consistent with those required for future subsonic airplanes, (2) recommendations on test and measurement conditions and operational characteristics appropriate for future SST's, and (3) cost of the proposed rule.

After analyzing the comments received on the NPRM, the FAA has determined that further investigation and research is necessary before developing the final rule. The FAA will continue to gather technical information and analyze suggested recommendations for test and measurement conditions. A statement concerning FAA policy on this matter is published elsewhere in this issue of the **Federal Register**. Accordingly, Notice No. 86-16, Docket No. 25109, published in the **Federal Register** on May 30, 1990 (55 FR 22020), is withdrawn.

Issued in Washington, DC on July 29, 1994.

Paul R. Dykeman,

Acting Director of Environment and Energy.

[FR Doc. 94-18905 Filed 8-3-94; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 206

RIN 1010-AB57

Valuation of Oil and Gas From Indian Leases

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Minerals Management Service (MMS) is considering amending its regulations regarding the valuation of gas produced from Indian leases to ensure that Indian mineral lessors receive the maximum revenues from mineral resources on their land consistent with the Secretary of the Interior's (Secretary) trust responsibility and lease terms.

Most Indian leases provide that the value of production for royalty purposes be determined by the Secretary. In making this determination, the Secretary must consider his trust responsibility. In the exercise of this responsibility, value in the discretion of the Secretary may be determined by taking the highest of several values. This notice describes several alternatives to establish these values and solicits comments before publishing proposed new regulations governing the value of gas production from Indian lands.

The MMS is not currently proposing changes to the oil valuation regulations for Indian leases. The MMS may consider changes following study of oil valuation for Indian leases.

DATES: Comments must be received on or before October 3, 1994.

ADDRESSES: Written comments, suggestions, or objections regarding alternative valuation methods should be mailed to the Minerals Management Service, Royalty Management Program, Rules and Procedures Staff, Denver Federal Center, Building 85, P.O. Box 25165, Mail Stop 3101, Denver, Colorado 80225-0165, Attention: David S. Guzy, telephone (303) 231-3432.

FOR FURTHER INFORMATION CONTACT: David S. Guzy, Chief, Rules and Procedures Staff, MMS Royalty Management Program at (303) 231-3432.

SUPPLEMENTARY INFORMATION:

I. Background

All Indian leases contain provisions for the determination of royalty obligations. Some Indian leases or agreements negotiated under the 1982 Indian Mineral Development Act contain explicit methodologies for determining royalty obligations. The MMS does not intend to alter these express valuation methodologies.

Most Indian leases were entered into under the authority of earlier statutes, and these leases reserve to the Secretary considerable discretion in determining value for royalty purposes. This Advance Notice of Proposed Rulemaking is intended to solicit comments on new methodologies being considered to establish value for these leases. Comments that are received in response to this Advance Notice will be considered in the development of a proposed rulemaking that will be published in the **Federal Register** at a future date.

Most Indian leases also provide that royalty obligations be based on the value of hydrocarbon substances produced and saved. A royalty obligation is incurred when hydrocarbon substances are produced and saved and not solely as the result of a sale.

Section 3(c) of a standard Indian lease covers leasee rental and royalty payment requirements and states:

