

**Supporting Statement for
30 CFR 206—Product Valuation
Subpart B—Indian Oil, § 206.54
Subpart C—Federal Oil, § 206.109
Subpart D—Federal Gas, §§ 206.156 and 206.158
Subpart E—Indian Gas, § 206.177
(Form MMS-4393, Request to Exceed Regulatory Allowance Limitation)
OMB Control Number 1010-0095
Current Expiration Date: March 31, 2005**

General Instructions

A Supporting Statement, including the text of the notice to the public required by 5 CFR 1320.5(a)(i)(iv) and its actual or estimated date of publication in the *Federal Register*, must accompany each request for approval of a collection of information. The Supporting Statement must be prepared in the format described below, and must contain the information specified in Section A below. If an item is not applicable, provide a brief explanation. When Item 17 of the OMB Form 83-I is checked “Yes,” Section B of the Supporting Statement must be completed. OMB reserves the right to require the submission of additional information with respect to any request for approval.

Specific Instructions

A. Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

The Secretary of the U.S. Department of the Interior is responsible for collecting royalties from lessees who produce minerals from leased Federal and Indian lands. The Secretary is required by various laws to manage mineral resources production on Federal and Indian lands, collect the royalties due, and distribute the funds in accordance with those laws.

The Secretary also has an Indian trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. The Minerals Management Service (MMS) performs the royalty management functions and assists the Secretary in carrying out the Department’s Indian trust responsibility. Applicable citations of the laws pertaining to mineral leases include 5 U.S.C. 301 *et seq.*; 25 U.S.C. 396a *et seq.* and 2101 *et seq.*; 30 U.S.C. 185, 351 *et seq.*, 1001 *et seq.*, and 1701 *et seq.*; 31 U.S.C. 9701; and 43 U.S.C. 1301 *et seq.*, 1331 *et seq.*, and 1801 *et seq.* (Attachment 1).

When a company or an individual enters into a lease to explore, develop, produce, and dispose of minerals from Federal or Indian lands, that company or individual agrees to pay the lessor a share (royalty) of the value received from production from the leased lands. The lease creates a

business relationship between the lessor and the lessee. The lessee is required to report various kinds of information to the lessor relative to the disposition of the leased minerals. Such information is similar to data reported to private and public mineral interest owners and is generally available within the records of the lessee or others involved in developing, transporting, processing, purchasing, or selling such minerals. The information collected includes data necessary to ensure that the royalties are paid appropriately.

Under certain circumstances, lessees are authorized to deduct from royalty payments the reasonable actual costs of transporting the royalty portion of produced oil and gas from the lease to a processing or sales point not in the immediate lease area. When gas is processed for the recovery of gas plant products, lessees may claim a processing allowance. Transportation and processing allowances are part of the product valuation process that MMS uses to determine if the lessee is reporting and paying the proper royalty amount.

For transportation allowances, regulations at 30 CFR 206.54(b)(1), 206.109(c)(1), 206.156(c)(1) and 206.177(c)(1) establish the limit on transportation allowance deductions for oil and gas at 50 percent of the value of the oil or gas at the point of sale. Sections 206.54(b)(2), 206.109(c)(2), 206.156(c)(3), and 206.177(c)(2) and (3) provide that MMS may approve a transportation allowance in excess of 50 percent upon proper application from the lessee.

For processing allowances, regulations at 30 CFR 206.158(c)(2) establish 66 2/3 percent of the value of each gas plant product as the limit on the allowable gas processing deduction. However, §§ 206.158(c)(3) and 206.158(d)(2)(i) provide for the approval of a gas processing allowance in excess of 66 2/3 percent when properly requested by the lessee and approved by MMS.

We changed the title of this information collection request (ICR) to clarify the regulatory language we are covering under 30 CFR 206. The previous title of this ICR was “Request to Exceed Regulatory Allowance Limitation.” The new title of this ICR is “30 CFR 206—Product Valuation, Subpart B—Indian Oil, § 206.54; Subpart C—Federal Oil, § 206.109; Subpart D—Federal Gas, §§ 206.156 and 206.158; and Subpart E—Indian Gas, § 206.177 (Form MMS-4393, Request to Exceed Regulatory Allowance Limitation).” See Attachment 2 for copies of the CFR sections covered in this ICR.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection. [Be specific. If this collection is a form or a questionnaire, every question needs to be justified.]

