

**Supporting Statement for
Royalty-In-Kind (RIK) Pilot Program
Directed Communications by Operators of
Federal Oil and Gas Leases
(OMB Control Number 1010-0126)
(Expiration Date: May 30, 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.

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 of such minerals. The information collected includes data necessary to assure that the royalties are paid appropriately.

The Mineral Leasing Act (MLA), 30 U.S.C. 192, for onshore leases and the Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. 1353, for offshore leases (Attachment 1), authorize the Federal Government to take its royalty share "in-kind" (RIK) rather than "in value." Recommendations in an MMS 1997 Feasibility Study concluded, under the right conditions, RIK could be workable, revenue positive, and administratively more efficient for government and industry. Pursuant to the 1997 study's recommendations, MMS is conducting the following pilots:

- For oil from onshore Federal leases in Wyoming that began on October 1, 1998;
- For gas from Federal leases offshore the State of Texas [Texas 8(g)] that began on December 1, 1998;
- For gas from Federal offshore leases in the Gulf of Mexico (GOM) Region that began in December 1999. This pilot involves the largest production volumes; and
- For oil from Federal offshore leases in the Gulf of Mexico (GOM) Region that began in October 2000.

The feasibility and cost-effectiveness of MMS providing RIK production direct to other Federal agencies for their consumption is also being investigated.

MMS, as the responsible steward of these revenues, is conducting these pilots and an investigation of direct Federal consumption to show conclusively whether or not RIK is viable for the Federal Government, and, if so, how, when and where it makes sense to exercise the RIK option. Communication between the operators of the RIK leases and MMS, as lessor, is required to assure accurate and timely pick up and delivery of the MMS royalty share of production volumes, and the verification of same, including costs of transportation. MMS will instruct lessees and their operators using "Dear Operator" letters containing our reporting requirements.

In addition to the above pilots, on November 6, 2001, President Bush announced an initiative to refill the Strategic Petroleum Reserve (SPR). MMS, in coordination with the Department of Energy (DOE), entered into a joint, 3-year initiative to fill the remaining capacity of the SPR. Operators of Federal leases in the Gulf of Mexico will deliver MMS's royalty oil to MMS's exchange partner at or near the lease. MMS's exchange partner will then deliver similar quantities of crude oil to MMS or its designated agent at Gulf Coast market centers. MMS' designated agent will be either DOE or its exchange contractor. DOE will then contract for the exchange or direct movement of exchange oil to the SPR.

Therefore, due to their similarity, we are merging this ICR with OMB Control Number 1010-0130, Directed Communications between Operators of Federal RIK Leases and Deliverers of Equivalent Oil Production to the Strategic Petroleum Reserve (SPR).

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

MMS, as responsible steward of oil and gas royalties, must direct operators of affected MMS leases to carry out three types of communication to take MMS's RIK crude oil or natural gas. The types of information that operators must provide are as follows:

(1) About 8-10 days before the end of the month, report initial information about the projected volumes and qualities of RIK production the operator expects to make available in the next month, and corrections to those projected volumes and qualities for the month, submitted at varying frequencies during the month;

(2) When needed, report billing information about transportation/billing arrangements for the RIK to the delivery point, and

(3) Report month-end summary information (lease imbalance statement) about total RIK volumes and qualities needed to carry over to the next month to resolve aggregated imbalances that have incurred in prior months of RIK deliveries.

Experience with the Wyoming and Texas 8(g) Pilots demonstrate directed communication requirements differed according to the needs of each pilot situation. For example, in the Wyoming Pilot, RIK was delivered to the purchasers at the lease. Therefore, the direction to

make transportation arrangements was included in “Dear Operator” letters issued to those operators. For these reasons, we are not requesting OMB approval of specific “Dear Operator” letters to operators but, instead, requesting OMB approval to continue collecting the three kinds of reporting requirements concerning communications between operators and MMS. By obtaining continued approval for these three kinds of reporting requirements, MMS will be able to select the types of directed communications needed for each situation and include only those types in a “Dear Operator” letter appropriate to the operation.

The types of communication and the supporting data MMS will require operators to use in setting up the monthly delivery of RIK to the purchaser are standard business practices in the oil and gas industry. The information in the directed communication is essential to the delivery and acceptance of verifiable quantities and qualities of oil and gas and is exchanged as a normal part of the conduct of those business activities, even when the operators are not directed to do so.

MMS uses sample template “Dear Operator” letters based on the type of production i.e., oil and gas. The information is reported to one entity, either MMS or the MMS designee but not both, and the designee need not always be the MMS purchaser. These sample template "Dear Operator" letters are updated to reflect current market conditions as required. See attachment 2 for examples of “Dear Operator” letters.