> (c) Rental and royalty. To pay, beginning with the date of approval of the lease by the Secretary of the Interior or his duly authorized representative, a rental of $1.25 per acre per annum in advance during the continuance hereof, the rental so paid for any one year to be credited on the royalty for that year, together with a royalty of $16\frac{2}{3}$ percent of the value or amount of all oil, gas, and/or natural gasoline, and/or all other hydrocarbon substances produced and saved from the land leased herein, save and except oil, and/or gas used by the lessee for development and operation purposes on said lease, which oil or gas shall be royalty free. During the period of supervision, "value" for the purposes hereof may, in the discretion of the Secretary, be calculated on the basis of the highest price paid or offered (whether calculated on the basis of short or actual volume) at the time of production for the major portion of the oil of the same gravity, and gas, and/or natural gasoline, and/or all other hydrocarbon substances produced and sold from the field where the leased lands are situated, and the actual volume of the marketable product less the content of foreign substances as determined by the oil and gas supervisor. The actual amount realized by the lessee from the sale of said products may, in the discretion of the Secretary, be deemed mere evidence of or conclusive evidence of such value. When paid in value, such royalties shall be due and payable monthly on the last day of the calendar month following the calendar month in which produced; when royalty on oil produced is paid in kind, such royalty oil shall be delivered in tanks provided by the lessee on the premises where produced without cost to the lessor unless otherwise agreed to by the parties thereto, at such time as may be required by the lessor: *Provided*, that the lessee shall not be required to hold such royalty oil in storage longer than 30 days after the end of the calendar month in which said oil is produced: *And provided further*, that the lessee shall be in no manner responsible or held liable for loss or destruction of such oil in storage caused by acts of God. All rental and royalty payments, except as provided in section 4(c) shall be made by check or draft drawn on a solvent bank, open for the transaction of business on the day the check or draft is issued, to the payee designated by the Area Director. All such rental and royalty payments shall be mailed to the oil and gas supervisor for transmittal to the payee designated by the Area Director. It is understood that in determining the value for royalty purposes of products, such as natural gasoline, that are derived from treatment of gas, a reasonable allowance for the cost of manufacture shall be made, such allowance to be two-thirds of the value of the marketable product unless otherwise determined by the Secretary of the Interior on application of the lessee or on his own initiative, and that royalty will be computed on the value of gas or casinghead gas, or on the products thereof (such as residue gas, natural gasoline, propane, butane, etc.), whichever is the greater.

In conjunction with the lease terms, the valuation of gas production from Indian leases is subject to the regulations at 30 CFR Part 206. The present regulations govern the valuation of production from both Federal and Indian (Tribal and allotted) leases (except leases on the Osage Indian Reservation, Oklahoma) (Revision of Gas Royalty Valuation Regulations and

Related Topics; Final Rule, published in the **Federal Register** on January 15, 1988 (53 FR 1230).

MMS now believes that it may be able to better perform the trust responsibilities of the United States with respect to the administration of Indian oil and gas leases by issuing separate regulations for the valuation of gas from these leases. Also, MMS believes that it could provide an improved regulatory framework in which these lease terms can be strictly enforced while economizing on the information needed by a lessee. MMS is seeking to adopt valuation procedures that could be compiled with by the lessee in a timely manner.

The Secretary is obligated to act as a fiduciary in the administration of Indian oil and gas leases. As a fiduciary, charged with supervising the disposition of nonrenewable resources from Indian lands, the Secretary must ensure that Indians receive the maximum revenues from mineral resources on their lands. To ensure maximum revenues, the value of production for royalty purposes from an Indian lease should be determined considering the highest values provided by the terms of the standard lease, quoted above. MMS believes this is consistent with the terms of these Indian oil and gas leases, with statutes delegating to the Secretary the administration of Indian affairs, with the statutes governing Indian oil and gas leases, with the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA), with court decisions providing judicial guidance in the interpretation and administration of Indian oil and gas leases, and with the law of trusts and fiduciary operations.

MMS has considered that maximizing royalty revenues from Indian leases might affect the economics of mineral resource development and believes that this should not result in the reduction of the value of production for royalty purposes. This issue should be examined in the context of an adjustment of lease terms by the Bureau of Indian Affairs and the Indian lessor.

II. Current Regulations

The current valuation regulations incorporate the terms of the standard Indian leases in the ways listed below.

(a) The value of production is never less than the gross proceeds accruing to the lessee. This provision is contained in valuation regulations at 30 CFR 206.102(h), 206.152(h), and 206.153(h), which state:

> Notwithstanding any other provision of this section, under no circumstances shall the value of production, for royalty purposes, be less than the gross proceeds accruing to the lessee for lease production, less applicable allowances determined pursuant to this subpart.