Regulations at 30 CFR 206 establish uniform product valuation and allowance policies for all Federal and Indian leases. These regulations require information in support of the product valuation or allowances being claimed. The MMS uses this information to determine whether the lessee qualifies for an exception to the allowance limitation rules. Without MMS approval, lessees are not permitted to exceed established regulatory allowance rates, and if all information is not collected, MMS is unable to fulfill the requirements of the regulations. Further, without

this information, MMS could not determine whether the proper amount of royalty has been paid on minerals produced from Federal and Indian lands.

To request permission to exceed a regulatory allowance limit, lessees must write a letter to MMS explaining why a higher allowance limit is necessary and provide supporting documentation. The MMS developed Form MMS-4393, Request to Exceed Regulatory Allowance Limitation (Attachment 3), to be included with the lessees request for approval to exceed the regulatory allowance limit. This form provides MMS with the data necessary to make a decision on the request and track deductions on royalty reports. Data reported on this form is also subject to subsequent audit and adjustment.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden [and specifically how this collection meets GPEA requirements].

The MMS Minerals Revenue Management (MRM) program is moving to fully implement the Government Paperwork Elimination Act with our reengineered business processes. However, this information collection has very few respondents, and therefore, it is not cost effective to develop an electronic submission. At this time, further information technology enhancements are not applicable for this information collection; however, we offer an electronic copy of Form MMS-4393 on our website, which lessees may complete and submit electronically as an e-mail attachment. During the current renewal period, no companies have used the e-mail attachment option to request to exceed the regulatory allowance limitation; however, we have a reasonable expectation that 5 percent may use the e-mail option in the future.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

Information on regulatory allowances for specific leases is not collected by any other Federal agency. Moreover, this information is not available until a lessee submits a request to exceed regulatory allowance limits established by regulations and specifically identifies the lease or leases and circumstances involved. No other Federal agency collects similar information that can be modified for this collection. The information is not available from any other source.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.

Small businesses are among potential respondents, and as such, MMS carefully analyzed its requirements to ensure the information requested is the minimum necessary to accomplish our mission and to place the least burden on industry. Training is offered on a regular basis, and toll-free telephone assistance is available during business hours. The information is collected only when a lessee submits a request to exceed regulatory allowance limits.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

If MMS did not collect the information, we could not carry out our mandated mission. By delegation of the Secretary's trust responsibilities under Indian lease terms, MMS is responsible for ensuring the proper valuation of production from Indian leases. Not collecting the information may result in loss of royalty payments to the Indian lessor due to royalties not being collected properly in circumstances where the lessee deducts regulatory allowances from the value of production. The request to exceed a regulatory allowance limit is voluntary and results in a benefit to the lessee. All the information currently requested is necessary for MMS to perform its function.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

(a) requiring respondents to report information to the agency more often than quarterly.

Respondents are not required to report information more often than quarterly. Lessees submit Form MMS-4393 only if they wish to receive the benefit. They must submit the form annually to continue to exceed the regulatory allowance limitation.

(b) requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it.

Not applicable in this collection.

(c) requiring respondents to submit more than an original and two copies of any document.

Not applicable in this collection.

(d) requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than 3 years.

In accordance with 30 U.S.C. 1713(b), Indian oil and gas records must be maintained for 6 years after the records are generated unless the Secretary notifies the record holder that such records must be maintained for a longer period due to an ongoing audit or investigation.

(e) in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study.

Not applicable in this collection.

(f) requiring the use of statistical data classification that has been reviewed and approved by OMB.

There are no special circumstances with respect to 5 CFR 1320.5(d)(2)(v) through (viii) as the collection is not a statistical survey and does not use statistical data classification.

(g) that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use.

This collection does not include a pledge of confidentiality not supported by statute or regulation.

