed were significant and involved valuation disputes.

Although it is extremely difficult to quantify the cost to both industry and Government for all valuation disputes since 1988, it is undoubtedly in the tens of millions of dollars. We conservatively estimate that the proposed rule's certainty would reduce payors' legal and other administrative costs on Indian leases by at least a million dollars annually, or about $4,444 for each of the 225 payors.

Altogether, with the limited information we can collect and the gross estimates we made, we assume a total savings to Indian oil lease payors of approximately $1.1 million per year

($67,500 in reporting savings, a similar amount for audit savings, and $1 million in legal and administrative costs), or about $5,000 per payor. This estimate is based on very conservative estimates where actual data are difficult, if not impossible, to obtain. Actual savings likely would be significantly higher.

b. State and Local Governments

| Description | <Cost>/benefit amount | |
|---|---|---|
| | First year | Subsequent years |
| Cost—Increased Net Receipts Sharing | 0 | 0 |

State net receipts sharing costs—that is, the MMS operating costs deducted from a State's share of royalty revenue—would not change as a result of this rule. MMS does not charge any portion of the costs of administering Indian leases to States, including the increase in administrative costs associated with this rule.

c. Indian Tribes and Allottees

| Description | <Cost>/benefit amount | |
|---|---|---|
| | First year | Subsequent years |
| Benefit—Additional Mineral Revenues | $4,667,510 | $4,667,510 |

We estimate that our proposed oil valuation regulations would result in increased annual Indian oil royalties of approximately $4.7 million.

(1) *Data Analyzed.* MMS is revising its earlier estimate of $3.6 million that accompanied the February 12, 1998, proposed rule. The original analysis associated with that proposal used data from 1995, and concentrated on the three tribes receiving the majority of royalty revenues. Then we extrapolated these results for the remaining tribes, resulting in approximately $3.6 million in total gain for all the tribes.

For the analysis associated with this supplementary proposed rule we:

(i) *Used 1997 data, because:*

- It is the last complete year for which all months of data were available.
- It represents a typical production year with no major market interruptions.
- It reflects data incorporating most of the edits and corrections performed by the exception processing modules in MMS's Auditing and Financial System and Production Accounting and Auditing System.[1]

(ii) *Analyzed, based on royalty revenues received, the top 12 Indian fund codes representing recipients of royalty revenues from Indian lands*[2] *because:*

- This ensures that we have done a specific analysis for each of the largest royalty recipients.
- This allows us to apply the rule specifically to each fund code, and analyze the impact. This also allows transportation and quality adjustments specific to the oil and condensate produced at particular locations.
- The top 12 Indian oil and condensate fund code recipients account for approximately 97 percent of all royalties received for all Indian lands in 1997. These 12 fund codes are as follows:

Navajo (w/allottees)
Ute Indian Tribe(w/Allottees)
Shoshone/Arapaho (Wind River)(w/Allottees)
Alabama-Coushatta
Anadarko Agency Allotted
Muskogee Area Allotted
Shawnee Agency Allotted
Jicarilla Agency
Ft. Peck Tribal/Allotted
Cook Inlet Region Incorporated (CIRI)
Blackfeet (w/Allottees)
Ute Mountain Ute

(2) *Determining Value.* For the supplementary proposed Indian oil valuation regulations, as stated earlier, MMS proposes to use the greater of the following three calculations to determine value:

(i) *Spot price-based value, adjusted for location differentials and transportation costs.*

Consistent with the provisions in the supplementary proposed rule, one of the three valuation alternatives to be considered would be a location-and quality-adjusted spot price. For all the above fund codes (except CIRI), we used the spot price at Cushing, Oklahoma, for West Texas Intermediate as reported in Platt's Oilgram. (In some cases the Midland, Texas spot price may have been more appropriate, but the actual estimates would vary little using the Midland spot price. This fact, plus ease of administration, led us to use the Cushing value.) For CIRI, we used the Alaska North Slope spot price as reported in Platt's Oilgram.

As required by the proposed rule, we used the average of the daily high spot prices for the trading month that corresponds to the production month as a measure of value. For example, for the production month of February, we used the average of the daily high spot prices from December 26th through January 25th. The average consists of only the business days within the trading month (typically 20 to 23 days).

We made adjustments to the spot price to arrive at a price that is comparable to the oil value on the reservation. We made a separate adjustment for both quality and location as follows:

- Quality

Specific to each of the 12 fund codes, we calculated the weighted average gravity reported for both oil and condensate for the entire year. From this average, we made adjustments based on various posted price adjustment scales in effect for the area to bring the Tribal oil and condensate to 40 degrees API. This matches the specifications for the West Texas Intermediate oil in Platt's Oilgram. In the case of CIRI, we made adjustments to the 26.5 degree API Alaska North Slope oil. We made specific individual adjustments to both oil and condensate for each fund code; these products were not combined. In some cases, the Indian fund code receives royalties on either oil or condensate, but not both. (The calculations specific to each fund code

[1] However, 1997 data are still unaudited and significant adjustments may be made at a later date.

[2] For purposes of this analysis, we used specific fund codes to identify the impact of the rule. The top 12 fund codes represent over 97% of oil royalties received on Indian lands in 1997. There may be other fund codes that also are in some part related to the top 12 codes. For example, the Witchita/Caddo Tribe (which was not analyzed also receives funds from the Anadarko office.

contain proprietary data and are not included with this report.)

• Location

We made location differential estimates specific to each fund code based on Federal Energy Regulatory Commission (FERC) tariffs where available. In most cases, a tariff exists between a collection point on or very near the area represented by the fund code and Cushing, Oklahoma. For the few cases where a tariff does not exist, we made an estimate. We recognize that using these tariffs and estimates is subject to some interpretation. The supplementary proposed rule provides for locational information to be gathered via the proposed Form MMS–4416. Once MMS solicits the information, we can calculate differentials more accurately from the various aggregation points to the spot market centers.

(ii) *Actual gross proceeds received by the lessee or its affiliate.*

We approximated gross proceeds accruing to lessees/affiliates by querying MMS's Auditing and Financial System (AFS) database.[3] For both oil and condensate, we divided the reported total royalty value by total royalty quantity to derive the gross proceeds unit value.

(iii) *Major portion analysis at the 75 percent level.*

Most Indian leases include a ''major portion'' provision, which states that value should be the highest price paid or offered at the time of production for the major portion of oil production from the same field. Like the original proposed rule, the supplementary proposed rule would require one of the three methods of valuation to be a major portion calculation at the 75-percent level. Under the supplementary proposed rule, MMS would calculate the monthly major portion value by arraying sales and associated volumes reported on Form MMS–2014 from lowest price to highest, and applying the price associated with the sale where accumulated volumes exceed 75 percent of the total. In order to calculate this value for the analysis, we used all oil and condensate royalties reported for each fund code. For each month, we arrayed the gross proceeds unit values from the lowest price to the highest price to determine the value at which 75 percent plus one barrel of the tribe's production was sold. We then multiplied this ''major portion'' price by the volumes below the 75-percent ''threshold'' to arrive at an incremental value attributable to the major portion price. We performed this calculation for each month.

