Supporting Statement for
Gas Processing and Transportation Allowances
(Forms MMS-4109 and MMS-4295)
(OMB Control Number 1010-0075)
(Expiration Date: August 31, 2001)

A. Justification

1. What circumstances make this collection of information necessary?

The Secretary of the Interior (Secretary) is responsible for the collection of royalties from lessees who produce minerals from leased Indian lands. The Secretary is required by various laws to manage the production of mineral resources on Indian lands, collect royalties due, and distribute royalty funds under those laws. The product valuation and allowance determination process is essential to assure that the Indians receive payment on the proper value of the minerals removed from their lands. To determine whether the amount of royalty tendered represents the proper royalty due, it is necessary to establish the proper value of the gas and gas plant products sold, or otherwise disposed of. Of equal importance is the proper determination of costs associated with the allowable deductions from the value of gas and gas plant products.

Under certain circumstances, lessees are authorized to deduct from royalty payments the reasonable actual costs of transporting the royalty portion of produced minerals from the lease to a processing or sales point not in the immediate lease area. Transportation allowances are a part of the product valuation process that the Minerals Management Service (MMS) uses to determine if the lessee is reporting and paying the proper royalty amount.

When gas is processed for the recovery of gas plant products, lessees may claim a processing allowance. MMS normally will accept the cost as stated in the lessee's arm's-length processing contract as being representative of the cost of the processing allowance. In those instances where gas is being processed through a lessee-owned plant, the processing costs must be based upon the actual plant operating and maintenance expenses, depreciation, and a reasonable return on investment. The allowance is expressed as a cost per unit of individual gas plant products. Processing allowances may be taken as a deduction from royalty payments.

The Secretary is authorized to prescribe rules and regulations in order to administer the provisions of laws pertaining to mineral leases on Indian land. Applicable citations include 25 U.S.C. 396d, pertaining to Indian lands; and the Federal Oil and Gas Royalty Management Act of 1982, 30 U.S.C 1751, pertaining to oil and gas from Public and Indian lands (Attachment 1).

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

The information collected on Forms MMS-4295 and MMS-4109 for transportation and processing costs is used by MMS and tribal personnel to evaluate the reasonableness of allowances claimed by lessees. Under Section 202 of the Federal Oil and Gas Royalty Management Act of 1982, certain tribes have been given audit authority by the Secretary (30 U.S.C. 1732). MMS reimburses the tribes for their audit work under this agreement. Only those lessees submitting arm's-length contracts or allowance forms, as appropriate, are allowed to take deductions from royalties due. The determination of the appropriate product value or allowance rate directly affects royalties due. Tribes given audit authority rely heavily upon the data submitted on the allowance forms for verification purposes. The tribes strongly urge continuation of the requirement to routinely submit allowance information.

Regulations governing Indian gas valuation including processing and transportation allowances may be found at 30 CFR 206, Subpart E (Attachment 2). Gas produced from Indian leases and valued under the index-based method are generally not subject to deductions for transportation or processing allowances (i.e., lessees electing actual dual accounting may report allowances). However, in situations where gas production cannot be valued using an index-based method, MMS generally accepts the gross proceeds accruing to the lessees under an arm's-length sales contract, less applicable transportation and processing allowances, as being representative of value for royalty purposes (30 CFR 206.174(b)). Under non-arm's-length sales contracts, sales without a contract, or other situations, the lessee must establish value based on prescribed benchmarks (30 CFR 206.174(c)).

Transportation Allowances, General

Regulations at 30 CFR 206.177 provide that where the value of gas has been determined at a point remote from the lease, a reasonable deduction may be taken for the transportation of unprocessed gas, residue gas, and gas plant products from the lease to a sales point remote from the lease. If appropriate, a transportation deduction may be taken for the cost of transporting gas from the lease to a processing plant remote from the lease, and from the plant to a sales point remote from the plant. An allowance situation may range from simple to extremely complex in nature. For example, some minerals may be transported from point-to-point using a single mode of transportation such as truck, rail system, pipeline, barge, ship, etc. In other instances, minerals may travel over several segments of a route using multiple transport methods during the same trip. The problem can be further complicated by co-mingling of products in common transportation systems, or through the use of combinations of lessee-owned transport systems and other systems under non-arm's-length and/or arm's-length contracts, or both. Each segment must be considered separately and evaluated for reasonableness.

A transportation allowance is intended to compensate the lessee for the reasonable actual cost of transporting the royalty portion of the leased minerals from the lease to the point of first sale. Care and diligence must be exercised to ensure that an equitable allowance is claimed which is fair to both the lessee and the lessor.

There are two primary types of transportation allowances. One for costs incurred under negotiated arm's-length contracts; the other for cost incurred through non-arm's-length contracts, or lessee-owned transportation systems. Both the non-arm's-length contract and the lessee-owned transportation system proposals require the use of actual cost data and the submission of Form MMS-4295.

Non-Arm's-Length or No-Contract Transportation Allowances

A lessee must submit Form MMS-4295, Gas Transportation Allowance Report, to claim an allowance for the transportation of minerals by a lessee-owned transportation system, or for costs under a non-arm's-length contract (§ 206.178(b)(1)). The allowance may be taken without MMS approval; however, the lessee must submit Form MMS-4295 within 3 months after the end of the 12-month period to which the allowance applies.