(h) requiring respondents to submit proprietary trade secrets or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

This collection does not require proprietary, trade secret, or other confidential information not protected by agency procedures.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice [and in response to the PRA statement associated with the collection over the past 3 years] and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported. [Please list the names, titles, addresses, and phone numbers of persons contacted.] Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years – even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

As required in 5 CFR 1320.8(d), MMS published a 60-day review and comment notice in the *Federal Register* on August 18, 2004 (69 FR 51321) (Attachment 4). In addition, the Paperwork Reduction Act (PRA) statement on Form MMS-4393 explains that MMS will accept comments on the information collected and the burden estimate at any time. We display the OMB control number and provide the address for sending comments to MMS.

We did not receive any comments in response to the *Federal Register* notice. We did not receive any unsolicited comments from potential respondents covered under these regulations, or any unsolicited comments from anyone who submits Form MMS-4393. However, we contacted four

companies and revised our burden hour estimates based on information obtained. The burden estimate in the chart, Section A.12 Burden Breakdown, reflects the input of the companies identified below.

Mr. Jim Thomas
Kerr McGee
IBM Business Consulting Services
521 South Boston Ave.
Tulsa, Oklahoma 74103-4618
(918) 925-7002

Ms. Carol Stahl
Tom Brown, Inc.
555 Seventeenth Street, Suite 1850
Denver, Colorado 80202-3918
(303) 260-5150

Ms. Diane Jaramillo
Robert L. Bayless, Producer LLC
Oil & Gas Producer
P.O. Box 168
Farmington, New Mexico 87499
(505) 326-2659

Ms. Mary Blane
Yates Petroleum Corporation
105 Fourth Street
Artesia, New Mexico 88210-2118
(505) 748-4146

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

We will not provide any payment or gift to respondents in this collection.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

Commercial or financial information provided to MMS, relative to minerals removed from Federal and Indian leases, may be proprietary. Trade secrets and proprietary and other information are protected in accordance with standards established by the Federal Oil and Gas Royalty Management Act of 1982, as amended (30 U.S.C. 1733), and the Freedom of Information Act (5 U.S.C. 552(b)(4)) and its implementing regulations (43 CFR 2).

In addition, the Indian Mineral Development Act of 1982 (25 U.S.C. 2103) provides that all information related to any Indian minerals agreement covered by the Act in the possession of the Department shall be held as privileged proprietary information. Storage of proprietary information and access to it are controlled by strict security measures.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

The collection does not include sensitive or private questions.

12. Provide estimates of the hour burden of the collection of information. The statement should:

(a) Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.

We expect approximately 26 respondents to submit the required information annually. The estimated annual reporting burden is 121 hours. The estimate of burden hours per response is based on contact with respondents, and the estimate of annual number of responses is based on our analysis of historical data. The burden estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

(b) If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.

This information collection has one form, Form MMS-4393, Request to Exceed Regulatory Allowance Limitation. We estimate most respondents require approximately 4.25 hours annually to gather the supporting documentation and fill out the form, with the exception of 30 CFR 206.158 (d)(2)(i), incurring extraordinary gas processing costs, which is estimated at 9.5 hours annually.

(c) Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.

We expect approximately 26 respondents to submit Form MMS-4393 annually. We estimate the total annual reporting burden is 121 hours. Based on a cost factor of \$50 per hour, we estimate the total annual cost to industry is \$6,050 ($\$50 \times 121 \text{ hours} = \$6,050$). There are no additional recordkeeping costs. The following chart shows the estimated burden hours by CFR section and paragraph:

Section A.12 Burden Breakdown

30 CFR Section	Reporting Requirement	Burden Hours per Response	Annual Number of Responses	Annual Burden Hours
Subpart B—Indian Oil				
§ 206.54 Transportation allowances—general.				
206.54 (b)(2)	Upon request of a lessee, MMS may approve a transportation allowance deduction in excess of the limitation prescribed by paragraph (b)(1) of this section. * * * An application for exception (using Form MMS-4393, Request to Exceed Regulatory Allowance Limitation) shall contain all relevant and supporting documentation necessary for MMS to make a determination. * * *	4.25	1	4.25
Subpart C—Federal Oil				
§ 206.109 When may I take a transportation allowance in determining value?				
206.109 (c)(2)	(c) <i>Limits on transportation allowances.</i> * * * (2) You may ask MMS to approve a transportation allowance in excess of the limitation in paragraph (c)(1) of this section. * * * Your application for exception (using Form MMS-4393, Request to Exceed Regulatory Allowance Limitation) must contain all relevant and supporting documentation for MMS to make a determination. * * *	4.25	1	4.25
Subpart D—Federal Gas				
§ 206.156 Transportation allowances—general.				
206.156 (c)(3)	Upon request of a lessee, MMS may approve a transportation allowance deduction in excess of the limitation prescribed by paragraphs (c)(1) and (c)(2) of this section. * * * An application for exception (using Form MMS-4393, Request to Exceed Regulatory Allowance Limitation) shall contain all relevant and supporting documentation necessary for MMS to make a determination. * * *	4.25	2	8.5
Subpart D—Federal Gas				
§ 206.158 Processing allowances—general.				
206.158 (c)(3)	Upon request of a lessee, MMS may approve a processing allowance in excess of the limitation prescribed by paragraph (c)(2) of this section. * * * An application for exception (using Form MMS-4393, Request to Exceed Regulatory Allowance Limitation) shall contain all relevant and supporting documentation for MMS to make a determination. * * *	4.25	19	80.75
206.158 (d)(2)(i)	If the lessee incurs extraordinary costs for processing gas production from a gas production operation, it may apply to MMS for an allowance for those costs which shall be in addition to any other processing allowance * * *.	9.5	2	19

30 CFR Section	Reporting Requirement	Burden Hours per Response	Annual Number of Responses	Annual Burden Hours
Subpart E—Indian Gas				
§ 206.177 What general requirements regarding transportation allowances apply to me?				
206.177 (c)(2) and (c)(3)	(c)(2) If you ask MMS, MMS may approve a transportation allowance deduction in excess of the limitations in paragraph (c)(1) of this section. * * * (c)(3) Your 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.	4.25	1	4.25
TOTAL BURDEN			26	121

13. Provide an estimate of the total annual [non-hour] cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

(a) The cost estimate should be split into two components: (1) a total capital and start-up cost component (annualized over its expected useful life) and (2) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information [including filing fees paid]. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.

(b) If cost estimates are expected to vary widely, agencies should present ranges of cost burden and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.

(c) Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

We have identified no “non-hour” cost burdens for this collection of information.

14. Provide estimates of annualized cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

We estimate the Federal Government will spend an annual average of 7 hours (15 minutes x 26 responses = 6.5 hours, which we round up to 7 hours) to review the required information and to enter the data into the MMS database. Based on a cost factor of \$50 per hour, the annualized cost to the Federal Government is \$350 (7 hours x \$50 = \$350).

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.

Item 13, OMB Form 83-I

The current OMB inventory for this collection of information is 37 burden hours. Although we decreased the number of respondents from 75 to 26 based on our analysis of historical data, we increased the estimated annual reporting burden to 121 hours. The total increase of 84 hours is due to (1) an adjustment of 60.75 hours, rounded to 61 hours, which is an increase resulting from more accurate estimates of the amount of time required to provide the information requested, based on feedback from the companies we contacted; and (2) a program change of 23.25 hours, rounded to 23 hours, which is an increase resulting from including 30 CFR 206.158 (d)(2)(i) and 206.177 (c)(2), which were not included in the previous renewal.

Item 14, OMB Form 83-I

There is no cost burden to report in Item 14 of OMB Form 83-I.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

The MMS will not publish the data.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

The MMS will display the OMB approval expiration date on Form MMS-4393.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I

To the extent that the topics apply to this collection of information, we are not making any exceptions to the "Certification for Paperwork Reduction Act Submissions."

B. Collection of Information Employing Statistical Methods

The agency should be prepared to justify its decision not to use statistical methods in any case where such methods might reduce burden or improve accuracy of results. When Item 17 on the OMB Form 83-I is checked "Yes," the following documentation should be included in the Supporting Statement to the extent that it applies to the methods proposed.

This section is not applicable for this collection. We will not employ statistical methods in this information collection.