(3) Comparison of Values. For each month in 1997, we compared the total fund code royalty value computed using each of the three valuation methods discussed above. Consistent with the supplementary proposed rule, we chose the highest of these values for each month in 1997 and calculated the increment over actual royalties reported. We then summed these incremental values for both oil and condensate by fund code. This grand total value became the estimated gain specific to each fund code under the provisions of the supplementary proposed rule as compared to actual royalties reported in 1997.

In most cases the spot price value was the highest of the three values used in calculating the Indian royalty payment. We based our estimates on the best data available and they may vary when we use actual data. In some cases, the adjusted spot price was lower than the major portion price. This occurred in some months for the Ute Indian Tribe because the oil and condensate produced in the Uinta Basin have a high paraffin or wax content. This high-paraffin crude generally commands a premium over non-paraffin crude, is atypical in assay, and is traded and used only in specialized markets. Further adjustments to the spot price might be needed to better reflect paraffin's value impact.

Typically, the additional royalty associated with the major portion calculation increases based on the number of payors on the reservation. We observed that for fund codes with few payors, little additional royalty resulted from the major portion calculation. On the other hand, when many payors reported, the additional royalty associated with the major portion calculation increased.

(4) *Projection of Gains to All Fund Codes.* To estimate the total annual dollar impact for all 32 fund codes that received royalties from either oil or condensate in 1997, MMS used the combined dollar increase calculated for each of the top 12 fund codes in terms of royalty receipts. Royalties received by these 12 fund codes ($42,700,847) represented 97.2325 percent of the total Indian oil and condensate royalties actually collected in 1997. We estimate that total royalties for the 12 fund codes would increase by about 10.6 percent or $4,538,337 under the proposed rule. The distribution of this increase among the 12 fund codes is shown in the table below.

| | |
|---|---|
| Navajo (w/Allottees) | $1,126,000.26 |
| Ute Indian Tribe(w/ Allottees) | 1,116,358.64 |
| Shoshone/Arapaho(Wind River)(w/Allottees) | 1,467,398.60 |
| Alabama-Coushatta | 76,098.33 |
| Anadarko Agency Allotted | 131,748.84 |
| Muskogee Area Allotted | 177,636.27 |
| Shawnee Agency Allotted | 46,891.98 |
| Jicarilla Agency | 102,195.94 |
| Ft. Peck Tribal/Allotted | 122,872.03 |
| Cook Inlet Region Incorporated (CIRI) | 44,142.74 |
| Blackfeet (w/Allottees) | 92,187.54 |
| Ute Mountain Ute | 34,805.81 |

We then projected the estimated increase for all Indian recipients, as follows:

$$\frac{\$4,538,337}{97.2325} = \frac{X}{100}$$

$$X = \$4,667,510$$

We estimate that the total increase for all Indian royalty recipients under the supplementary proposed rule would be $4,667,510.

d. Federal Government

| Description (see corresponding narrative below) | <Cost>benefit amount | |
|---|---|---|
| | First year | Subsequent years |
| (1) Cost—Processing Form MMS–4416 | <$58,000> | <$58,000> |
| (2) Cost—Calculating Major Portion | <324,000> | <52,000> |
| (3) Benefit—Administrative Savings | 630,500 | 630,500 |
| Net Benefit to Federal Government | $248,500 | $520,500 |

[3] The AFS database does not contain all Indian records. Some leases require special handling and are not entered in the database.

(1) *Cost—Processing Form MMS–4416.* Processing Form MMS–4416 would consist of two functions:

(i) *Collecting data.* We estimate we would require 160 hours annually to collect, sort, and file the forms. Using an hourly cost of $50, the annual cost would be $8,000 for this function.

(ii) *Analyzing and publishing data.* We estimate that we would require 1,000 hours to analyze and publish the data gathered from the Form MMS–4416's annually. This estimate includes the time spent reviewing the data to verify royalty values and differentials reported on Form MMS–2014. Using an hourly cost of $50, the annual cost of the analysis would be $50,000.

(2) *Cost—MMS Major Portion Value Calculations.* In 1997, nine of the fund codes used for distributing royalties to specific Indian tribes and Allottee groups involved such limited royalty reporting that an oil major portion analysis would have been meaningless. Separate calculations would be required for condensate for some fund codes. MMS estimates that oil major portion calculations would be needed for 23 of these fund codes. Additionally, 7 of these 23 fund codes would require condensate major portion calculations for a total of 30 separate major portion calculations. Based on the number of lines reported per fund code in 1997, the major portion calculations would be fairly simple for some fund codes and fairly extensive for others. The distribution of royalty lines reported for each of the 30 fund code/product (oil or condensate) groups in 1997 supports this observation:

Over 1,000 lines: 12 fund code/product groups
100–1,000 lines: 12 fund code/product groups
Less than 100 lines: 6 fund code/product groups

MMS estimates that the initial set-up of the major portion calculation would be the greatest burden. This set-up primarily would involve researching the quality aspects of the crude oil and condensate produced on Tribal and Allotted leases and writing the programming code to calculate the major portion figures for each tribe or Allottee. Our experience with major portion calculations for gas production provides us with a basis for estimating the burden to MMS to administer the major portion calculation for oil. We believe that initial set-up would take an average of 400 hours for each fund code/product group with more than 1,000 lines per annum (12 groups), an average of 120 hours for each fund code/product group with more than 100 but less than 1,000 lines per annum (12 groups), and an average of 40 hours for each fund code/product group with less than 100 lines per annum (6 groups). The total set-up burden to MMS would then be 6,480 hours at a cost of $50 per hour or $324,000. Additionally, there would be an ongoing administrative burden to MMS to perform the calculations each month and update the programming code and quality aspects as production is added or abandoned. There also would be administrative costs associated with notifying the tribes and payors of the major portion calculations. This cost is estimated to involve one-half of a full time employee's time at an administrative burden of 1,040 hours per year at $50 per hour or $52,000 per annum.

(3) *Benefit—Administrative Savings.* Additionally, MMS would realize administrative savings because of reduced complexity in royalty determination and payment under this proposed rule. Specifically, the proposed rule would result in:

(i) *Simplification of reporting and pricing, coupled with certainty.* MMS would continue to receive the same reports from the payors that they currently submit. The only difference would be that payors would need less time to calculate the royalty due under the proposed rule. MMS would not realize any significant gains from the reduction in the payor's reporting time.

MMS would realize some gains with the simplification of pricing and the certainty involved. See discussion in paragraphs c (ii) and (iii) below.

