



August 15, 2014

Submitted via www.regulations.gov

Armand Southall
Regulatory Specialist
Office of Natural Resource Revenue
P.O. Box 25165, MS 61030A
Denver, CO 80225-0165

Re: Comments on Proposed Indian Oil Valuation Amendments, RIN 1012-AA15

Dear Mr. Southall:

Western Energy Alliance appreciates the opportunity to have served on ONRR's Indian Oil Valuation Negotiated Rulemaking Committee. The process enabled Tribal, Indian mineral owners, industry, and federal government representatives to come together and develop a consensus on valuing Indian oil so that Tribes and allottees receive a fair share of royalties while not discouraging development on Indian lands.

We believe the Proposed Indian Oil Valuation Amendments rule corresponds to the consensus reached by the committee. The only concerns we have are with issues not discussed by the committee contained in Section IV, *Other Possible Changes ONRR May Consider*.

Western Energy Alliance (the Alliance) represents over 480 companies engaged in all aspects of environmentally responsible exploration and production of oil and natural gas in the West. The Alliance represents independent producers, the majority of which are small businesses with an average of fourteen employees.

Section IV Other Possible Changes ONRR May Consider

In Section IV section, ONRR indicates that it is considering not requiring filing of the transportation allowance form ONRR-4110, Oil Transportation Allowance Report. ONRR has also indicated it is considering eliminating transportation factors from the regulations as well as the exception to the 50-percent limitation on transportation allowances. Our specific comments on these three aspects follow.

A. Transportation Allowances—Form Filing

For arm's-length transportation agreements, ONRR would like comments on removing the requirement under the current rule to file a Form ONRR-4110, Oil Transportation Allowance Report. Instead, the lessee would have to submit to ONRR copies of its arm's-length transportation contract(s) and any amendments thereto within two months after the lessee reported a transportation allowance on its Form ONRR-2014. This change would

mirror the requirement to file arm's-length transportation contracts with ONRR, instead of a form, under the current Indian Gas Valuation Rule at § 1206.178(a)(1)(i).

The Alliance agrees with the proposal to eliminate the requirement to file Form ONRR-4110, Oil Transportation Allowance Report for arm's-length transportation agreements. We suggest ONRR provide specific examples of the kinds of documentation ONRR would expect in place of the form. For example, should the transportation agreements include FERC tariffs where applicable? Also, we would like ONRR to provide examples relating situations where a producer uses both producer-owned transportation systems and third-party operated systems.

B. Transportation Factors

ONRR requests comments on eliminating transportation factors from the regulations. Currently, § 1206.57(a)(5) allows lessees to reduce their gross proceeds where their arm's-length transportation contract includes a provision reducing the applicable price by a transportation factor. Under the current rule, lessees report their gross proceeds net of the transportation factor on their Form ONRR-2014s. Thus, unlike the transportation allowances, which lessees report on their Form ONRR-2014s, ONRR cannot tell if lessees are taking a deduction for transportation when lessees report their gross proceeds net of a transportation factor. As such, the reporting requirements for transportation factors are not transparent. Eliminating the ability to net an arm's-length transportation fee would require lessees to report these transportation fees as a transportation allowance. ONRR specifically requests comments on whether to eliminate transportation factors completely, which would require reporting of the arm's-length transportation as a transportation allowance on Form ONRR-2014.

The Alliance opposes this suggested change primarily because it could not find a definition in 30 CFR §1206.51 for a Transportation Factor. The regulation defines terms like "Transportation Allowance," "Location Differential," and "Gross Proceeds" but not Transportation Factor. Without having ONRR's definition it is impossible to comment.

Clearly, the Transportation Factor is different than Transportation Allowance which includes "...the reasonable, actual costs of moving oil to a point of sale or delivery off the lease..." But saying that Transportation Factor is subject to 50 percent implies it is related to transportation.

The Alliance opposes any change to this section because ONRR has failed to adequately explain what it proposes to change. If Transportation Factor is a pricing formula or some other means of arriving at a selling price by the lessee then it is not a transportation cost and should not be subject to rules that apply to transportation allowances. The current wording in this section is unfortunate, and the transportation factor does not belong in the transportation allowance bucket.

C. Limiting Allowances

ONRR is also considering removing the exception to the 50-percent limitation on transportation allowances. Under the current rule at § 1206.56(b)(2), a lessee may request an exception to the rule that transportation allowances cannot exceed 50 percent of the value of the oil at the point of sale. ONRR seeks input on whether it would be a better exercise of the Secretary's trust responsibility to not allow cost allowances for transporting production from Indian leases to exceed 50 percent of the value of the oil. To date, ONRR has not received any requests to exceed the 50-percent limitation for transportation allowances. ONRR specifically requests comments on removing any exceptions to the 50-percent limitation on transportation allowances, under § 1206.56(b)(1).

The Alliance opposes eliminating the potential for a lessee to apply for an exception to the 50-percent limitation on transportation allowances. The fact that no lessee has ever requested an exception to the 50-percent limitation is not a reason to simply drop the rule. In fact removing this provision in the rule could adversely impact other lessors in the future. For example, oil could be discovered in a remote area that involves a transportation cost in getting the oil to market that exceeds 50 percent of the sales price. Having an exception to the rule could be the difference between developing the lease or rendering further development uneconomical.

In conclusion, we believe this rule should adhere to the major portion calculation as agreed to by the committee. Western Energy Alliance appreciates the opportunity to comment on the rule.

Sincerely,



Kathleen M. Sgamma
Vice President of Government & Public Affairs