

[4310-MR-W]

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of an extension of a currently approved information collection (OMB Control Number 1010-0074).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to **OMB** an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under 30 CFR Part 206, Subpart J—Indian Coal. This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements. The ICR is titled 30 CFR Part 206—Product Valuation, Subpart J—Indian Coal (Forms MMS-4292, Coal Washing Allowance Report, and MMS-4293, Coal Transportation Allowance Report). We changed the title of this ICR to clarify the regulatory language we are covering under 30 CFR Part 206. The previous title was “Coal Washing and Transportation Allowances (Forms MMS-4292 and MMS-4293).”

DATES: Submit written comments on or before (INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER).

ADDRESSES: Submit written comments by either FAX (202) 395-6566 or e-mail (OIRA_Docket@omb.eop.gov) directly to the Office of Information and Regulatory

Affairs, OMB, Attention: Desk Officer for the Department of the Interior (OMB Control Number 1010-0074). Mail or hand-carry a copy of your comments to Sharron L. Gebhardt, Lead Regulatory Specialist, Minerals Management Service, Minerals Revenue Management, P.O. Box 25165, MS 302B2, Denver, Colorado 80225. If you use an overnight courier service, our courier address is Building 85, Room A-614, Denver Federal Center, Denver, Colorado 80225. You may also e-mail your comments to us at mrmm.comments@mms.gov. Include the title of the information collection and the OMB Control Number in the "Attention" line of your comment. Also include your name and return address. Submit electronic comments as an ASCII file avoiding the use of special characters and any form of encryption. If you do not receive a confirmation that we have received your e-mail, contact Ms. Gebhardt at (303) 231-3211.

FOR FURTHER INFORMATION CONTACT: Sharron L. Gebhardt, telephone (303) 231-3211, FAX (303) 231-3781, e-mail Sharron.Gebhardt@mms.gov. You may also contact Sharron Gebhardt to obtain a copy at no cost of the forms and regulations that require the subject collection of information.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR Part 206—Product Valuation, Subpart J—Indian Coal (Forms MMS-4292, Coal Washing Allowance Report, and MMS-4293, Coal Transportation Allowance Report).

OMB Control Number: 1010-0074.

Bureau Form Number: Forms MMS-4292 and MMS-4293.

Abstract: The Secretary of the U.S. Department of the Interior is responsible for matters relevant to mineral resource development on Federal and Indian lands and the

Outer Continental Shelf (OCS). The Secretary, under the Mineral Leasing Act (30 U.S.C. 1923) and the Outer Continental Shelf Lands Act (43 U.S.C. 1353), is responsible for managing the production of minerals from Federal and Indian lands and the OCS, collecting royalties from lessees who produce minerals, and distributing the funds collected in accordance with applicable laws.

The Secretary also has an Indian trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. The MMS performs the royalty management functions and assists the Secretary in carrying out the Department's Indian trust responsibility.

This ICR provides for the collection of coal washing and transportation information for Indian leases. The information collected is essential for the royalty valuation process. Applicable citations include 25 U.S.C. 396d and the Indian Mineral Development Act of 1982 (25 U.S.C. 2103) pertaining to Indian lands on which solid minerals are produced. The product valuation and allowance determination processes are essential to assure that the Indians receive payment on the full value of the minerals removed.

In order to determine whether the amount of royalty paid is correct, the value of the coal being sold or otherwise disposed of in some other manner (for example, used by the lessee) must be established. Under some circumstances, the lessee may be authorized to deduct certain costs in the calculation of royalties due. The total of these authorized deductible costs is known as an allowance. An allowance may be granted to compensate the lessee for the reasonable actual cost of washing the royalty portion of the coal. Also, when the sales point is not in the immediate vicinity of a lease or mine area, an allowance may be granted to compensate the lessee for the reasonable actual cost of transporting the

royalty portion of the coal to a sales point not on the lease or mine area.

We developed Form MMS-4292, Coal Washing Allowance Report, and Form MMS-4293, Coal Transportation Allowance Report, for industry to use when reporting or requesting a washing or transportation allowance. Historically, the lessee requested approval of royalty deductions by submitting a letter, which provided information enabling the Department to evaluate the reasonableness of the deductions. Under the product valuation regulations at 30 CFR 206—Product Valuation, Subpart J—Indian Coal, we normally accept costs incurred under arm’s-length contracts for transporting and/or washing coal. (An arm’s-length contract is a contract or an agreement that has been arrived at in the marketplace between independent, nonaffiliated persons with opposing economic interests regarding that contract.) The regulations further provide that we normally accept the gross proceeds accruing to the lessee pursuant to their arm’s-length contract as being representative of value for ad valorem leases [see 30 CFR 206.456(b)(1)].

In those instances when Indian royalty coal is washed or transported under non-arm’s-length conditions, it is necessary for us to obtain cost data. This cost data enables us to accurately determine if the lessee correctly computed the coal value and the gross proceeds for royalty calculation purposes.

Not collecting this information would limit the Secretary’s ability to discharge fiduciary duties and may also result in the inability to confirm accurate royalty value. The information that is collected under this ICR is essential for the royalty valuation process.

We are renewing this information collection request because of the possibility of 10

or more respondents in the future. The MMS has had no respondents for this information collection since the previous renewal; however, we are basing our calculations of the burden hours on 1 respondent, as we did for the previous renewal.