(ii) *Reductions in audit efforts.* Since the proposed rule would eliminate use of the non-arm's-length benchmarks, the need for tedious and complex audit work also would be eliminated. Currently, there are 48.5 full-time MMS and tribal employees working on Indian audit issues. Using a figure of $50 per hour, this means that each year $5.044 million is spent on auditing all products on Indian properties. According to the *1997 MMS Mineral Revenues report,* Oil and Condensate accounted for approximately 25 percent of the total Indian revenue received in 1997. As a result, we assume that 25 percent of the audit resources were directed to oil and condensate issues. This equates to $1,261,000 per year in audit resources directed specifically to Indian oil and condensate. Although some audit work still would need to be performed to ensure compliance with the proposed rule, for estimation purposes, we assume half of the total oil and condensate audit effort would be eliminated, for a savings of $630,500.

(iii) *Reductions in valuation determinations and litigation.* As discussed in section III.2(a)(5)(iii) of this preamble, MMS has been engaged in significant litigation and dispute resolution over the past 10 years. It would be nearly impossible to estimate the total cost related to these disputes and exactly how much the proposed rule would save. It is not clear that MMS's fixed costs related to litigation support would decrease under the proposed rule or, if so, how much.

### *3. Regulatory Planning and Review (E.O. 12866)*

In accordance with the criteria in Executive Order 12866, this rule is not an economically significant regulatory action. The Office of Management and Budget (OMB) has made the determination under Executive Order 12866 to review this rule because it raises novel legal or policy issues.

a. This rule would not have an effect of $100 million or more on the economy. It would not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

b. This rule would not create serious inconsistencies with other agencies' actions.

c. This rule would not materially affect entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

d. This rule would raise novel legal or policy issues.

### *4. Regulatory Flexibility Act*

The Department estimates that 173 small businesses would pay 30 percent of the $4.7 million dollar impact of the rule, or an additional $1.4 million annually in royalties to the tribes and individual Indians. This represents approximately 1.8 percent of the sales revenues received by these companies from their Indian leases in 1997. These 173 companies represent less than two percent of the approximately 15,000 small oil and gas companies operating in the United States. Nevertheless, because of the significant economic effect on the 173 companies, MMS has, in this supplemental rulemaking, proposed modifications that would to some extent mitigate the impact on small businesses from the proposals under the February 12, 1998 rule. For example, we are proposing to use spot prices instead of NYMEX prices to simplify the computation of value and bring the valuation point closer to the lease. We are also spreading the average of index-based pricing from the highest five NYMEX prices for the production month to the average of all high spot prices for the month. We are proposing to increase the transportation deduction by allowing costs from the lease to the reservation boundary. We are also proposing to simplify the Form MMS–4416 and reduce the number of respondents that must submit the form.

*Your comments are important.* The Small Business and Agricultural Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions in this rule, call 1–888–734–4247.

*5. Small Business Regulatory Enforcement Act (SBREFA)*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Would not have an annual effect on the economy of $100 million or more.

b. Would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

*6. Unfunded Mandates Reform Act*

This rule would not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. Because this rule affects only Indian leases, the rule would not have a significant or unique effect on State or local governments. Because royalties would increase for these leases, it would have a beneficial effect on tribal governments. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

*7. Takings (E.O. 12630)*

In accordance with Executive Order 12630, the rule would not have significant takings implications. This rule would not impose conditions or limitations on the use of any private property; consequently, a takings implication assessment is not required.

*8. Federalism (E.O. 13132)*

In accordance with Executive Order 13132, this supplementary proposed rule does not have Federalism implications. This rule does not substantially and directly affect the relationship between the Federal and State governments. This rule does not impose costs on States or localities. This rule does not preempt State law. As stated above, this rule affects only tribal governments.

*9. Civil Justice Reform (E.O. 12988)*

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule would not unduly burden the judicial system and would not meet the requirements of sections 3(a) and 3(b)(2) of the Order.

*10. Paperwork Reduction Act of 1995*

Under the Paperwork Reduction Act of 1995, we are soliciting comments on an information collection titled Indian Crude Oil Valuation Report, Form MMS–4416, OMB Control Number 1010–0113, expiration date April 30, 2001, which is associated with this supplementary proposed rulemaking. The proposed rule references two other information collections: Report of Sales and Royalty Remittance, Form MMS–2014, OMB 1010–0022; and Oil Transportation Allowance, Form MMS–4110, OMB 1010–0061. However, in this proposed rule we are only soliciting comments on the Indian Crude Oil Valuation Report.

The PRA provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 to 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it by February 4, 2000. This does not affect the deadline for the public to comment to MMS on the proposed regulations.

You may submit comments directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Interior Department (OMB Control Number 1010–0113), 725 17th Street, NW, Washington, DC 20503 [telephone (202) 395–7340]. You should also send copies of these comments to us.

Section 3506(c)(2)(A) of the Paperwork Reduction Act requires each agency ''to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information.* * * '' Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

We received a number of comments that the data requirements for completing Form MMS–4416 were too burdensome and the resultant MMS location differential calculations would not be reliable. We do not agree that the calculation of differentials from Form MMS–4416 data would not be reliable. However, in response to comments received, we streamlined Form MMS–4416 by eliminating and/or simplifying certain data requirements and clarifying the instructions included with the form. In addition to revising/clarifying the instructions, the supplementary proposed rule proposes to change lessees' submission requirements on Form MMS–4416 to data related to crude oil production from Indian leases in designated areas rather than all production from designated areas. These changes will aid respondents in complying with the requirements of this information collection and still permit MMS to acquire the information needed to calculate relevant location differentials and verify royalty values and differentials reported on Form MMS–2014.

We have revised the approved information collection, OMB Control Number 1010–0113, according to the supplementary proposed rulemaking and to be responsive to comments received. We estimate the total annual burden for this information collection is approximately 2,363 hours, an increase over the current OMB inventory of 1,050 hours. Although we have revised and streamlined the forms and clarified the instructions, we still estimate the time to complete Form MMS–4416 is ½ hour, and, therefore, there is no increase in hours associated with the program change for this collection. However, we have revised our estimate of the number of respondents upward from 125 oil royalty payors to 225 payors; this is an adjustment of 1,050 hours.

*11. National Environmental Policy Act*

This rule would not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required.

*12. Clarity of This Regulation*

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (A ''section'' appears in bold type and is preceded by the symbol ''§ '' and a numbered heading; for example, ''§ 206.61 How do lessees determine transportation allowances and other adjustments?'' (5) Is the description of the rule in the ''Supplementary Information'' section of the preamble helpful in understanding the proposed rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street NW, Washington, DC 20240. You may also e-mail the comments to this address: Exsec@ios.doi.gov.

**List of Subjects in 30 CFR Part 206**

Coal, Continental shelf, Geothermal energy, Government contracts, Indians-lands, Mineral royalties, Natural gas, Petroleum, Public lands-mineral resources, Reporting and recordkeeping requirements.

