

substantial reliance on the higher of crude oil spot prices, major portion prices, or gross proceeds, and eliminate any direct reliance on posted prices. This rulemaking would also add more certainty to valuation of oil produced from Indian leases.

#### Summary of Legal Basis:

The primary legal basis for this rulemaking is the Federal Oil and Gas Royalty Management Act of 1982, as amended, which defines the Secretary of the Interior's (1) authority to implement and maintain a royalty management system for oil and gas leases on Indian lands, and (2) trust responsibility to administer Indian oil and gas resources.

#### Alternatives:

We considered a range of valuation alternatives such as making minor adjustments to the current gross proceeds valuation method, using futures prices, using index-based prices with fixed adjustments for production from specific geographic zones, relying on some type of field pricing other than posted prices, and taking oil in-kind. We chose the higher of the average of the high daily applicable spot prices for the month, major portion prices in the field or area, or gross proceeds received by the lessee or its affiliate. We chose spot prices as one of the three value measures because (1) they represent actual trading activity in the market, (2) they mirror New York Mercantile Exchange futures prices, and (3) they permit use of an index price for the market center nearest the lease for oil most similar in quality to that of the lease production.

#### Anticipated Cost and Benefits:

We estimate compliance with this rulemaking would cost the oil industry approximately \$5.4 million the first year and \$4.9 million each year thereafter. These estimates include the up-front computer programming and other administrative costs associated with processing the new form. The monetary benefits of this rulemaking are an estimated \$4.7 million increase in annual royalties collected on oil produced from Indian leases. Additional benefits include simplification and increased certainty of oil pricing, reduced audit efforts, and

reduced valuation determinations and associated litigation.

#### Risks:

The risk of not modifying current oil valuation regulations is that Indian recipients may not receive royalties based on the highest price paid or offered for the major portion of oil produced—a common requirement in most Indian leases. These modifications ensure that the Department fulfills its trust responsibilities for administering Indian oil and gas leases under governing mineral leasing laws, treaties, and lease terms.

#### Timetable:

Action	Date	FR Cite
ANPRM	12/20/95	60 FR 65610
NPRM	02/12/98	63 FR 7089
NPRM Comment Period Extended	04/09/98	
NPRM Comment Period End	05/13/98	
Supplementary Proposed Rule	01/05/00	65 FR 10436
ANPRM Comment Period End	03/19/00	
NPRM Comment Period Extended	03/20/00	
Final Action	10/00/03	
Final Action Effective	01/00/04	

#### Regulatory Flexibility Analysis Required:

Yes

#### Small Entities Affected:

Businesses, Governmental Jurisdictions

#### Government Levels Affected:

Tribal

#### Agency Contact:

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**Related RIN:** Previously reported as 1010-AC24

**RIN:** 1010-AD00

**BILLING CODE** 4310-RK-S

DOI—MMS

### FINAL RULE STAGE

#### 77. • VALUATION OF OIL FROM INDIAN LEASES

##### Priority:

Other Significant

##### Legal Authority:

25 USC 2101 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 30 USC 351 et seq; 30 USC 181 et seq

##### CFR Citation:

30 CFR 206

##### Legal Deadline:

None

##### Abstract:

This rule would modify the regulations that establish royalty value for oil produced from Indian leases and create a new form for collecting value and differential data. These changes would decrease reliance on oil posted prices and make Indian oil royalty valuation more consistent with the terms of Indian leases.

##### Statement of Need:

Current oil valuation regulations rely on posted prices and prices under arm's-length sales to value oil that is not sold at arm's-length. Over time, posted prices have become increasingly suspect as a fair measure of market value. This rulemaking would modify valuation regulations to place