

Minerals Management Service, Interior

§ 206.57

necessary to obtain a reasonable sample, from the same area) for each month. All such oil production will be arrayed from highest price to lowest price (at the bottom). The major portion is that price at which 50 percent by volume plus one barrel of oil (starting from the bottom) is sold.

[72 FR 71241, Dec. 17, 2007]

§ 206.55 What are my responsibilities to place production into marketable condition and to market the production?

You must place oil in marketable condition and market the oil for the mutual benefit of yourself and the Indian lessor at no cost to the lessor, unless the lease agreement provides otherwise. If, in the process of marketing the oil or placing it in marketable condition, your gross proceeds are reduced because services are performed on your behalf that would be your responsibility, and if you valued the oil using your or your affiliate's gross proceeds (or gross proceeds received in the sale of oil received in exchange) under § 206.52, you must increase value to the extent that your gross proceeds are reduced.

[72 FR 71241, Dec. 17, 2007]

§ 206.56 Transportation allowances—general.

(a) Where the value of oil has been determined under § 206.52 or § 206.53 of this subpart at a point (e.g., sales point or point of value determination) off the lease, MMS shall allow a deduction for the reasonable, actual costs incurred by the lessee to transport oil to a point off the lease; provided, however, that no transportation allowance will be granted for transporting oil taken as Royalty-In-Kind (RIK); or

(b)(1) Except as provided in paragraph (b)(2) of this section, the transportation allowance deduction on the basis of a sales type code may not exceed 50 percent of the value of the oil at the point of sale as determined under § 206.52 of this subpart. Transportation costs cannot be transferred between sales type codes or to other products.

(2) Upon request of a lessee, MMS may approve a transportation allowance deduction in excess of the limita-

tion prescribed by paragraph (b)(1) of this section. The lessee must demonstrate that the transportation costs incurred in excess of the limitation prescribed in paragraph (b)(1) of this section were reasonable, actual, and necessary. An application for exception (using Form MMS-4393, Request to Exceed Regulatory Allowance Limitation) must contain all relevant and supporting documentation necessary for MMS to make a determination. Under no circumstances may the value, for royalty purposes, under any sales type code, be reduced to zero.

(c) Transportation costs must be allocated among all products produced and transported as provided in § 206.57. Transportation allowances for oil shall be expressed as dollars per barrel.

(d) If, after a review or audit, MMS determines that a lessee has improperly determined a transportation allowance authorized by this subpart, then the lessee will pay any additional royalties, plus interest determined in accordance with 30 CFR 218.54, or will be entitled to a credit without interest.

[61 FR 5455, Feb. 12, 1996. Redesignated and amended at 72 FR 71241, Dec. 17, 2007; 73 FR 15890, Mar. 26, 2008]

§ 206.57 Determination of transportation allowances.

(a) *Arm's-length transportation contracts.* (1)(i) For transportation costs incurred by a lessee under an arm's-length contract, the transportation allowance shall be the reasonable, actual costs incurred by the lessee for transporting oil under that contract, except as provided in paragraphs (a)(1)(ii) and (a)(1)(iii) of this section, subject to monitoring, review, audit, and adjustment. The lessee shall have the burden of demonstrating that its contract is arm's-length. Such allowances shall be subject to the provisions of paragraph (f) of this section. Before any deduction may be taken, the lessee must submit a completed page one of Form MMS-4110 (and Schedule 1), Oil Transportation Allowance Report, in accordance with paragraph (c)(1) of this section. A transportation allowance may be claimed retroactively for a period of not more than 3 months prior to the first day of the month that Form MMS-4110 is filed with MMS, unless