Dated: December 3, 1999.

**Sylvia Baca,**

*Acting Assistant Secretary, Land and Minerals Management.*

For the reasons set forth in the preamble, 30 CFR Part 206 is proposed to be amended as follows:

## PART 206—PRODUCT VALUATION

1. The Authority citation for part 206 continues to read as follows:

**Authority:** 5 U.S.C. 301 *et seq.*; 25 U.S.C. 396 *et seq.*, 396a *et seq.*, 2101 *et seq.*; 30 U.S.C. 181 *et seq.*, 351 *et seq.*, 1001 *et seq.*, 1701 *et seq.*; 31 U.S.C. 9701, 43 U.S.C. 1301 *et seq.*, 1331 *et seq.*, and 1801 *et seq.*

## Subpart B—Indian Oil

2. Section 206.51 is amended by adding the definitions of *Index pricing, MMS-approved publication Aggregation point,* and *Rocky Mountain Region* as follows:

### § 206.51 Definitions.

* * * * *

*Aggregation point* means a central point where production is aggregated for shipment to market centers or refineries. It includes, but is not limited to, blending and storage facilities and connections where pipelines join. Pipeline terminations at refining centers also are classified as aggregation points. MMS will publish periodically in the **Federal Register** a list of aggregation points and associated market centers.

* * * * *

*Index pricing* means using spot prices for royalty valuation.

* * * * *

*MMS-approved publication* means a publication MMS approves for determining spot prices.

* * * * *

*Rocky Mountain Region* means the States of Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.

* * * * *

3. Section 206.52 is revised to read as follows:

### § 206.52 How does a lessee determine the royalty value of the oil?

This section explains how you must determine the value of oil produced from Indian leases. For royalty purposes, the value of oil produced from leases subject to this subpart is the value calculated under this section with applicable adjustments determined under this subpart. The following table lists three oil valuation methods. You must determine the value of oil using the method that yields the highest value. As explained under paragraph (d) of this section, you must select from the first two methods and make an initial value calculation and payment based on the method that yields the highest value. MMS will calculate and publish the value under the third method. If the third method yields a higher value than the first two methods, you must adjust the value from your initial calculation as explained under paragraph (d) of this section.

| Valuation method | Subject to |
|---|---|
| The average of the daily high spot prices for deliveries during the production month for the market center nearest your lease for crude oil most similar in quality to your oil. | Paragraphs (a)(1)–(5) of this section. |
| The gross proceeds from the sale of your oil under an arm's-length contract | Paragraphs (b)(1)–(4) of this section. |
| A major portion value that MMS calculates for each designated area and publishes in the **Federal Register**. | Paragraphs (c)(1)–(4) of this section. |

(a) Calculate the average daily high spot price for deliveries during the production month for the crude oil most similar in quality to your oil at the market center nearest your lease where spot prices are published in an MMS-approved publication by averaging the daily high spot prices for the month in the selected publication. Use only the days and corresponding high spot prices for which such prices are published.

(1) For leases within the Rocky Mountain Region the appropriate market center is at Cushing, Oklahoma.

(2) You must adjust the index price for applicable location and quality differentials under § 206.61(c) of this subpart.

(3) If applicable, you may adjust the index price for transportation costs under § 206.61(c) of this subpart.

(4) If you dispose of oil under an exchange agreement and you refine rather than sell the oil that you receive in return, you must use this paragraph (a) to determine initial value. Do not use paragraph (b) of this section.

(5) MMS will monitor the spot prices. If MMS determines that spot prices are unavailable or no longer represent reasonable royalty value, MMS will amend this section to establish a substitute valuation method.

(6) MMS periodically will publish in the **Federal Register** a list of approved spot price publications based on certain criteria, including but not limited to:

(i) Publications that buyers and sellers frequently use;

(ii) Publications frequently mentioned in purchase or sales contracts;

(iii) Publications that use adequate survey techniques, including development of spot price estimates based on daily surveys of buyers and sellers of crude oil; and

(iv) Publications independent from MMS, other lessors, and lessees.

(7) Any publication may petition MMS to be added to the list of acceptable publications.

(8) MMS will specify the tables you must use in the publications to determine the associated spot prices.

(b) You may calculate value using the gross proceeds from the sale of your oil under an arm's-length contract. If you use this method, the provisions of this paragraph (b) apply.

(1) You may adjust the gross proceeds-based value calculated under this section for appropriate transportation costs under § 206.61(c) of this subpart.

(2) If you dispose of your oil under an exchange agreement and then sell the oil that you receive in return under an arm's-length contract, value is the sales price adjusted for appropriate quality differentials and transportation costs.

(3) MMS may monitor, review, or audit the royalty value that you report under this paragraph (b).

(i) MMS may examine whether your oil sales contract reflects the total consideration actually transferred either directly or indirectly from the buyer to you. If it does not, then MMS may require you to value the oil sold under that contract at the total consideration you received.

(ii) MMS may require you to certify that the arm's-length contract provisions include all of the consideration the buyer must pay, either directly or indirectly, for the oil.

(4) You must base value on the highest price that you can receive through legally enforceable claims under your oil sales contract. If you fail to take proper or timely action to receive prices or benefits you are entitled to, you must base value on that obtainable price or benefit.

(i) In some cases you may apply timely for a price increase or benefit allowed under your oil sales contract, but the purchaser refuses your request. If this occurs, and you take reasonable documented measures to force purchaser compliance, you will owe no additional royalties unless or until you receive monies or consideration resulting from the price increase or additional benefits. This paragraph (b)(4) does not permit you to avoid your royalty payment obligation if a purchaser fails to pay, pays only in part, or pays late.

(ii) Any contract revisions or amendments that reduce prices or benefits to which you are entitled must be in writing and signed by all parties to your arm's-length contract.

(c) You may use a major portion value that MMS will calculate. If you use this method, the provisons of this paragraph apply.

(1) MMS will calculate the major portion value for each designated area and notify lessees by publishing these values in the **Federal Register**.

(2) Each designated area includes all Indian leases in that area. MMS will publish in the **Federal Register** a list of the leases in each designated area. The designated areas are:

(i) Alabama-Coushatta;

(ii) Blackfeet Reservation;

(iii) Crow Reservation;

(iv) Fort Belknap Reservation;

(v) Fort Peck Reservation;

(vi) Jicarilla Apache Reservation;

(vii) MMS-designated groups of counties in the State of Oklahoma;

(viii) Michigan Agency;

(ix) Navajo Reservation;

(x) Northern Cheyenne Reservation;

(xi) Southern Ute Reservation;

(xii) Turtle Mountain Reservation;

(xiii) Ute Mountain Ute Reservation;

(xiv) Uintah and Ouray Reservation;

(xv) Wind River Reservation; and

(xvi) Any other area that MMS designates. MMS will publish any new area designations in the **Federal Register**.