(b) The value of production will be the higher of the major portion value and the otherwise applicable value. This provision is contained in valuation regulations at 30 CFR 206.102(a)(2)(i), 206.152(a)(3)(i), and 206.153(a)(3)(i), which state:

> For any Indian leases which provide that the Secretary may consider the highest price paid or offered for a major portion of production (major portion) in determining value for royalty purposes, if data are available to compute a major portion, MMS will, where practicable, compare the value determined in accordance with this section with the major portion. The value to be used in determining the value of production, for royalty purposes, shall be the higher of those two values.

(c) The value of production will be the greater of (1) the combined value, for royalty purposes, of the residue gas and gas plant products resulting from processing the gas, or (2) the value, for royalty purposes, of the gas prior to processing determined in accordance with 30 CFR §§ 206.152 and 206.155.

III. Discussion

The Secretary's responsibility to determine value for royalty purposes of production from Indian lands has not changed, although the industry and marketplace have changed dramatically over the years. One of the objectives MMS hopes to achieve is to develop a set of regulations to permit the Secretary to discharge this responsibility in an environment of continuing and accelerating change in the industry and the marketplace. The trust responsibility of the Secretary and the changing marketplace require that the Secretary develop flexible valuation methodologies for Indian production that can be complied with accuracy and on time. MMS seeks to improve several areas of Indian gas valuation including: major portion analysis, accounting for comparison (dual accounting), and Percentage-of-Proceeds (POP) contracts. Following is a discussion of each of these areas.

(a) Major Portion Value

Section 3(c) of most Indian leases provides that value may be based on the highest price paid or offered for a major portion of oil or gas or similar substances. Many lessees have stated that there are difficulties encountered in complying with major portion valuation requirements and the timeliness of major portion analyses performed by MMS.

Indian mineral owners assert the median pricing methodology in the present regulations does not always achieve the highest price paid for a major portion of production provided by the lease terms. Since the Secretary has considerable discretion in establishing value for royalty purposes, the Secretary has been urged to be more flexible in establishing major portion methodologies.

(b) Dual Accounting

Section 3(c) of most Indian leases provides for "dual accounting"—the requirement to pay royalties on the greater of the combined value of the residue gas and plant products resulting from processing the gas or the value of the gas prior to processing. Dual accounting is required whether gas is sold prior to processing or after processing. In either case, the lessees may have difficulty in gathering the data necessary to comply, which delays the proper payment of royalties to the Indian lessors. Improvement in the regulations that will permit lessees to timely and completely comply with the lease's dual accounting requirement is desirable.

(c) Percentage-of-Proceeds (POP) Contracts

This class of contracts for the sale of gas from Indian leases presents a different problem in determining value for royalty purposes. Under a POP contract, the seller is paid based upon a value determined after processing. As the name given to this class of contract suggests, the seller is paid an agreed-upon percentage of the purchaser's proceeds from the sale of residue gas and usually a different and much smaller percentage of the proceeds from the sale of gas plant products. Lessees have objected to the dual accounting requirement for gas sold pursuant to a POP contract because of a lack of wellhead sales. Regulations that permit lessees to timely and accurately comply with POP contract valuation requirements are desirable.

In summary MMS's goal is to develop simplified methods for determining the highest price paid or offered for a major portion of like-quality production from the field or area, for determining the greater of the processed value or the unprocessed value, and for properly valuing POP contract production, on a more contemporaneous basis. This would simplify the accounting and enhance the administrative workability for both Tribal and MMS royalty personnel as well as the oil and gas industry. It would allow more contemporaneous automated accounting comparisons and reduce the reliance on audits conducted years after production occurs to verify royalty compliance.

IV. Description of Alternatives and Solicitation of Comments

MMS invites specific comments on the following alternatives that is currently considering for valuation under the major portion and dual accounting requirements for gas produced, saved, or sold from tribal and allotted Indian Lands.

(a) Major Portion Scenarios

(1) Use of Gas Price Indices

MMS is considering using published indices of natural gas prices as a means to determine the price at which a major portion of gas is sold from a given field or area. It is contemplated that any index or indices used would be widely used by industry, have a history of publication, and generally be expected to continue to be published. It is likewise contemplated that any regulation that uses published indices would provide for the use of substitute indices if necessary. MMS is aware that gas-index-price-based major portion systems are currently being successfully utilized.

