

**Supporting Statement for
Request to Exceed Regulatory Allowance Limitation
(Form MMS-4393)
(OMB Control Number 1010-0095)
(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 product valuation determination process is essential to assuring that royalty payments are based on the proper value of the minerals being removed.

The Minerals Management Service (MMS) performs the royalty management functions for the Secretary. 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. Royalty rates are specified in the lease instrument.

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 of such minerals. The information collected includes data necessary to assure 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 a part of the product valuation process that MMS uses to determine if the lessee is reporting and paying the proper royalty amount.

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. Regulations at 30 CFR 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 royalty payor (Attachment 1).

Similar 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, while 30 CFR 206.158(c)(3) provides for the approval of a gas processing allowance in excess of 66 2/3 percent when properly requested by the payor (Attachment 2). Effective January 2000, the Indian gas regulations do not contain any provisions to exceed the 66 2/3 percent processing allowance limit.

To request permission to exceed an allowance limit, royalty payors must write a letter to MMS explaining why a higher allowance limit is necessary and provide supporting documentation. MMS developed Form MMS-4393 (Request to Exceed Regulatory Allowance Limitation) to be included with the payor's request for approval to exceed the allowance limit. The form provides MMS the data necessary to make a decision on the request and tracks deductions on royalty reports (data reported on Form MMS-4393 is also subject to subsequent audit and adjustment). In previous unstructured requests, some of that data was frequently omitted.

MMS is seeking approval of revised Form MMS-4393 (Attachment 3). These revisions are necessary to make Form MMS-4393 compatible with other recently revised forms such as Form MMS-2014, Report of Sales and Royalty Remittance (OMB control number 1010-0140). These revisions are the result of a major reengineering of MMS's financial and compliance processes and the procurement of a new computer system. For example, during the reengineering process, MMS decided to eliminate the reporting of an accounting identification (AID) number and selling arrangement number on all existing forms. In their place, MMS is requiring a combination of lease, agreement numbers, and sales type codes. Since the existing Form MMS-4393 contains columns for AID and selling arrangement numbers, these columns must be removed and new columns for lease and agreement number and sales type code must be added. The revised form requires similar types of information to be provided by the lessee so we do not anticipate any changes in burden hours. The revised form will become effective and replace the existing form when our new financial and compliance system is fully operational.

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

The information is provided by royalty payors. Form MMS-4393 ensures that necessary information is available for the proper evaluation of the payor's allowance request. Regulations at 30 CFR part 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. MMS uses this information to determine whether the lessee qualifies for an exception to the allowance limitation rules. Without MMS approval, payors are not permitted to exceed established 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.

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

The use of improved information technology is not applicable for this information collection. Our Government Paperwork Elimination Act Plan indicates that this information collection has too few respondents to be cost effective to develop an electronic submission. However, we will offer an electronic copy of this form on our Internet web site that payors may print and complete.

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

Information on allowances for specific leases is not collected by any other Federal agency. This information is not available until a royalty payor submits a request to exceed 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.

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

Because small businesses are among potential respondents, MMS has carefully analyzed its requirements to ensure that the information requested is the minimum necessary to accomplish our mission and places the least burden on industry. MMS offers payor training on a regular basis and toll-free telephone assistance is always available to payors. The information is collected only when a royalty payor submits a request to exceed regulatory limits on allowance rates.

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

Although the request to exceed an allowance limit is voluntary on the part of the payors and results in a benefit to them, very often payors did not provide all of the data MMS needed to approve or deny their request. The follow-up necessary to obtain required information created an additional burden for both the payor and the Government. Form MMS-4393 is submitted annually, and all the information currently requested is necessary for MMS to perform its function. The information is not available from any other source.

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):

(a) 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, and

(b) 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 August 15, 2001 (66 FR 42875) (Attachment 4). We received comments from one company in response to this notice as follows:

Comment: The company stated that they were in agreement with the agency's request to modify the existing Form MMS-4393. In addition, the company stated: "For the form to remain valuable we feel the revisions are necessary in order to achieve consistency and compatibility with the reengineered financial and compliance systems of the agency. Additionally, revisions of the forms will not increase the burden on the respondent."

Response: MMS appreciates the company's comments. We would like to add that, as we routinely process these allowance requests, we are in frequent contact with payors submitting Form MMS-4393 and continually validate the information we use to justify this information collection request.

9. Will payments 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 reporting and record keeping “hour” burden?

The annual reporting burden for this information collection is 37 hours (75 payors x .5 hours per request). Approximately 75 royalty payors annually submit requests to exceed established allowance limits. Using Form MMS-4393, most payors can provide us the information necessary to complete our review in about 10 minutes. Some large companies with very complex operations may require up to 1 hour to complete the form and provide data to back up information on the form. Consequently, we estimate that the time to complete the form should average 1/2 hour per request. Requests to exceed the regulatory limits for allowances are submitted annually. At an hourly rate of \$50, the total annual cost to industry is \$1,850. There are no additional recordkeeping costs associated with this information collection. See the table below for a breakdown of the burden by CFR section and paragraph.

30 CFR Section	Reporting Requirement	Burden Hours per Response	Annual Number of Responses	Annual Burden Hours
206.54(b)(2) 206.109(c)(2) 206.156(c)(3) 206.158(c)(3) 206.177(c)(3)	An application for exception (using Form MMS-4393...) shall contain all relevant and supporting documentation necessary for MMS to make a determination.	.5	75	37

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

It is estimated that it will take the Federal Government 15 minutes to review each of the 75 Forms MMS-4393 submitted annually and to enter the data into MMS’s database for a total of 18 hours annually. At an hourly cost of \$50, the total annual cost to the government for processing this information collection is \$900.

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

No program changes or adjustments are reported in Items 13 and 14. The currently approved hours in OMB’s inventory (37) is the same.

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 Form MMS-4393.

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. Collections of Information Employing Statistical Methods

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