(3) MMS will calculate the major portion value from information submitted for production from leases in the designated area on Form MMS–2014, Report of Sales and Royalty Remittance.

(i) MMS will use information from Form MMS–4416, Indian Crude Oil Valuation Report, to verify values reported on Form MMS–2014. See § 206.61(d)(5) of this subpart for further requirements related to Form MMS–4416.

(ii) MMS will arrange the reported values (adjusted for location and quality) from highest to lowest. The major portion value is the value of the 75th percentile (by volume, including volumes taken in kind) starting from the lowest value.

(4) MMS will not change the major portion value after it publishes that value in the **Federal Register**, unless an administrative or judicial decision requires MMS to make a change.

(d) On Form MMS–2014, you must initially report and pay the value of production at the higher of the index-based or gross proceeds-based values determined under paragraph (a) or (b) of this section, respectively. You must file this report and pay MMS by the date royalty payments are due for the lease. MMS will inform you of its calculated major portion value for the designated area by publishing that value in the **Federal Register**. If this value exceeds the value you initially reported for the production month, you must submit an amended Form MMS–2014 with the higher value within 30 days after MMS publishes the major portion value in the **Federal Register**. MMS will specify, in the *MMS Oil and Gas Payor Handbook,* additional requirements for reporting under paragraph (a), (b), or (c) of this section. You will not begin to accrue late-payment interest under 30 CFR 218.54 on any underpayment based on any additional amount owed as a result of the higher major portion value until the due date of your amended Form MMS–2014.

4. Section 206.54 is redesignated as § 206.60 and revised to read as follows:

### § 206.60 What transportation allowances and other adjustments apply to the value of oil?

(a) *Transportation allowances.* (1) You may deduct a transportation allowance from the value of oil determined under § 206.52 of this part as explained in the following table.

See § 206.61(a) and (b) for information on how to determine the transportation allowance.

| If you value oil | Then |
|---|---|
| Based on index pricing under § 206.52(a) ......... | You may claim a transportation allowance only under the limited circumstances listed at § 206.61(c)(2). |
| Based on gross proceeds under § 206.52(b) and the movement of the oil is not gathering. | MMS will allow a deduction for the reasonable, actual costs to transport oil from the lease or unit to the sales point. |

(2) You may not deduct a transportation allowance for transporting oil:

(i) Taken as royalty in kind and delivered to the lessor in the designated area; or

(ii) When you value oil based on a major portion value under § 206.52(c)

(b) *Are there limits on my transportation allowance?*

(1) Except as provided in paragraph (b)(2) of this section:

| If you determine the value of the oil based on | Then your transportation allowance deduction may not exceed |
|---|---|
| Index pricing under § 206.52(a) | 50 percent of the average daily high spot prices for the delivery month for the applicable market center. |
| Gross proceeds under § 206.52(b) | 50 percent of the value of the oil at the point of sale. |

(2) You may ask MMS to approve a transportation allowance deduction in excess of the limitation in paragraph (b)(1) of this section. You must demonstrate that the transportation costs incurred were reasonable, actual, and necessary. Your application for exception (using Form MMS–4393, Request to Exceed Regulatory Allowance Limitation) must contain all relevant supporting documentation necessary for MMS to make a determination. You may never reduce the royalty value of any production to zero.

(c) *Must I allocate transportation costs?* You must allocate transportation costs among all products produced and transported as provided in § 206.61 of this subpart. You may not allocate transportation costs from production for which those costs were incurred to production for which those costs were not incurred. You must express transportation allowances for oil as dollars per barrel.

(d) *What other adjustments apply when I value production based on index pricing?* If you value oil based on index pricing under § 206.52(a), you must adjust the value for the differences in location and quality between oil at the lease and the index pricing point as specified under § 206.61(c). See § 206.61 for more information on adjusting for location and quality differences.

(e) *What additional payments may I be liable for?* If MMS determines that you underpaid royalties because an excessive transportation allowance or other adjustment was claimed, then you must pay any additional royalties, plus interest under 30 CFR 218.54. You also could be entitled to a credit with interest if you understated the transportation allowance or other adjustment. If you take a deduction for transportation on Form MMS–2014 by improperly netting the allowance against the sales value of the oil instead of reporting the allowance as a separate line item, MMS may assess you an amount under § 206.61(e) of this subpart.

5. Section 206.55 is redesignated as section 206.61 and is amended by revising the section heading; removing paragraphs (b)(5) and (c)(2)(viii); redesignating paragraphs (c) through (g) as paragraphs (d) through (h); adding new paragraphs (c) and (d)(5); and revising newly redesignated paragraphs (d)(1)(i), (d)(2)(i), (d)(4) to read as follows:

**§ 206.61 How do lessees determine transportation allowances and other adjustments?**

* * * *

(c) *What adjustments apply when lessees use index pricing?*

(1) When you use index pricing to calculate the value of production under § 206.52(a), you must adjust the index price for location/quality differentials. Your adjustments must reflect the reasonable oil value differences in location and quality between the lease and the index pricing point. The adjustments that might apply to your production are listed in paragraphs (c)(1)(i) through (v) of this section. See paragraphs (c)(2) and (c)(3) of this section to determine which adjustments you must use based on how you dispose of your production. These adjustments are:

(i) An express location/quality differential under your arm's-length exchange agreement that reflects the difference in value of crude oil at the market center and the aggregation point.

(ii) A location/quality differential reflecting the crude oil value difference between the market center and the aggregation point that MMS will publish annually based on data it collects on Form MMS–4416. MMS will calculate each differential using a volume-weighted average of the differentials reported on Form MMS–4416 for similar quality crude oils for the aggregation point/market center pair for the previous reporting year. MMS may exclude apparent anomalous differentials from that calculation. MMS will publish separate differentials for different crude oil qualities that are identified separately on Form MMS–4416 (for example, sweet versus sour or different gravity ranges). MMS will publish these differentials in the **Federal Register** by [the effective date of the final regulation] and by January 31 of all subsequent years. You must use MMS-published rates on a calendar year basis—apply them to January through December production reported February through the following January.

(iii) Actual transportation costs between the aggregation point and the lease or unit determined under this section.

(iv) Actual transportation costs between the market center and the lease or unit determined under this section.

(v) Quality adjustments based on premia or penalties determined by pipeline quality bank specifications at intermediate commingling points, at the aggregation point, or at the market center that applies to your lease.

