




DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

TO: Alex Goodenough, Office of Information and Regulatory Affairs

FROM: Ryan Law, Deputy Assistant Secretary for Privacy, Transparency, and Records 

SUBJECT: Justification for Emergency Processing: Enhanced Oil Recovery Credit (Form 8830)

The Department of the Treasury and the Internal Revenue Service (IRS) are requesting approval of a revision to OMB Control Number 1545-1292 under emergency procedures. Section 43(a) provides that for purposes of section 38, the enhanced oil recovery credit for any taxable year is an amount equal to 15 percent of the taxpayer's qualified enhanced oil recovery costs for such taxable year. The credit is claimed on Form 8830.

Section 43(b)(1) provides that the amount of the credit determined under subsection (a) for any taxable year shall be reduced by an amount which bears the same ratio to the amount of such credit (determined without regard to this paragraph) as — (A) the amount by which the reference price for the calendar year preceding the calendar year in which the taxable year begins exceeds \$28, bears to (B) \$6.

Section 43(b)(3)(B) of the Internal Revenue Code requires the Secretary to publish an inflation adjustment factor. Thus, taxpayers do not know whether the section 43 credit is available until the inflation adjustment information is published by the Secretary. The enhanced oil recovery credit under § 43 for any taxable year is reduced if the “reference price,” determined under § 45K(d)(2)(C), for the calendar year preceding the calendar year in which the taxable year begins is greater than \$28 multiplied by the inflation adjustment factor for that year.

For taxable years 2019 and 2020, the section 43 credit was completely phased out and the Form 8830 was not needed. For taxable year 2021, due to a decrease in oil prices, the section 43 credit was not phased out and was fully available, Notice 2021-47. However, because the publication of the inflation adjustment information was published later than usual, the Form 8830 was not able to be revised under normal procedures. It is being revised currently and needs to be published for use by taxpayers in preparing their returns for the 2021 taxable year.

The IRS plans to release Form 8830 on March 30, 2022, and thus requests approval of the control number by that date. Given the inability to seek public comment during such a short timeframe, IRS respectfully requests a waiver from the requirement to publish notice in the Federal Register seeking public comment during the period of Office of Management and Budget review. However, public comment will be solicited in conjunction with the subsequent extension of the approval to collect this information.