When the lessee fulfills the lease royalty obligation as RIK, the lessees’ payors (who often are also the operators) are relieved of most of the burden of reporting on Form MMS-2014 used by MMS to track payors’ remittances. However, reporting is still required on Form MMS-2014 to document the payment or costs of transportation when royalty production is delivered away from the lease or under delivery of royalty production is resolved by cash payment.

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 at present because it is either still in the pilot phase or it is an initiative with a relatively short and finite time frame. However, MMS does accept most communication methods used in the normal course of business including electronic technology such as electronic spreadsheets of balancing accounts, telephone, email, and telefax. We expect to receive, on an average, 50 percent of the responses electronically.

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

Information pertaining to RIK sales and purchases is unique and not reported elsewhere. 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. The impact on small businesses will be the same as on large businesses in terms of the hour burden of communicating the three kinds of information.

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?

Failure of the lessee/operators to timely communicate to MMS, or the MMS designee, information about volumes, quality, transportation, timing of delivery, and status of balancing accounts (over-and-under deliveries) concerning MMS RIK volumes would likely result in:

- Storage costs incurred because MMS or its designee did not know how much pipeline space to reserve or when to pick up the MMS royalty production;
- Reduced revenues from decreased ability to monitor whether RIK values are under or over delivered during price highs and lows;
- Monetary penalties incurred for failure to meet delivery due dates; and
- Impairment of MMS and DOE's ability to verify receiving its full and accurate volume and quality of production.

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 the provisions at 5 CFR 1320.5(d)(2)(i) through (iv) except for (i). MMS requires operators to communicate on no less than a monthly cycle (as opposed to quarterly) but also as frequently as needed in certain circumstances. For example, gas scheduling and balancing may be reported weekly. Frequency varies because production from some leases is quite stable while production from others varies greatly. A monthly reporting and paying cycle on disposition of production is standard industry practice. Allowing operators to accumulate 3 months of undelivered and/or unreported royalty production exposes MMS to higher risk of losing the production and its attendant value. In addition, allowing parties receiving production to accumulate 3 months of unpaid obligations on deliveries would increase MMS loss, should purchasers default, over the usual 1-month's unpaid delivery.

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 a 60-day review and comment notice in the *Federal Register* on December 27, 2002 (67 FRN 79142) (Attachment 3). We received no comments in response to this notice.

We maintain regular contact with respondents to this information collection by providing telephone assistance over toll-free lines and answering questions regarding these letters.

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 only information required to be communicated by respondents that may be considered proprietary is related to billing for transportation of royalty production. This information, when submitted to MMS or its' designee, will be securely stored, and access to it will be limited, as required by applicable Department regulations at 43 CFR 2.

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 recordkeeping “hour” burden?

There are approximately 145 respondents (lessees or operators of Federal oil and gas leases participating in RIK). The estimated annual reporting burden for this information collection is 4,050 hours. At an hourly rate of \$50, the total estimated cost to respondents is \$202,500. There are no additional recordkeeping costs associated with this information collection.

Respondent Annual Burden-Hour Chart

Reporting Requirement	Burden Hours per Response	Annual Number of Responses	Annual Burden Hours
Wyoming Oil Pilot (OMB Control Number 1010-0126)	1	100	100
Natural Gas Pilot (Texas 8G and GOM) (OMB Control Number 1010-0126)	1	3,600	3,600
GOM Oil Pilot (OMB Control Number 1010-0126)	1	500	50
SPR Fill Initiative (OMB Control Number 1010-0130)	1	300	300
Totals		4,050	4,050

* Operators are not required to provide documentation to MMS. Documentation is provided by the purchaser.

** The MMS suspended the GOM Oil Pilot at the end of March 2002 to fulfill the SPR Fill Initiative which began April 2002.

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?

Costs to the Federal Government include MMS staff to collect and respond to directed communications. The total estimated Government time to analyze and review the information is the same as industry at 4,050 hours annually. Based on a cost factor of \$50 per hour, the total

annual estimated cost burden is \$202,500 (4,050 x \$50 per hour). Further, there is no reduction in present burdens to MMS or other Federal agencies directly attributable to this collection.

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 for OMB Control Number 1010-0126 is 3,720 burden hours. We are adjusting the burden hours from 3,720 hours to 3,750 hours to reflect an increase in the number of responses received.

We are also incorporating OMB Control Number 1010-0130 with 201 hours into this ICR. However, we are adjusting those burden hours from 201 hours to 300 hours to reflect an increase in the number of responses received.

As a result, the OMB inventory for OMB Control Number 1010-0126 will be increased by 330 hours from 3,720 hours to 4,050 burden hours. There are no annual reporting and recordkeeping cost burden changes to Item 14.

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

Overall results of the pilot at the aggregated level will be reported to MMS management, interested State and industry organizations, and legislators. Proprietary data in individual submissions will be protected.

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

No. We will display the expiration date of OMB's approval on "Dear Operator" letters.

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.