(2) To determine which adjustments and transportation allowances apply to your production, use the following table.

| If you | And | Then |
|---|---|---|
| Dispose of your production under an arm's-length exchange agreement. | That exchange agreement has an express location differential to reflect the difference in value between the aggregation point and the associated market center. | Adjust your value using paragraph (c)(1)(i). |
| Move your production from a lease directly to an MMS-identified market center. | | Use paragraph (c)(1)(v) to determine the quality adjustment and paragraph (c)(1)(iv) to deduct the actual transportation costs to that market center. |

| If you | And | Then |
|---|---|---|
| Do not move your production from a lease to an MMS-identified market center. | You instead move it directly to an alternate disposal point (for example, your own refinery). | Use paragraph (c)(1)(v) to determine the quality adjustment and paragraph (c)(1)(iii) to deduct the actual transportation costs to the alternate disposal point. Treat the alternate disposal point as the aggregation point to apply paragraph (c)(1)(iii). |
| Transport or dispose of your production under any other arrangement. | ........................................................ | Adjust your value using paragraphs (c)(1)(ii), (c)(1)(iii), and (c)(1)(v). |

(3) If an MMS-calculated differential under paragraph (c)(1)(ii) of this section does not apply to your oil, either due to location or quality differences, you must request MMS to calculate a differential for you.

(i) After MMS publishes its annual listing of location/quality differentials, you must file your request in writing with MMS for an MMS-calculated differential.

(ii) You must demonstrate why the published differential does not adequately reflect your circumstances.

(iii) MMS will calculate such a differential when it receives your request or when it discovers that the differential published under paragraph (c)(1)(ii) of this section does not apply to your oil. MMS will bill you for any additional royalties and interest due. If you file a request for an MMS-calculated differential within 30 days after MMS publishes its annual listing of location/quality differentials, the calculated differential will apply beginning with the effective date of the published differentials. Otherwise, the MMS-calculated differential will apply beginning the first day of the month following the date of your application. In that event, the published differentials will apply in the interim and MMS will not refund any overpayments you made due to your failure to timely request MMS to calculate a differential for you.

(iv) Send your request to: Minerals Management Service, Royalty Management Program, Royalty Valuation Division, P.O. Box 25165, Mail Stop 3150, Denver, CO 80225–0165.

(4) Periodically, MMS will publish in the **Federal Register** a list of market centers. MMS will monitor market activity and, if necessary, modify the list of market centers and will publish such modifications in the **Federal Register**. MMS will consider the following factors and conditions in specifying market centers:

(i) Points where MMS-approved publications publish prices useful for index purposes;

(ii) Markets served;

(iii) Pipeline and other transportation linkage;

(iv) Input from industry and others knowledgeable in crude oil marketing and transportation;

(v) Simplification; and

(vi) Other relevant matters.

(d) *Reporting requirements*—(1) Arm's-length contracts. (i) With the exception of those transportation allowances specified in paragraphs (d)(1)(v) and (d)(1)(vi) of this section, you must submit page one of the initial Form MMS–4110 (and Schedule 1), Oil Transportation Allowance Report, before, or at the same time as, you report the transportation allowance determined under an arm's-length contract on Form MMS–2014, Report of Sales and Royalty Remittance. A Form MMS–4110 received by the end of the month that the Form MMS–2014 is due is considered to be timely received.

* * * * *

(2) *Non-arm's-length or no contract.* (i) With the exception of those transportation allowances specified in paragraphs (d)(2)(v) and (d)(2)(vii) of this section, you must submit an initial Form MMS–4110 before, or at the same time as, you report the transportation allowance determined under a non-arm's-length contract or no-contract situation on Form MMS–2014. A Form MMS–4110 received by the end of the month that the Form MMS–2014 is due is considered to be timely received. The initial report may be based upon estimated costs.

* * * * *

(4) *What additional requirements apply to Form MMS–2014 reporting?* You must report transportation allowances, location differentials, and quality differentials as separate lines on Form MMS–2014, unless MMS approves a different reporting procedure. MMS will provide additional reporting details and requirements in the *MMS Oil and Gas Payor Handbook.*

(5) *What information must lessees provide to support index pricing adjustments, and how is it used?* You must submit information on Form MMS–4416 related to all of your crude oil production from Indian leases. You initially must submit Form MMS–4416 no later than [insert the date 2 months after the effective date of this rule] and then by October 31 [insert the year this regulation takes effect], and by October 31 of each succeeding year. In addition to the annual requirement to file this form, you must file a new form each time you execute a new exchange or sales contract involving the production of oil from an Indian lease. However, if the contract merely extends the time period a contract is in effect without changing any other terms of the contract, this requirement to file does not apply. All other purchasers of crude oil from designated areas likewise are subject to the requirements of this paragraph (d)(5).

* * * * *

**Note:** The following attachments will not appear in the Code of Federal Regulations.

BILLING CODE 4310–MR–P

# Indian Crude Oil Valuation Report

1. Reporter Name:______________________________ Applies to Multiple leases ☐
Address: ______________________________ (attach list of leases)
City, State ______________________ Zip ______ Designated Area__________________

Reporting Period __ __, __ __ __ __ to __ __, __ __ __ __ MMS Payor Code ___ ___ ___ ___ ___ Attached Page Provided ☐

2. Contract Type and I.D. ☐ Outright Purchase ☐ Buy/Sell ☐ No-Price Exchange ☐ Sale subject to balancing ☐ Outright Sale

Contract Number ________________________________ Multiple Party Exchange ☐

3. Other Contract Party Name ________________ Other Contract Party's MMS Payor Code (if available) ___ ___ ___ ___ ___

4. Contract Term

Effective Date: ____/____/____ (MM/DD/YY) Terms: ☐ Month-to-month extensions,

☐ No change from last filing

Initial Term: _____________ (Months) ☐ Fixed duration

Expiration Date: ____/____/___ (MM/DD/YY)

| | Oil You Sold or Transferred or Refined | Oil You Received or Purchased |
|---|---|---|
| 5. Title Transfer Location | Location of Transfer__________________________<br>Cost of transporting to title transfer point (see instructions )___.____ $/bbl. Describe terms<br>______________________________________<br>______________________________________<br>______________________________________ | Location of Transfer__________________________<br>Cost of transporting to title transfer point (see instructions )___.____ $/bbl. Describe terms<br>______________________________________<br>______________________________________<br>______________________________________ |
| 6.Volume Terms | ☐ All Available (______________ Est. B/D)<br>☐ Fixed (______________ Fixed B/D) | ☐ All Available (______________ Est. B/D)<br>☐ Fixed (______________ Fixed B/D) |
| 7. Pricing Terms | ☐ Posted Price<br>Posting Company Name(s)<br>______________________________<br>Poster's Crude Type/Designation<br>______________________________<br>Premium/Deduct to Posting: _________ $/BBL<br>☐ Other (Describe)_______________________<br>______________________________________<br>______________________________________<br>_______._______ $/BBL | ☐ Posted Price<br>Posting Company Name(s)<br>______________________________<br>Poster's Crude Type/Designation<br>______________________________<br>Premium/Deduct to Posting: _________ $/BBL<br>☐ Other (Describe)_______________________<br>______________________________________<br>______________________________________<br>_______._______ $/BBL |