MMS is soliciting comments on what publications are most widely used by industry for gas price indices. MMS also seeks input from companies that are successfully using gas price index-based formulas to determine the major portion value, and the ways the gas price indices are used to arrive at a value. MMS is also particularly interested in perspectives regarding the extent to which published prices reflect actual values of production, and perspectives regarding the accuracy of published prices and indices.

MMS would also appreciate comments on the extent to which the use of published prices would promote: The certainty and reliability of payments, the timeliness of royalty reporting, ease of compliance, enforceability, and the reduction of costs to both industry and government.

(2) Major Portion Analysis Using Price Data Reported to Indian Tribes and States.

MMS has used gas prices obtained from the Oklahoma Tax Commission severance tax report to do a major portion calculation for allotted Indian leases in the Anadarko area of Oklahoma. MMS requests comments on the feasibility of MMS doing the major portion calculation using pricing data obtained from Tribes, States, or other outside sources (that have information available).

(3) Major Portion Analysis Using Price Data Reported on the Report of Sales and Royalty Remittance (Form MMS-2014).

Information reported on Form MMS-2014 has been used to do major portion calculations for gas produced from the Southern Ute Tribal and Allotted Indian leases. MMS requests comments on the feasibility of MMS calculating the major portion price from data on Form MMS-2014.

(4) Requirement That All Purchasers Provide Sales Data to MMS

MMS is considering implementing a new regulation (under the authority of FOGRMA) that would require all purchasers of Federal and/or Indian gas in fields or areas in which Indian production occurs to provide volume and pricing data to MMS. MMS would then calculate major portion prices and provide these to the lessees. MMS seeks comments on the feasibility of such an approach.

(5) Flexibility To Negotiate a Method to do a Major Portion Analysis on a Case-By-Case Basis

MMS is considering adding new regulatory language that would allow lessees the flexibility to negotiate with Indian Tribes and allottees a method of fulfilling the value of a major portion of production from a field or area. MMS seeks comments on the feasibility of such an approach.

(b) Dual Accounting Scenarios

(1) Wellhead Sale of Gas and the Gas Is Processed (Seller Not Owner in Gas Plant)

Under this scenario, the lessee typically sells gas prior to processing in a gas plant. The lessee should know the gross proceeds accruing under the sale of gas at the wellhead. To fulfill the dual accounting requirement, the lessee is also required to obtain the actual sales values of the residue gas and gas plant products after processing. Lessees have made MMS aware of the difficulty, in some instances, in obtaining all of the information necessary to determine accurately the value of production. On July 27, 1992, MMS issued a letter to payors describing a theoretical dual accounting method that can be used to approximate the value of gas after processing. Although this method has helped, MMS has been made aware that there are still problems in obtaining information that is both timely and accurate.

To facilitate the process of obtaining all of the information (such as gas plant efficiencies, processing charges, plant fuel and flare volumes, and fractionation costs) necessary to accurately do dual accounting, MMS is considering the following alternatives:

- MMS could draft regulations requiring owners of plants that process Federal and/or Indian gas to report the processing information directly either to MMS, the lessee, or both.
- MMS could attempt to obtain information on plants that process Indian gas from State agencies.

MMS requests comments on the feasibility of requiring plant owners to make processing information available to lessees or MMS. MMS also welcomes suggestions for any other possible alternatives for obtaining this information.

MMS is also considering establishing a single basin-wide processing allowance that would be used by all lessees or could be used when the lessee does not have actual processing plant information. MMS requests comments on using basin-wide allowances that the MMS would periodically calculate and publish.

(2) Gas Is Sold at the Tailgate of a Gas Plant

In this situation, the lessee should have all of the data pertaining to the sale of the processed gas. To fulfill the dual accounting requirement, the lessee must determine the value of the unprocessed gas at the wellhead. When there is no sale of gas at the wellhead, the wellhead unit value ($/MMBtu) of the gas for royalty purposes could be determined by using: (1) Gross proceeds under arm's-length contracts for like-quality gas in the same field or nearby fields or areas; (2) the unit value of the residue gas; (3) gas price indices posted in publicly available national publications; or (4) the price arrived at by performing a major portion analysis.

