U.S. Department of the Interior
Minerals Management Service
Office of Communications

FOR RELEASE: January 10, 1997

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MMS Publishes Notice of Proposed Rulemaking for Federal Oil Valuation

The U.S. Department of the Interior's Minerals Management Service (MMS) has sent to the Federal Register, proposed amendments to regulations governing the royalty valuation of crude oil produced from federal leases. The Notice of Proposed Rulemaking is expected to be published in the Federal Register by mid-January.

In December 1995, MMS published an Advance Notice of Proposed Rulemaking asking for comments on whether the current oil valuation regulations reflect the actual value of the oil. MMS also asked for suggestions on better ways to value oil for royalty calculation purposes.

The MMS used various sources of information to develop the proposed rule. In addition to comments received on the Advance Notice of Proposed Rulemaking, MMS consulted with States, crude oil brokers and refiners, commercial oil price reporting services, companies that market oil directly, and private consultants knowledgeable in crude oil marketing. MMS also solicited comments from the Departments of Energy and Commerce.

"The intent of the proposed rule is to reduce reliance on posted prices for royalty valuation, reflect true market value, provide certainty to all involved, and provide maximum flexibility to adapt to changing market conditions. We believe that the proposal achieves this," said MMS Director Cynthia Quarterman.

The proposed regulation retains the concept that for arm's-length sales, gross proceeds generally will be the royalty value, but its application will be limited. "Because of the frequency of oil exchange agreements, reciprocal deals between crude oil buyers and sellers, and other factors where the real consideration for the transaction could be hidden, arm's-length contract prices will be used as royalty value only by producers who do not also purchase crude oil," explained Quarterman.

MMS expects a large portion of federal oil production to be valued as if not sold under an arm's-length contract because most federal oil is disposed of under exchange agreements or sales to affiliated refiners. In those instances the rule proposes that value be based on either 1) affiliated arm's-length resale prices or 2) the monthly average of the New York Mercantile Exchange (NYMEX) prices, or for production in California and Alaska on Alaska North Slope (ANS) prices, with appropriate adjustments for location and or quality differentials.

The proposal does not apply to Indian leases. A separate regulation was developed simultaneously to apply in those cases. However, a number of tribes requested MMS to briefly delay the proposed rulemaking to allow for further consultations.

The rule will be open for public comment for 60 days. It will also be available on the Internet at www.mms.rmp.gov.

The MMS is the federal agency that manages the Nation's natural gas, oil and other mineral resources on the OCS and collects, accounts for and disburses about $4 billion yearly in revenues from offshore federal mineral leases and from onshore mineral leases on federal and Indian lands.

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