**Form MMS-4416**
OMB 1010-0113
Expires 4/30/2001

# Indian Crude Oil Valuation Report

| | Oil You Sold or Transferred or Refined | Oil You Received or Purchased |
|---|---|---|
| 8. Crude Oil Quality and Adjustments | API Gravity: __.__ °API Sulfur Content __.__ %<br>Paraffin Content __.__%<br>API Gravity Adjustments:<br>☐ No Deductions<br>☐ Deemed __.__ °API, _____ $/BBL<br>☐ Actual __.__ °API, _____ $/BBL<br>Other Quality Adjustments:<br>☐ More than one Description:________<br>(☐ Deemed or ☐ Actual)<br>Adjustments: ___.__ $/BBL<br>Description:________<br>(☐ Deemed or ☐ Actual)<br>Adjustments: ___.__ $/BBL | API Gravity: __.__ °API Sulfur Content __.__ %<br>Paraffin Content __.__%<br>API Gravity Adjustments:<br>☐ No Deductions<br>☐ Deemed __.__ °API, _____ $/BBL<br>☐ Actual __.__ °API, _____ $/BBL<br>Other Quality Adjustments:<br>☐ More than one Description:________<br>(☐ Deemed or ☐ Actual)<br>Adjustments: ___.__ $/BBL<br>Description:________<br>(☐ Deemed or ☐ Actual)<br>Adjustments: ___.__ $/BBL |
| 9. Exchange Differential | Exchange Differential Received (+) ____.___ $/BBL or Paid (-) ____.___ $/BBL | |

**WARNING: PUBLIC LAW 97-451 PROVIDES CIVIL AND CRIMINAL PENALTIES FOR FALSE OR INACCURATE REPORTING Failure to report as required may result in suspension of operations or other enforcement actions.**

**Have you received or paid any other consideration, in any form, for the sale, purchase, or exchange of this crude oil, either at this location or at any other location? (☐ Yes, or ☐ No) If Yes, Explain: ____________________________**

**I certify to the best of my knowledge and belief, the data submitted in this report is accurate, complete, current, and in conformance with limitations and requirements set forth in the terms of regulations set forth in 30 CFR 206.**
**Authorized Signature__________________________ and Date__________________**

**Printed name of authorized person ______________________**

**The Paperwork Reduction Act of 1995 requires us to inform you that this information is being collected to allow MMS to decrease reliance on oil posted prices, develop valuation rules that better reflect market value, and add more certainty to valuing oil produced from Indian lands. The public reporting burden for this information collection is estimated to average 1/2 hour per response. MMS will keep confidential, under applicable laws and regulations, any and all data submitted that is privileged, confidential, or otherwise exempt. Direct comments regarding the burden estimate or any other aspect of this questionnaire including suggestions for reducing this burden to the Information Collection Clearance Officer, MS 4230, MMS, 1849 C Street, N.W., Washington, DC 20240. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.**

(Page 2 of 2)

BILLING CODE 4310–MR–C

**Step-by-Step Instructions for MMS Form 4416**

This form is designed to collect valuation and location/quality differential information about oil produced from Indian and allotted leases to determine its market value. You should fill out this form if you produce, sell, purchase, exchange, or refine oil produced from Indian lands. A separate form should be used for each contract. If a contract refers to more than one lease, one form may be filled out provided a list of leases it covers is attached.

*1. Company (Reporter) Information*

Fill out your company name and address. Indicate whether the contract you are reporting on applies to more than one lease by marking the box in the upper right corner. If more than one form is needed to provide the required information (*e.g.*, multiple-party exchange agreement), the address may be omitted from subsequent forms provided that the cover form containing your address is attached.

—Write in the reporting period this form covers in the following format: MM, YYYY.
—Write in the name of the Designated Area from which the oil production on this form originates (a list of leases found in each Designated Area will be published in the **Federal Register**).
—Enter your five-digit MMS payor code on each form submitted (if your company does not have a payor code MMS will assign one).

Mark the ''Attached Page Provided'' box provided if any information is contained on an attached page.

*2. Contract Type*

Mark the appropriate box to indicate the contract type. [Outright Purchases are made at arm's-length and no additional consideration is paid (in this transaction or in any other transaction). Buy/Sell is an exchange where monetary value is assigned to settle both transactions in the exchange. No-Price Exchange is a transaction where no monetary value is assigned to either transaction in the exchange; instead, a dollar amount is usually assigned to the difference between the two values. Sales Subject to Balancing are transactions tied to an overall exchange agreement (either expressed or implied) where volumes purchased and sold by each party are in balance. Outright Sales are made at arm's-length and no additional consideration is received (in this transaction or in any other transaction). If this oil transaction is part of a multiple-party (three or more) exchange agreement, check the box to the right of the contract number titled Multiple-Party Exchange].

Also fill in the Contract Number—use the I.D. that would allow a third party to clearly identify the document.

*3. Other Contract Party Name*

Write the name of the other party to the contract involving the Indian oil. If that party has an MMS payor code, write it in the space provided (if known). If the transaction is part of a multiple-party exchange, attach a list of the other parties involved in the exchange (write their MMS payor code, if known, next to each party's name).

*4. Contract Term*

**Note:** If you are filing this contract to satisfy the annual Oct. 31 reporting requirement and none of the required entries in steps 4–9 have changed from the last report (filed in the last 12 months), check the box in the lower left corner of section 4. If no change has occurred except to extend the expiration date of the contract, check the box in the lower left corner of section 4 and fill in the new expiration date in this section. Make sure that an authorized representative signs and dates the form. Otherwise complete the form as instructed below).

In the Effective Date field, fill in the date the contract started, and fill out the Initial Term in months. Check the contract term that applies to this contract (either Month-to-Month Extensions or Fixed Duration). If the contract is of fixed duration, fill in the Expiration Date in the space provided.

Items 5–8

The information on the rest of the form is divided into two columns. The left column should be used to record information about oil you produced *and* either sold, transferred in an exchange or buy/sell, or refined. The right column should be used for oil that you purchased or you received in an exchange or buy/sell (*i.e.,* you will use both columns for oil that is part of an exchange agreement, and you will use one column for oil you produced and refined, produced and sold outright or purchased outright).

*5. Title Transfer Location*

In the space provided, write the location where you relinquished title to the oil you sold or transferred and/or where you took title to oil you purchased or received under an exchange. Where title transferred at the lease, write ''at the lease'' and the 10-digit MMS lease number (if the title transfer involves production from more than one Indian lease, provide the list of the leases contributing to the production). If the transfer occurs at an aggregation point or market center indicate its name.

If you (or your affiliate) refine the oil you produce, write the words ''producer refines its oil'' in the space adjacent to the ''Location of Transfer'' (note: you will not have to complete section 7, ''Pricing Terms'' if you refine oil you produce from Indian or allotted lands).

