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**MMS Notice of Revision of Currently Approved Information Collection
(OMB Control Number 1010-0121); 67 FR 9316 (February 28, 2002)**

Dear Ms. Shelby:

API is a national trade association whose over 400 company members are engaged in all aspects of the petroleum industry: exploration, production, transportation, refining and marketing. Many of API's members are federal lessees who receive appealable MMS orders and decisions. API's members therefore have a significant interest in the MMS' appeal process and the February 28, 2002 ("Revision").

API requests that the MMS provide API with a copy of MMS' information collection request (ICR) submission for OMB approval. As the MMS knows, OMB Control Number 1010-0121 was originally assigned to an information collection entitled "Preliminary Statement of Issues and Fee Waiver" that would have required specific information in connection with a one-step appeal process proposed by MMS at 64 FR 1930 (January 12, 1999). This one-step appeal process was far more formal in nature and would have contained numerous procedural requirements not contained in the existing 2-level process, including the so-called Preliminary Statement of Issues and Fee Waiver by the appellant. However, the one-step appeal process was later abandoned, and the information collection approved by OMB has never been used.

Nonetheless, MMS now proposes to use the information collection authority previously obtained for the Preliminary Statement of Issues and Fee Waiver to cover so-called "reporting requirements" located in 30 CFR 250 and 290. MMS states: "Submission of the information is necessary for MMS to initiate and track appeals of disputed orders." Revision at 9317.

In contrast to the specific information requirements usually described in information collection notices (e.g., lessee name, lease number, etc.), the Revision quotes five regulations that set forth procedural requirements for appealing a decision or

order:

30 CFR 250.1409(a), (b)(1) and (2);

30 CFR 290.4(a) and (b)(1);

30 CFR 290.7(a)(2);

30 CFR 290.105(a)(1) and (2); and,

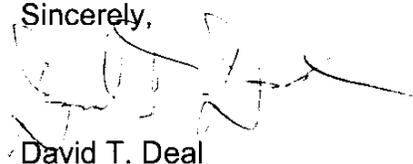
30 CFR 290.106(a).

However, neither the quoted regulations nor the Revision describe specific information that would be required to appear on these documents. Nor is there any explanation why such information "is necessary for MMS to initiate and track appeals." In fact, most of the documents described are administrative pleadings, which by their nature contain "information" supplied solely at the discretion of the appellant, i.e., legal arguments. API questions, therefore, whether appeals of orders (i.e., pleadings, briefs, bonds) truly satisfy the definition of an "information collection" by MMS under the Paperwork Reduction Act. 44 U.S.C. 3501 *et seq.*

Since the passage of the Paperwork Reduction Act in 1995, appeals have never been treated as an "information collection" by MMS. Certainly, MMS has never sought an OMB Control Number for appeal documents before, and it should not do so now in the absence of further explanation for its apparent shift in policy. MMS should also explain whether appellants would be required to insert an OMB Control Number on appeal documents, and identify any consequences of a missing OMB Control Number. Even if the OMB Control Number is deemed useful for MMS tracking purposes, its absence should never be the hyper-technical, procedural basis for MMS rejection or dismissal of any appeal or appeal document.

If any information must be collected on an appeal document in order "to initiate and track appeals of disputed orders," that information should be very limited, namely, "Appellants Name," and either "Order/Decision Date" or "Docket Number" (once it has been assigned). MMS needs no other information collection authority in order to initiate and track appeals of orders.

Sincerely,

A handwritten signature in black ink, appearing to read "David T. Deal", with a long horizontal flourish extending to the right.

David T. Deal