

SUPPORTING STATEMENT
Internal Revenue Service
Enhanced Oil Recovery Project
OMB # 1545-1292

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

On December 30, 1991, proposed regulations concerning the costs eligible for the enhanced oil recovery credit provided in section 43 of the Internal Revenue Code and the circumstances under which the credit is available were published in the Federal Register (56 FR 67256 (December 30, 1991)). These amendments were proposed to conform the regulations to section 11511 of the Omnibus Reconciliation Act of 1990, Public Law 101-508. These regulations (TD 8448), were finalized were published in the Federal register (57 FR 54919 (November 23, 1992)).

For purpose of section 43 of the Code, this document provides final regulations relating to the enhanced oil recovery credit for certain costs that are paid or incurred in connection with a qualified enhanced oil recovery project. Changes to the applicable law were made by the Omnibus Budget Reconciliation Act of 1990. These final regulations provide the public with guidance in determining the costs that are subject to the credit, the circumstances under which the credit is available, and the procedures whereby a project is certified as a qualified enhanced oil recovery project.

2. USE OF DATA

Enhanced oil recovery projects are typically implemented in respect of oil and gas properties that have numerous co-owners. Section 43(c)(2)(B) requires that the operator must certify to the Service that the project meets certain requirements. This information is necessary for the Service to verify that the other owners of working interests (other than the operator) in the property who are eligible to claim the enhanced oil recovery credit have in fact claimed the credit with respect to qualified costs.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

The collection of information does not involve the use of automated, electronic, or other technological collection techniques. There is no plan to offer electronic filing for this collection due to the low volume of filers.

4. EFFORTS TO IDENTIFY DUPLICATION

The information obtained through this collection is unique and is not already available for use or adaptation from another source.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

There are no small entities affected by this collection. These rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. Although this Treasury decision was preceded by a notice of proposed rulemaking that solicited public comments, the notice was not required by 5 U.S.C. 553 since the regulations proposed in that notice and adopted by this Treasury decision are interpretative. Therefore, a final Regulatory Flexibility Analysis is not required by the Regulatory Flexibility Act (5 U.S.C. chapter 6).

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

A less frequent collection of the information will prevent the IRS from being able to determine the taxpayer's compliance and/or reporting with the requirements outlined in section 43 of the Code thereby engendering the inability of the IRS to meet its mission.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

There are no special circumstances requiring data collection to be inconsistent with Guidelines in 5 CFR 1320.5(d)(2).

8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

Periodic meetings are held between IRS personnel and representatives of the American Bar Association, the National Society of Public Accountants, the American Institute of Certified Public Accountants, and other professional groups to discuss tax law and tax forms. During these meetings, there is an opportunity for those attending to make comments regarding the enhanced oil recovery credit.

IRS received no comments during the comment period in response to the **Federal Register** Notice dated June 24, 2020 (85 FR 38024).

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO

RESPONDENTS

No payment or gift has been provided to any respondents.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by 26 USC 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the “Business Master file (BMF)” and a Privacy Act System of Records notice (SORN) has been issued for these systems under IRS 22.062 – Electronic Filing Records; IRS 24.030 – Customer Account Data Engine (CADE) Individual Master File; IRS 24.046 - CADE Business Master File (BMF); IRS 34.037 - IRS Audit Trail and Security Records System. The Internal Revenue Service PIA’s can be found at <http://www.irs.gov/uac/Privacy-Impact-Assessments-PIA>.

Title 26 USC 6109 requires inclusion of identifying numbers in returns, statements, or other documents for securing proper identification of persons required to make such returns, statements, or documents and is the authority for social security numbers (SSNs) in IRS systems.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The collection of information in this final regulation is in section 1.43-3. The taxpayers affected are oil and gas working interest owners who operate enhanced oil recovery projects. Section 1.43-3(a)(2) describes the information required in a certification. It is estimated that there will be approximately 20 respondents per year and that it will take each respondent approximately 72 hours to collect the information required in §1.43-3(a)(2) and to prepare the certification. The estimated total annual burden under § 1.43-3(a)(2) is 1,440 hours.

Section 1.43-3(a)(3) requires the operator of a previously certified project to submit an annual statement that the project continues to be implemented in accordance with the original certification. It is estimated that there will be approximately 20 respondents per year and that it will take each respondent approximately 1 hour to prepare the statement. The estimated total annual burden under § 1.43-3(a)(3) is 20 hours.

Section 1.43-3(b) requires the operator to notify the Internal Revenue Service in

writing if a project is terminated. IRS estimates that this provision will affect 5 or fewer taxpayers per year. The time, effort, and financial resources necessary to notify the IRS of a termination are nominal and would be incurred in the normal course of business activities (e.g., in compiling and maintaining business records), as outlined in the paragraphs above.

Section 1.43-6 provides the procedures for electing to have section 43 not apply for a taxable year. It is estimated that this provision will affect 5 or fewer taxpayers per year. The burden associated with making this election is accounted for in the burden of the annual income tax return (i.e. Form 1065, Form 1120S (1545-0123)), as an attachment to the return.

Section	# Respondents	# Responses Per Respondent	# Annual Responses	Hours Per Response	Total Annual Burden
1.43-3(a)(2)	20	1	20	72	1,440
1.43-3(a)(3)	20	1	20	1	20
TOTALS	40		40		1,460

Please continue to assign OMB number 1545-1292 to these regulations.
1.43-3

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

15. REASONS FOR CHANGE IN BURDEN

Form 8830 was no longer needed after 2005 as the continued high price of crude oil had caused the enhanced oil recovery credit to be completely phased out per IRC section 43. In August 2016 this product was reinstated because this credit could

still be taken. As of September 20, 2019, Form 8830 has been made a historical product since the enhanced oil recovery claimed on this form is completely phased out. This will decrease the number of responses by 1,550 and annual burden by 11,067 hours.

	Requested	Program Change Due to New Statute	Program Change Due to Agency Discretion	Change Due to Adjustment in Agency Estimate	Change Due to Potential Violation of the PRA	Previously Approved
Annual Number of Responses	40	0	0	(1,550)	0	1,590
Annual Time Burden (Hr)	1,460	0	0	(11,067)	0	12,527

IRS is making this submission to renew the OMB approval.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

There are no plans for tabulation, statistical analysis and publication.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

IRS believes that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulation sunsets as of the expiration date. Taxpayers are not likely to be aware that the Service intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions to the certification statement.

Note: The following paragraph applies to all of the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.