In the space provided after ''Cost of Transporting to Title Transfer Point,'' fill in the $/barrel cost of transporting oil you produced from the production location to the point where title transfers (do not include the cost of gathering). Likewise, for oil you received, fill in the transportation cost if known. Describe the terms (*i.e.* starting location, ending location) involved in transporting the oil. Use Designated Areas (as defined at 30 CFR 206.51 and listed at 30 CFR 206.52(c)(2)), Aggregation Points (as defined at 30 CFR 206.51), or State, Section/Township/Range. Where oil traverses more than one MMS Aggregation Point be sure to include all segments of the transportation route. Attach a separate sheet, if needed, to adequately describe the transportation.

*6. Volume Terms*

If your contract states that all available oil will be purchased, mark the All Available box and write in the estimated barrels per day of oil disposed or received. Otherwise, check the Fixed box and write in the fixed volume disposed of or received as specified in the contract.

*7. Pricing Terms*

This section pertains to information about price received (or paid) in arm's-length sales (or purchases) of crude oil produced from Indian or allotted lands. If this oil is part of a buy/sell exchange, report the price terms stated in the contract. For any exchange, the differential should be reported in section 9.

*If you purchase or sell oil production from Indian or allotted lands:* If the contract references a Posted Price, mark the box provided and write in the name(s) of the company or companies posting(s) under ''Posting Company Name(s).'' If the crude oil type is designated (*e.g.* sweet or sour), write this in the space labeled ''Poster's Crude Type/Designation.'' List any Premium (+) to or deduction (−) from the referenced price(s).

*Other:* describe the pricing method used.

*Index Price:* If an index price is used, identify it and the source publication(s) in the space provided.

*Calculated Price:* If the contract uses a formula to determine price, completely describe the method used. Attach an additional sheet if necessary.

*Fixed Price:* If the price is set through the duration of the contract, list the price per barrel.

If the pricing terms are not covered under any of the above pricing provisions, describe the pricing term used in the space provided. Attach an additional sheet if necessary.

*8. Crude Oil Quality and Adjustments*

*Quality Measures:* Fill in the API Gravity of oil disposed of and/or received to the nearest tenth of a degree. Fill in the Sulfur Content of the oil you disposed of and/or received to the nearest tenth of a percent. Fill in the Paraffin Content of the oil you disposed of and/or received to the nearest tenth of a percent.

*Adjustments:* Fill in this information only where the contract specifically identifies separate adjustments with a monetary value assigned to each adjustment.

*API Gravity:* Check the appropriate box. If the gravity is ''Deemed,'' write the deemed API gravity to the nearest tenth of a degree and any corresponding price adjustment from the contract. If an ''Actual'' reference gravity is used to make an adjustment, write the gravity to the nearest tenth of a degree and any corresponding price adjustment from the contract.

*Other Quality Adjustment(s):* Space is provided for up to two other quality adjustments. Use the spaces provided in this section to describe additional quality adjustments. Indicate whether the measure is ''Actual'' or ''Deemed,'' and the dollar-per-barrel adjustment for the quality measure. If your contract contains more than two other quality adjustments, check the ''More than two'' box and attach a separate sheet to fully describe the quality adjustments. Indicate the type of adjustment and whether the quality measured is ''Actual'' or ''Deemed.'' Also, provide the adjustment amount in dollars per barrel for each adjustment made.

*9. Exchange Differential*

This section requests information about the differential received or paid by you under an exchange agreement. *Only complete this section if the contract you are reporting on is an exchange agreement.*

If oil produced from Indian tribal or allotted lands is either transferred or received by you in an exchange:

In exchanges where two separate volumes of oil were exchanged between the two parties to the exchange contract, there may be a differential paid by the party who exchanges oil considered to be worth less than the oil it receives. This may result from relative location advantages, or quality differences between the oils.

If your purpose under an exchange was to transport your oil on another party's pipeline, the payment will reflect the cost of service to transport your oil. This type of transaction is not considered an exchange for purposes of this information collection but should be included in ''Title Transfer Location'' section 5, above. Any separate adjustments that were made to reflect gravity or sulfur content of your oil will be addressed in section 9 below.

If a differential is paid or received by you or your affiliate, write the total of any differential payment you received, (+) *or* the total of any differential payment you made (−) under the exchange agreement in the space provided.

*Authorized Signature:* Have you received or paid additional consideration? If you have received or paid consideration other than that shown on the form, check the ''yes'' box and provide an explanation in the space provided. If the form accurately reports all the compensation you received or paid for oil reported on this form, check ''no.'' An individual authorized to represent the party to the contract you are summarizing must sign the form. Write the date the form was completed in the space provided.

[FR Doc. 00–58 Filed 1–4–00; 8:45 am]

BILLING CODE 4310–MR–P

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**DEPARTMENT OF DEFENSE**

**Department of the Air Force**

**32 CFR Part 813**

**RIN 0701–AA–63**

## Visual Information Documentation Program

**AGENCY:** Department of the Air Force, DoD.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of the Air Force is revising our rules on the Visual Information Documentation Program of the Code of Federal Regulations (CFRs) to reflect current policies. Part 813 (previously Part 811a) implements Air Force Instruction (AFI) 33–117, Visual Information Management, and applies to all Air Force activities.

**DATES:** Submit comments on or before March 6, 2000.

**ADDRESSES:** Mr. Raymond Dabney, HQ AFCIC/ITSM, 1250 Air Force Pentagon, Washington, DC 20330–1250, 703–588–6136.

**FOR FURTHER INFORMATION CONTACT:** Mr. Raymond Dabney, HQ AFCIC/ITSM, 703–588–6136.

**SUPPLEMENTARY INFORMATION:** The Department of the Air Force is revising Part 813, previously 32 CFR 811a, to reflect current policies. This part implements AFI 33–117, Visual Information Management, and applies to all Air Force activities.

**List of Subjects in 32 CFR Part 813**

Archives and records, Motion pictures.

For the reasons set forth in the preamble, the Department of the Air Force is proposing to amend 32 CFR chapter VII by redesignating part 811a as part 813 and revising it to read as follows:

## PART 813—VISUAL INFORMATION DOCUMENTATION PROGRAM

Sec.



**Authority:** 10 U.S.C. 8013

### § 813.1 Purpose of the visual information documentation (VIDOC) program.

Using various visual and audio media, the Air Force VIDOC program records important Air Force operations, historical events, and activities for use as decision making and communicative tools. VIDOC of Air Force combat operations is called COMCAM documentation.

### § 813.2 Sources of VIDOC.

(a) Primary sources of VIDOC materials include:

(1) HQ AMC active and reserve combat camera (COMCAM) forces, both ground and aerial, whose primary goal is still and motion media documentation of Air Force and air component combat and combat support operations, and related peacetime activities such as humanitarian actions, exercises, readiness tests, and operations.

(2) Visual information forces and combat documentation capabilities from other commands: HQs ACC, AETC, AFRES, and AFSPACECOM.

(3) Communications squadron base visual information centers (BVISCs).