

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

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

For purpose of section 43 of the Code, these regulations provide guidance regarding the determination of costs that are subject to the enhanced oil recovery credit and the circumstances under which the credit is available. Further, pursuant to section 43(e), these regulations set out the manner in which a taxpayer may elect to have section 43 not apply for any taxable year.

These final regulations set out rules regarding who may claim the enhanced oil recovery credit and the effect that claiming the credit will have on other deductions and a taxpayer's basis in certain tangible property. The regulations provide rules for determining both what is a qualified enhanced oil recovery project and what a qualified enhanced oil recovery costs.

Pursuant to section 43(c)(2)(B), these final regulations set out the time and manner by which operators of qualified enhanced oil recovery projects must certify to the Internal Revenue Service that their projects meet the requirements of section 43(c)(2)(A).

These final regulations require that a duly certified petroleum engineer certify, under penalties of perjury, that a project meets the requirements of section 1.43-2(a)(i), (2), and (3). Owners of operating mineral interests use Form 8830 to claim the enhanced oil recovery credit, a part of the general business credit.

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 in order 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.

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**

The agency is requesting an emergency clearance and is unable to solicit public comment in advance. The IRS will publish a Federal Register notice seeking public comment after the approval of the emergency ICR.

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.

This Form is an attachment to the Federal tax return. The Privacy Act statement associated with this Form is listed in the Federal tax return instructions.

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. We estimate 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. We estimate 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. We estimate 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), as an attachment to the return.

Section	# Respondents	# Responses Per Respondent	# Annual Responses	Hours Per Response	Total Annual Burden
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1.43-3(a)(2)	20	1	20	72	1,440
1.43-3(a)(3)	20	1	20	1	20
Form 8830	1,550	1	1,550	7.14	11,067
TOTALS	1,590		1,590		12,527

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

The Federal government cost estimate is based on a model that considers the following three cost factors for each information product: aggregate labor costs for development, including annualized startup expenses, operating and maintenance expenses, and distribution of the product that collects the information.

The government computes cost using a multi-step process. First, the government creates a weighted factor for the level of effort to create each information collection product based on variables such as; complexity, number of pages, type of product and frequency of revision. Second, the total costs associated with developing the product such as labor cost, and operating expenses associated with the downstream impact such as support functions, are added together to obtain the aggregated total cost. Then, the aggregated total cost and factor are multiplied together to obtain the aggregated cost per product. Lastly, the aggregated cost per product is added to the cost of shipping and printing each product to IRS offices, National Distribution Center, libraries and other outlets. The result is the Government cost estimate per product.

The government cost estimate for this collection is summarized in the table below.

Product	Aggregate Cost per Product (factor applied)	Printing and Distribution	Government Cost Estimate per Product
Form 8830	68,486	0	68,486
Grand Total	68,486	0	68,486
Table costs are based on 2021 actuals obtained from IRS Chief Financial Office and Media and Publications			
* New product costs will be included in the next collection update.			

15. REASONS FOR CHANGE IN BURDEN

Form 8830 was not issued for 2019 and 2020 because it did not apply for those years due to the price of crude oil; however, it applied again for tax years beginning in 2021.

Notice 2021-47 includes the previously published figures for tax years beginning in the 1991 through 2020 calendar years and reflects that for calendar year 2021, the guidance is similar to that provided for 2016 and 2017 when the enhanced oil recovery credit was determined without regard to the phase-out for crude oil price increases. The changes in burden hours for this ICR, were made to reflect said changes notified in Notice 2021-47. This will increase 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	1,590	0	1,550		0	40
Annual Time Burden (Hr)	12,527	0	11,067		0	1,460

We are making this submission to add in the burden increase accrued by adding the Form 3880.

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

We believe 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.