

**Supporting Statement for
30 CFR 208.11 (a), (b), (d) and (e)—Surety Requirements
(Forms MMS-4071 and MMS-4072)
(OMB Control Number 1010-0135)
(Expiration Date: May 31, 2003)**

A. Justification

1. What circumstances make this collection of information necessary?

The Secretary of the U.S. Department of the Interior (DOI) 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 Minerals Management Service (MMS) performs the royalty management functions for the Secretary.

The Mineral Lands Leasing Act of 1920 and the Outer Continental Shelf (OCS) Lands Act of 1953 authorize the Secretary to sell royalty oil accruing to the United States from oil and gas leases issued pursuant to those acts. "Royalty oil" is crude oil produced from leased Federal lands, both onshore and offshore, which the Government elects to accept as royalty payment rather than requiring payment in money.

When the Secretary determines that small refiners do not have access to adequate supplies of oil, the Secretary may dispose of any oil taken as royalty by conducting a sale of such oil, or by allocating it to eligible refiners. The regulations governing these sales can be found at 30 CFR Part 208 (Attachment 1).

2. How, by whom, and for what purpose will the information be used?

In order to qualify for these sales, small refiners must pre-qualify by signing the MMS base contract "RIK Crude Oil General Terms and Conditions" and providing detailed financial information. Upon pre-qualification, MMS will issue an amount of unsecured credit based on the creditworthiness of the offeror. For awards exceeding the amount of unsecured credit issued by MMS, successful offerors will be required to provide secured financial assurance in the form of an Irrevocable Letter of Credit (ILOC), Bond, or other MMS-acceptable surety instrument within 5 business days prior to the first delivery under the contract. Small refiners must provide a surety document such as a Letter of Credit, Form MMS-4071 (Attachment 2) or a Royalty-In-Kind Contract Surety Bond, Form MMS-4072 (Attachment 3) to protect the Government's interest. After the sale, the small refiner/purchaser or its surety company may elect not to renew the Letter of Credit at any monthly anniversary date, but must notify MMS of its intent not to renew at least 30 days prior to the anniversary date. MMS may either allow the purchaser to obtain a replacement surety or terminate the contract.

The surety documents provide the Federal Government with a means to collect money if refiners

do not report and pay the Federal oil they have received. Refiners contact a financial institution to obtain this surety. During the term of the RIK contract, the amount of surety can be increased or decreased depending on volume and value being delivered to the refiners.

3. Does the collection involve the use of information technology, does it reduce the burden, and to what extent?

Our Government Paperwork Elimination Act (GPEA) Plan indicates that GPEA does not apply to this information collection because refiners must provide a hardcopy surety. The bonding and banking industry require that original documents be submitted if draw down is necessary. An electronic or telefax copy is not acceptable. However, the forms are available on MMS' Minerals Revenue Management's Web site prior to small refiner RIK sales.

4. Is the information duplicated by any other Federal agency, and can similar information be used or modified for this collection?

The surety required from small refiners is unique and does not duplicate any information available from other Federal agencies.

5. What is the agency doing to minimize the burden on small businesses or other small entities?

The small refiner royalty-in-kind sale program, by definition, involves small, independent refiners. Because small businesses are the primary respondents, MMS has carefully analyzed its requirements to ensure that the information requested is the minimum necessary to accomplish our mission. Eligible small refiners are defined at 30 CFR 208.2, which states:

(1) For the purchase of royalty oil from onshore leases, it means a refiner that has an operating refinery and qualifies as a small and independent refiner as those terms are defined in Sections 3(3) and 3(4) of the Emergency Petroleum Allocation Act, 15 U.S.C. 751 *et seq.* A refiner that, together with all persons controlled by, in control of, under common control with, or otherwise affiliated with the refiner, inputs domestic crude oil from its own production exceeding 30 percent of total refinery input is ineligible to participate in royalty sales under this part. (In other words, to be eligible under this part, the refiner must receive at least 70 percent of his feeder stocks from unaffiliated sources.) Crude oil received in exchange for the refiner's own production is considered to be part of that refiner's own production for purposes of this section.

(2) For the purchase of royalty oil from offshore leases, it means a refiner that has an operating refinery and qualifies as a small business enterprise under the rules of the Small Business Administration (SBA) (13 CFR Part 121). The SBA standard for a small business within the Petroleum Refining Industry is less than or equal to 75,000 bbl per day, and less than or equal to 1,500 employees.