MMS seeks comments on the availability of information and the accuracy of the above methods in determining the value for royalty purposes of unprocessed gas at the wellhead. MMS further seeks comments on what specific publications are used by industry for index prices. MMS also seeks comments on using the highest price in the range, the index price, the average price, or some combination of prices if index pricing were used in dual accounting.

(3) Gas Is Sold Under a POP Contract

MMS requests comments on the following methods of determining value of gas at the wellhead under a POP contract when doing dual accounting:

(i) Gross proceeds under the POP contract,

(ii) The unit value of the residue gas,
(iii) Gas price indices posted in publicly available national publications,
(iv) The price arrived at by performing a major portion analysis; and
(v) Prices received under arm's-length wellhead sales in the field or area.

MMS also seeks suggestions on other possible methods to arrive at a value of unprocessed gas at the wellhead for comparison purposes under dual accounting.

(4) Percentage Increase to Value in Lieu of Dual Accounting

In situations where lessees have made a reasonable effort to do dual accounting but nonetheless cannot establish an accurate comparison of values, MMS is considering allowing a percentage increase to the otherwise determined value of production in lieu of dual accounting. Analysis has shown that the difference between the greater of the combined value of the residue gas and plant products resulting from processing the gas or the value of the gas prior to processing has exceeded 40 percent of the lower value in some cases. MMS seeks comments on the feasibility of applying a percentage increase and the amount of such an increase to comply with dual accounting requirements.

(c) Integration of Major Portion Scenarios and Dual Accounting Scenarios

MMS seeks comments on how to integrate any selected scenarios on major portion with the scenarios on dual accounting. For example, one way to integrate these is the following:

If the index scenario is selected for major portion analysis and the percentage increase is selected for dual accounting, then a way to integrate these concepts is to apply the percentage increase to the higher of index or gross proceeds.

Dated: July 18, 1994.

Bob Armstrong,

Assistant Secretary for Land and Minerals Management.

[FR Doc. 94-19053 Filed 8-3-94; 8:45 am]

BILLING CODE 4310-MR-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL70-1-6254B; FRL-5027-3]

Approval and Promulgation of Implementation Plan; Illinois

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) proposes to approve a February 11, 1993, State submittal requesting a revision to the Illinois State Implementation Plan (SIP) for carbon monoxide (CO). The revision pertains to a site-specific emission limit for a iron foundry operated by General Motors Corporation (GMC) and located adjacent to Interstate 74 at G Street in Vermilion County, Illinois. Vermilion County has been designated by USEPA as "unclassifiable/attainment" for carbon monoxide. In the final rules section of this **Federal Register**, the USEPA is approving the State's SIP revision as a direct final rule without prior proposal because USEPA views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If USEPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. USEPA will not institute a second comment period on this notice. Any parties interested in commenting on this notice should do so at this time.

DATES: Comments on this proposed rule must be received on or before September 6, 1994.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (5AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60606.

Copies of the State submittal and USEPA's analysis of it are available for inspection at: Regulation Development Section, Regulation Development Branch (5AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Fayette Bright, Environmental Protection Specialist, Regulation Development Branch (5AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this **Federal Register.**

Dated: June 16, 1994.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 94-18956 Filed 8-3-94; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[TN 132-6436b; FRL-5009-4]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Tennessee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State implementation plan (SIP) revision submitted by the State of Tennessee for the purpose of redesignation of the Memphis and Shelby County area (classified as a marginal nonattainment area) from nonattainment to attainment for ozone (O_3). In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule.

The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by September 6, 1994.

ADDRESSEES: Written comments should be sent to Karen Borel at the EPA address in Atlanta, Georgia listed below. Copies of the redesignation request and the State of Tennessee's submittal are available for public review during normal business hours at the addresses listed below. EPA's technical support document (TSD) is available for public review during normal business hours at the EPA addresses listed below.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street NE, Atlanta, GA 30365.