Proprietary information submitted is protected, and there are no questions of a sensitive nature included in this information collection.

Frequency: Annually.

Estimated Number and Description of Respondents: 1 Indian lessee.

Estimated Annual Reporting and Recordkeeping “Hour” Burden: 4 hours.

We base our calculations on the reasonable expectation of 2 responses from 1 Indian lessee. We have not included in our estimates certain requirements performed in the normal course of business and considered usual and customary. The following chart shows the breakdown of the estimated burden hours by CFR section and paragraph:

RESPONDENTS’ ESTIMATED ANNUAL BURDEN HOURS

Citation 30 CFR Subpart J	Reporting Requirement	Hour Burden	Average No. Annual Responses	Annual Burden Hours
Form MMS-4292, Coal Washing Allowance Report				
206.458 (a)(1), (b)(1), (c)(1)(i) and (iii), (c)(2)(i) and (iii)	<p>Determination of washing allowances.</p> <p>(a) <i>Arm’s-length contracts.</i> (1) * * * However, before any deduction may be taken, the lessee must submit a completed page one of Form MMS-4292, Coal Washing Allowance Report * * *.</p> <p>(b) <i>Non-arm’s-length or no contract.</i> (1) * * * However, before any estimated or actual deduction may be taken, the lessee must submit a completed Form MMS-4292 * * *.</p>	2	1	2

Citation 30 CFR Subpart J	Reporting Requirement	Hour Burden	Average No. Annual Responses	Annual Burden Hours
	<p>(c) <i>Reporting requirements.</i> (1) <i>Arm's-length contracts.</i> (i) * * * the lessee shall submit page one of the initial Form MMS-4292 prior to, or at the same time, as the washing allowance determined pursuant to an arm's-length contract is reported on Form MMS-4430, Solid Minerals Production and Royalty Report. * * * (iii) After the initial reporting period and for succeeding reporting periods, lessees must submit page one of Form MMS-4292 * * *.</p> <p>(2) <i>Non-arm's-length or no contract.</i> (i) * * * the lessee shall submit an initial Form MMS-4292 prior to, or at the same time as, the washing allowance determined pursuant to a non-arm's-length contract or no contract situation is reported on Form MMS-4430, Solid Minerals Production and Royalty Report. * * * (iii) For calendar-year reporting periods succeeding the initial reporting period, the lessee shall submit a completed Form MMS-4292 containing the actual costs for the previous reporting period. If coal washing is continuing, the lessee shall include on Form MMS-4292 its estimated costs for the next calendar year. * * *</p>			
Form MMS-4293, Coal Transportation Allowance Report				
206.461 (a)(1), (b)(1), (c)(1)(i) and (iii), (c)(2)(i) and (iii)	<p>Determination of transportation allowances.</p> <p>(a) <i>Arm's-length contracts.</i> (1) * * * However, before any deduction may be taken, the lessee must submit a completed page one of Form MMS-4293, Coal Transportation Allowance Report * * *.</p> <p>(b) <i>Non-arm's-length or no contract.</i> (1) * * * However, before any estimated or actual deduction may be taken, the lessee must submit a</p>	2	1	2

Citation 30 CFR Subpart J	Reporting Requirement	Hour Burden	Average No. Annual Responses	Annual Burden Hours
	<p>completed Form MMS-4293 * * *.</p> <p>(c) <i>Reporting requirements.</i> (1) <i>Arm's-length contracts.</i> (i) * * * the lessee shall submit page one of the initial Form MMS-4293 prior to, or at the same time as, the transportation allowance determined pursuant to an arm's-length contract is reported on Form MMS-4430, Solid Minerals Production and Royalty Report. * * * (iii) After the initial reporting period and for succeeding reporting periods, lessees must submit page one of Form MMS-4293 * * *.</p> <p>(2) <i>Non-arm's-length or no contract.</i> (i) * * * the lessee shall submit an initial Form MMS-4293 prior to, or at the same time as, the transportation allowance determined pursuant to a non-arm's-length contract or no contract situation is reported on Form MMS-4430, Solid Minerals Production and Royalty Report. * * * (iii) For calendar-year reporting periods succeeding the initial reporting period, the lessee shall submit a completed Form MMS-4293 containing the actual costs for the previous reporting period. * * *</p>			
TOTAL BURDEN			2	4

Estimated Annual Reporting and Recordkeeping “Non-hour” Cost Burden: We have identified no “non-hour” cost burdens.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

Comments: Section 3506(c)(2)(A) of the PRA requires each agency “* * * to provide

notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *.” Agencies must specifically solicit comments to: (a) evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, we published a notice in the *Federal Register* on March 26, 2004 (69 FR 15897), announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. We received no comments in response to the notice.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the ADDRESSES section of this notice. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Public Comment Policy: We will post all comments in response to this notice on our Web site at http://www.mrm.mms.gov/Laws_R_D/InfoColl/InfoColCom.htm. We will also make copies of the comments available for public review, including names and addresses of respondents, during regular business hours at our offices in Lakewood, Colorado. Upon request, we will withhold an individual respondent’s home address from

the public record, as allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you request that we withhold your name and/or address, state your request prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

MMS Information Collection Clearance Officer: Arlene Bajusz (202) 208-7744.

Date

Lucy Querques Denett
Associate Director for
Minerals Revenue Management