Refiners have historically used the surety forms and have not indicated any undue burden from continuing to provide these surety documents.

6. What are the consequences to the Federal program or policy activity if the information is not collected or is collected less frequently; and are there any technical or legal obstacles to reducing the burden?

Without the surety protection, the Government could lose money if a refiner failed to pay for the royalty oil he received.

7. Are there any special circumstances that require exceptions to 5 CFR 1320.5(d)(2) requiring respondents to: (i) report more often than quarterly, (ii) prepare written responses in fewer than 30 days after receipt, (iii) submit more than an original and two copies of any document, or (iv) retain records for more than 3 years?

This collection of information is consistent with these provisions at 5 CFR 1320.5(d)(2) except for (iv). In accordance with 30 U.S.C. 1724(f), Federal oil and gas records must be maintained for 7 years from the date the obligation became due.

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 classifications; nor does it include a pledge of confidentiality not supported by statute or regulation or require proprietary, trade secret, or other confidential information not protected by agency procedures.

8. What efforts did the agency make to consult with the public and a representative sample of respondents?

As required in 5 CFR 1320.8(d), MMS published in the Federal Register a 60-day review and comment notice on December 3, 2002 (67 FR 71979) (Attachment 4). We received no comments in response to this notice.

9. Will payment or gifts be provided to respondents?

No payments or gifts will be provided to the respondents

10. What assurance of confidentiality is provided to respondents?

Commercial or financial information submitted to DOI relative to minerals removed from Federal and Indian leases may be proprietary. Trade secrets and proprietary 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), the Freedom of Information Act (5 U.S.C. 552(b)(4)), and Department regulations (43 CFR 2). The Indian Minerals 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 such information and access to it is controlled by strict security measures.

11. Does the information collected include any questions of a sensitive nature?

None of the information requested is considered sensitive.

12. What is the estimated respondent reporting and recordkeeping “hour” burden?

There are approximately 10 respondents (purchasers). The total estimated annual burden hours are 10. At an estimated rate of \$50 per hour, the total estimated cost to respondents is \$500. There are no additional recordkeeping costs associated with this information collection. See the following chart for a breakdown of the burden estimate by CFR section and paragraph.

Respondent Annual Burden Hour Chart

30 CFR Section	Reporting Requirement	Burden Hours per Response	Annual Number of Responses	Annual Burden Hours
208.11 (a), (b) (d), and (e)	The eligible purchaser, prior to execution of the contract, shall furnish an "MMS-specified surety instrument," in an amount equal to the estimated value of royalty oil that could be taken by the purchaser in a 99-day period, plus related administrative charges . . . The purchaser or its surety company may elect not to renew the letter of credit at any monthly anniversary date, but must notify MMS of its intent not to renew at least 30 days prior to the anniversary date. . . the "MMS-specified surety instrument" shall be in the form specified by MMS instructions or approved by MMS. All surety instruments must be in a form acceptable to MMS and must include such other specific requirements as MMS may require adequately to protect the Government's interests.	1	10	10
Total			10	10

13. What is the estimated reporting and recordkeeping “non-hour cost” burden of the collection of information, excluding any costs identified in Items 12 & 14?

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

14. What is the estimated annualized cost to the Federal Government?

We estimate that MMS employees will require 1 hour to process each surety instrument or each request to terminate or replace a surety instrument for a total of 10 hours. At a rate of \$50 per hour, we estimate the total cost to the Federal Government is \$500.

15. Is the agency requesting any program changes or adjustments reported in Items 13 and 14 of the Form OMB 83-I?

The current OMB inventory is 25 annual burden hours. We are adjusting the burden hours from 25 hours to 10 hours to reflect a decrease in the number of responses.

16. Are there plans for tabulation and publication of the results of the information collection?

The data collected will not be tabulated and published for statistical use.

17. Is the agency seeking approval to not display the expiration date?

No. We will display the expiration date of OMB's approval on Forms MMS-4071 and MMS-4072.

18. Is the agency requesting exceptions to the certification statement in Item 19 of Form OMB 83-I?

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

B. Collection of Information Employing Statistical Methods.

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