



American
Petroleum
Institute

US Oil & Gas
Association



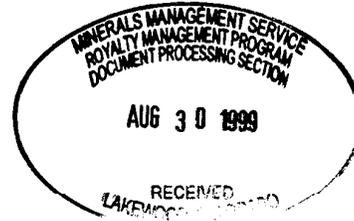
Domestic
Petroleum
Council

ipaa
America's Oil & Gas Producers

*via facsimile (202) 395-7340 and
certified mail return receipt requested*

August 27, 1999

Mr. David Rostker
Executive Officer of the President
Desk Officer for the Department of the Interior
Office of Information and Regulatory Affairs
Office of Management & Budget
725 17th Street NW
Washington, D.C. 20503



Re: Agency Information Collection, *Royalty-in-Kind Pilot Program — Directed Third Party Communications Between Operators and Purchasers of Federal Royalty Oil and Gas*, 64 Fed. Reg. 40893, July 28, 1999.

Dear Mr. Rostker:

The undersigned trade associations appreciate the opportunity to comment on this important MMS information collection, the *Royalty-in-Kind Pilot Program — Directed Third Party Communications Between Operators and Purchasers of Federal Royalty Oil and Gas*, 64 Fed. Reg. 40893, published July 28, 1999.

These trade associations represent lessees who pay and report federal royalties, including royalties on federal oil and gas production that will likely be included in future royalty-in-kind pilot programs. As such, they are impacted by the proposed information collection activity and have serious concerns about the MMS' proposed mandatory information collection. We wish to emphasize the following two key points: (a) the current information collection request is flawed, and (b) the Agency is requesting an excessive amount of authority for future information requests.

A. FLAWS WITH CURRENT REQUEST

- ◆ **Current industry practice does not require Operators to communicate with third party Purchasers of oil or gas.**

In requesting approval for this information collection, the MMS states the following: "The types of communication and 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." We disagree. Standard business practices in the industry do not require communications between the Operator of a lease and the Purchaser of the lease production as the MMS is requesting. Standard business practices provide for communications between the Operator of the lease and the Producer. The Producer communicates with the Shipper (if different from Producer), who in turn communicates with the Purchaser.

- ◆ **MMS requests information from a party that may not have access to the necessary information.**

In many cases, Operators will not be familiar with the MMS' contracts with the third-party Purchaser. For example, Operators do not necessarily have direct access to information about the volumes delivered to the Purchaser at the delivery point. As the entity receiving the product, the MMS should be the recipient of this information and should arrange for the transmission of it to its purchasers. Operators are not currently required to maintain a record of the individual Producer's Purchasers. Records would need to be maintained containing information such as the Purchaser's name, contact name, phone number, fax number and special provisions regarding the maximum volume fluctuation they are obligated to handle. In addition, the Operator is not privy, nor should they be due to competitive concerns, to the terms of the sales contract between the MMS and the third party.

- ◆ **MMS' burden estimate is substantially underestimated.**

The time necessary to minimize transportation and Producer imbalances will require more than the 2 minutes per response per month that MMS estimates. Any burden estimates should also reflect the time associated with maintaining the communication-related documents (fax confirmations, call notes) necessary to resolve potential disputes. Therefore, the burden estimate of 2 minutes per response per month is low.

The burden estimate should reflect the first-of-month communication of volumes to Purchasers. However, this requires that the Operator has already learned from the seller (MMS) the amounts allotted to each Purchaser. The estimate must also reflect intra-month communications with each Purchaser to modify production volumes. Finally, the burden calculation should include communications necessary to provide balancing information and volume reconciliation.

B. FLAWS WITH REQUEST FOR RELIEF FROM FUTURE PAPERWORK REDUCTION ACT SUBMISSIONS

- ◆ **MMS was appropriately criticized by OMB for previous emergency Paperwork Reduction Act (“PRA”) request in January and MMS seeks to avoid even minimal review.**

In January MMS sought immediate emergency approval of this information collection. In their present request, MMS seeks a carte blanche approval for not only the existing RIK pilots, but also for any pilot projects they may undertake in the future. The prior information collection was to allow the MMS to send a “Dear Operator” letter. The presently requested authority is not to send a Dear Operator letter, but rather to allow MMS to require Operators to submit uncertain, undefined third party communications. If such extensive authority should be granted, MMS will have effectively and completely avoided its PRA compliance responsibilities with respect to such communications. This will prevent directly affected parties from participating in this aspect of the regulatory process.

- ◆ **MMS does not completely understand the operation of oil and gas markets, as evidenced by the current request.**

The process proposed is generally inconsistent with the logistics of scheduling gas for transportation and gas industry practices. There are significant differences in the oil market and the gas market that are not recognized in the request to the OMB. Most simply, the oil market tends to be a 30-day market with few intra-month changes. The gas market includes substantial daily, and even intra-day, activity. This may require substantially more frequent communications with the Operator to effect RIK deliveries. We have no reason to believe that a future information collection requirement for future RIK pilot programs will not suffer from similar, or worse, flaws.

- ◆ **The current information request does not utilize prior experience with the Wyoming RIK pilot to more accurately calculate burden hours.**

As best we can determine from MMS' submission, MMS appears to have made no attempt to base the burden estimates on actual data from the Wyoming RIK pilot program. Operators who participated in that pilot program could have been contacted to more accurately estimate the actual burden of Operator to Purchaser communications.

- ◆ **The MMS cannot estimate the burden associated with future pilots.**

In the January 25, 1999 Information Collection Request (ICR), the MMS stated the following:

Experience with the Wyoming and Texas 8(g) Pilots demonstrates that different letters to operators are needed to meet the needs of each pilot. Therefore, it is anticipated that MMS will change the reporting requirements in the letters to operators as pilots are added.

Given the need to modify reporting requirements, we do not understand how the MMS can estimate a total annual burden of 285 hours for all pilot programs, including those not yet in existence.

C. CONCLUSION

These trade associations and their members strongly support RIK pilot programs and agree with Bonn Macy, Special Assistant to the Director, that the pilots will streamline royalty collections, improve royalty management efficiencies, and provide greater certainty in royalty collections. (*Taking Royalties in Kind, the Federal Perspective*). In addition, we believe that communication is critical to a successful RIK program. However, the proposed information collection activity is not limited to current pilot programs, but seeks authority to collect information on an ongoing prospective basis. Therefore, we recommend against approval of this information collection request. We would welcome the opportunity to work with the Agency to better define an appropriate information collection request for current programs, as well as to participate in the development of future information collection requests for future RIK pilot programs.

August 27, 1999

Page 5 of 5

Information collection requests for future RIK pilots should be subject to the standard PRA approval process, including the opportunity for affected parties to comment on the substance and the burden associated with the information collection request.

We appreciate the opportunity to comment on this important information collection and look forward to continuing to work with MMS on its pilot programs. Please call if you have any questions or if we can be of assistance.

Sincerely,

American Petroleum Institute
Domestic Petroleum Council
Independent Petroleum Association of America
Independent Petroleum Association of Mountain States
United States Oil and Gas Association

cc:

Minerals Management Service
Royalty Management Program
Rules and Publications Staff
Building 85, Room A-613
Denver Federal Center
Denver, Colorado 80225
Fax (303) 231-3194

Mr. Bonn Macy, Special Assistant to the Director
Mineral Management Service
MS 100
1849 C Street, N.W.,
Washington, D.C. 20240
Fax (202) 208-3918

Mr. Gregory W. Smith
Minerals Management Service
12600 West Colefax Suite B-440
Lakewood, Colorado 80215
Fax (303) 275-7124