

DEPARTMENT OF THE INTERIOR**Office of Natural Resources Revenue**

[Docket No. ONRR-2011-0007]

30 CFR Part 1206**Second Notice of Intent To Establish an Indian Oil Valuation Negotiated Rulemaking Committee****AGENCY:** Office of Natural Resources Revenue, Interior.**ACTION:** Notice of intent.

SUMMARY: On January 31, 2011, the Department published a notice of intent to establish an Indian Oil Valuation Negotiated Rulemaking Committee. In that notice, we asked interested parties to nominate representatives for membership on the Committee and addressed many of the requirements of Section 564 of the Negotiated Rulemaking Act. This notice identifies the persons proposed to serve on the Committee and addresses the rest of the requirements of Section 564 of the Negotiated Rulemaking Act.

DATES: Submit written comments on or before September 21, 2011.

ADDRESSES: You may submit comments and applications by the following methods:

- Electronically go to <http://www.regulations.gov>. In the entity titled "Enter Keyword or ID," enter ONRR-2011-0007, and then click search. Follow the instructions to submit public comments. The ONRR will post all comments to the docket.

- Mail or hand-carry (also, courier service) comments to Mr. Karl Wunderlich, Office of Natural Resources Revenue (ONRR), P.O. Box 25165, MS 300B2, Denver, CO 80225-0165. Please reference the Docket No. ONRR-2011-0007 in your comments.

FOR FURTHER INFORMATION CONTACT: Mr. Karl Wunderlich, ONRR, Telephone: (303) 231-3663; Fax: (303) 231-3194, or E-mail: karl.wunderlich@onrr.gov.

SUPPLEMENTARY INFORMATION: On January 31, 2011, the Department published a notice of intent to establish an Indian Oil Valuation Negotiated Rulemaking Committee (76 FR 5317). You may refer to that notice for background information. The Committee will develop specific recommendations regarding proposed revisions to the existing regulations for valuation of oil production from Indian leases. One of the key issues to be addressed is the major portion valuation requirement. Section 564 of the Negotiated Rulemaking Act requires an agency to consider eight elements when

it is considering the establishment of a Negotiated Rulemaking Committee. In the January 2011 notice, we announced our intent to establish a negotiated rulemaking committee to negotiate and develop a proposed rule and asked interested parties to nominate representatives for membership on the Committee. We received 12 responses nominating individuals to serve on the Committee. This notice addresses the rest of the elements of Section 564. We believe that using a negotiated rulemaking committee to make specific recommendations regarding valuation of oil from Indian leases would help the Office of Natural Resources Revenue (ONRR) in developing a rulemaking.

The interests significantly affected are oil and gas companies who produce oil and pay royalties on Indian leases, and Indian Tribes and individual Indian mineral owners who receive royalties from oil produced from Indian leases located on their lands.

The ONRR is making a commitment to ensure that the Committee has sufficient administrative and technical resources to complete its work in a timely fashion. ONRR, with the help of a facilitator, will prepare all agendas, provide meeting notes, and provide a final report of any issues on which that the committee reached consensus. ONRR will also obtain meeting space for all meetings.

The use of negotiated rulemaking will not unreasonably delay the development of a proposed rule because time limits will be placed on the negotiation. We anticipate that negotiation will expedite a proposed rule and ultimately the acceptance of a final rule.

There is a reasonable likelihood that the Committee will reach consensus on a proposed rule within a fixed period of time. It is anticipated that a proposed rule will be published for notice and comment within 30 months of convening the committee. Quarterly meetings will be held with the first meeting planned for early fall.

Proposed Members of the Committee

The Department believes that the interests significantly affected by this rule will be represented by the representatives listed below:

Claire Ware, A representative of the Shoshone and Arapaho Tribes of the Wind River Reservation;

Manuel Myore, A representative of the Ute Indian Tribe;

Roger Bird Bear, A representative of the allottees of Fort Berthold, North Dakota;

Marcella Giles, A representative of the allottees of Oklahoma Indian Land/Mineral Owners of Associated Nations;

Perry Shirley, A representative of The Navajo Nation;

James Barnes, A representative of the Council of Petroleum Accountants Societies;

Rob Thompson, A representative of the Western Energy Alliance;

Dan Riemer, A representative of the American Petroleum Institute;

Jack Vaughn, A representative of Peak Energy Resources;

Dee Ross, A representative of Chesapeake Energy Corporation;

Donald Sant, Paul Tyler, and John Barder, Three representatives of the Office of Natural Resources Revenue; and

Weldon Loudermilk, A representative of the Bureau of Indian Affairs.

Persons who will be significantly affected by a proposed rule, and who believe their interests will not be adequately represented by any person listed above, may apply for or nominate another person for membership on the negotiated rulemaking committee to represent such interests to the proposed rule. Each application or nomination should include: (1) The name of the applicant or nominee and a description of the interests such person shall represent; (2) evidence that the applicant or nominee is authorized to represent parties related to the interests the person proposes to represent; (3) a written commitment that the applicant or nominee shall actively participate in good faith in the development of the rule under consideration; and (4) the reasons that the persons do not adequately represent the interests of the person submitting the application or nomination.

All submission of comments and applications should be submitted no later than 30 calendar days following publication of this notice. Please submit comments and applications by instructions shown in **ADDRESSES**.

The ONRR will publish the first meeting date in a **Federal Register** notice. The Committee will determine the dates of future meetings, and we will then publish notice of the dates in the **Federal Register**. The first meeting will develop the ground rules on what consensus means and if there is any issues other than the major portion analysis that needs to be discussed.

Following receipt of comments on this notice, ONRR will establish the Negotiated Rulemaking Committee. The ONRR will participate in the Committee to represent the Federal Government's statutory mission. After the Committee

reaches consensus on the provisions of a proposed rule ONRR will develop a proposed rule to be published in the **Federal Register**.

Certification

I hereby certify that the Indian Oil Valuation Negotiated Rulemaking Committee is in the public interest.

Dated: August 15, 2011.

Ken Salazar,

Secretary of the Interior.

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DEPARTMENT OF THE INTERIOR

43 CFR Part 2

RIN 1090-AA94

Amendment of Privacy Act Regulations, Request for Comments

AGENCY: Office of the Secretary, Interior.

ACTION: Proposed Rule.

SUMMARY: The Department of the Interior is amending its regulations to exempt certain records from particular provisions of the Privacy Act. Specifically, the Department proposes to exempt certain records of the newly-created Debarment and Suspension Program system of records from one or more provisions of the Privacy Act.

DATES: Submit written comments on October 3, 2011.

ADDRESSES: Send written comments, identified by RIN 1090-AA94, by one of the following methods:

- *Federal e-Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail:* Karen Burke, OS/NBC Privacy Act Officer, Office of the Secretary, Department of the Interior, 1951 Constitution Ave, NW., Mail Stop 116 SIB, Washington, DC 20240.
- *E-mail:* Karen Burke, OS/NBC Privacy Act Officer, Office of the Secretary, privacy@nbc.gov.

FOR FURTHER INFORMATION CONTACT: Karen Burke, OS/NBC Privacy Act Officer, Office of the Secretary, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Mail Stop 116 SIB, Washington, DC 20240. E-mail at privacy@nbc.gov.

SUPPLEMENTARY INFORMATION:

Background

The Department of the Interior (DOI) Office of Acquisition and Property Management maintains the Debarment and Suspension Program system of records. The primary purpose of this system of records is to assist DOI in

conducting and documenting debarment and suspension proceedings to ensure that Federal procurements and Federal discretionary assistance, loans, and benefits are awarded to presently responsible business entities, organizations, and individuals. Additional purposes of the system are to: Promote understanding of the case decision path and concerns addressed by the debarring and suspending official in reaching a decision; to promote the submission of relevant arguments in contested cases; to educate the public and private bar as to the kinds of mitigating factors and remedial measures that demonstrate present responsibility; and to enhance the transparency of decision making.

Pursuant to 5 U.S.C. 552a (k)(2) and (k)(5), the head of a Federal agency may promulgate rules to exempt a system of records from certain provisions of 5 U.S.C. 552a if the system of records is “investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2)” or “investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information. * * *”

To the extent that this system of records contains investigatory material within the provision of 5 U.S.C. 552a(k)(2) and (k)(5), the Department of the Interior proposes to exempt the Debarment and Suspension Program System of Records from provisions 5 U.S.C. 552a(c)(3); (d); (e)(1), (e)(4)(G), (H), (I); and (f). Exemptions from these particular subsections are justified for the following reasons:

1. From subsection (c)(3) because granting access to the accounting for each disclosure as normally required by the Privacy Act, including the date, nature, and purpose of each disclosure and the identity of the recipient, could alert the subject to the existence of the investigation or action interest by DOI or other agencies. This could seriously compromise case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate; and/or lead to suppression, alteration, or destruction of evidence.

2. From subsections (d) and (f) because providing access to records of a debarment or suspension action investigation and the right to contest the contents of those records and force changes to be made to the information contained therein to individuals whose names may appear in the records due to having provided information about a

respondent but who are not the subject of the debarment or suspension action would seriously interfere with and thwart the orderly and unbiased conduct of the investigation, impede debarment or suspension case preparation, and/or conflict with the evidentiary fact finding process under the debarment and suspension rules.

Providing rights normally afforded under the Privacy Act and agency rules could provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or result in destruction of evidence interfering with the development of the suspension or debarment action; and/or jeopardize pending or ongoing judicial proceedings or impede the ability to act to protect Federal procurement and non-procurement program interests. Additionally, the debarment and suspension rules provide a process which accords recipients of action notices, as part of the contest process, the opportunity, where facts material to the action are determined to be genuinely in dispute, for an evidentiary fact finding hearing at which to confront and cross examine the government’s witnesses.

3. From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity to accomplish a purpose of the agency will be clear.

4. From subsections (e)(4)(G) and (H) because there is no necessity for such publication since the system of records will be exempt from the underlying duties to provide notification about and access to information in the system and to make amendments to and corrections of the information in the system.

5. From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants. DOI will, nevertheless, continue to publish such a notice in broad generic terms as is its current practice.