The final allowance rate is calculated as the sum of allowable operating and maintenance expenses, overhead, depreciation costs, and the rate-of-return on undepreciated capital, divided by the actual or estimated units transported through the reporting system. MMS will monitor the allowance deductions to ensure that deductions are reasonable and allowable. MMS will compare the transportation costs claimed on Form MMS-2014 to the actual costs reported on Form MMS-4295. MMS will also monitor transportation deductions taken by lessees when performing actual dual accounting.

Processing Allowances, General

A processing allowance is intended to compensate the lessee for the reasonable actual cost of removing elements or compounds (hydrocarbon and nonhydrocarbon) from the gas stream. Due care and diligence must be exercised to ensure that an equitable allowance is claimed which is fair to both the lessee and the lessor.

There are two primary types of processing allowances. One is for processing costs incurred under negotiated arm's-length contracts. The other is for costs incurred under non-arm's-length contracts or no-contract situations. Both the non-arm's-length contract and the no-contract proposals require the use of actual cost data submitted on Form MMS-4109.

Non-arm’s-length or No-contract Processing Allowances

For non-arm's-length contracts or no-contract situations, the lessee must submit Form MMS-4109, Gas Processing Allowance Summary Report. This form, containing the actual cost information to support the allowance, must be submitted within 3 months after the end of the 12-month period for which the allowance applies (§ 206.180(b)(1)). MMS will actively monitor the allowance deduction to ensure that deductions are reasonable and allowable. When necessary or appropriate, MMS may require the lessee to modify their actual processing allowance.

MMS is seeking approval of revised Forms MMS-4109 and MMS-4295 (Attachment 3). These revisions are necessary to make Forms MMS-4109 and MMS-4295 compatible with other recently revised forms such as the 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 and agreement numbers and sales type codes. Since the existing Forms MMS-4109 and MMS-4295 contain columns for AID number and selling arrangement number, these columns must be removed and new columns for leases and agreement numbers must be added. The forms will continue to have the same number of columns to be completed and similar data to be provided by the lessee so we do not anticipate any changes in burden hours associated with these forms. The revised forms will become effective and replace the existing form on or about January 1, 2002, when our new financial and compliance system is fully operational.

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

The use of improved information technology is not applicable for this information collection. We receive submissions of Forms MMS-4109 and MMS-4295 from only 65 lessees annually. Designing a computer system to process so few forms is not cost effective. Our Government Paperwork Elimination Act Implementation Plan indicates that these forms are being evaluated for conversion to assess the risks and costs. We will, if at all feasible, offer an electronic alternative for submitting data by October 2003.

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

No similar information exists. All of the information necessary to complete an allowance proposal is available only within the detailed records of the applicant.

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

Small organizations are among the potential respondents. MMS has carefully analyzed its requirements to ensure that the information requested is the minimum necessary and places the least possible burden on industry. This information collection has no significant economic impact on small businesses or other entities. There are no special reporting provisions for small organizations. MMS provides toll-free telephone assistance upon request, and annually schedules product valuation training in addition to other training sessions offered throughout the year.

6. Are there any technical or legal obstacles to reducing the burden, and what are the consequences to the Federal program if the information is not collected or is collected less frequently?

Failure to collect the data described in this supporting statement could result in the under-valuation of leased Indian minerals. Our regulations require information in support of the product valuation or allowances being claimed. Without such information, MMS cannot evaluate the propriety of values or allowances reported and claimed. Failure to collect such data would prevent the Secretary from accomplishing his/her statutory and trust responsibilities.

7. Are there any special circumstances that require exceptions to 5 CFR 1320.5(d)(2)(i) through (viii)?

There are no special circumstances with respect to 5 CFR 1320.5(d)(2)(i) through (viii) except as follows:

(i) Forms MMS-4109 and 4295 are submitted on a calendar year basis. Allowance forms may be submitted more than quarterly if processing or transportation costs increase or decrease sufficiently to require a recalculation of the unit cost; and

(iv) Records required by the Secretary relative to Indian leases must be maintained for 6 years as required by 30 U.S.C. 1713.

This collection is not a statistical survey and does not use statistical data classification; 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 were made to consult with the public and a representative sample of respondents?

As required in 5 CFR 1320.8(d), on April 6, 2001, MMS published a 60-day review and comment notice in the Federal Register (66 FR 18295) (Attachment 4). We received one comment. The comment and MMS's response are summarized below:

Comment: A large producer commented that the information collected on Forms MMS-4109 and MMS-4295 is necessary and useful for the agency to perform its duties and the burden estimate is reasonable. The producer further stated that it agreed with our proposed revisions to the forms made necessary by our reengineering effort with minor exceptions.

Response: MMS agrees that the information collected on these forms is necessary to carry out our Indian trust responsibilities. We reviewed our proposed revisions to Forms MMS-4109 and MMS-4295 and made adjustments where necessary based on the producer's suggested changes.

9. Will payment or gifts be provided to respondents?

There will not be any payment or gifts to respondents.

10. What assurance of confidentiality is provided to respondents?

Commercial or financial information submitted to the Department of the Interior (DOI) relative to minerals removed from Federal and Indian leases may be proprietary. Trade secrets and proprietary information are protected under standards established by the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C 1733), the Freedom of Information Act (5 U.S.C. 552 (b)(4)), and DOI 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 shall be held as privileged proprietary information.

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?

MMS estimates that approximately 65 Indian lessees will submit approximately 3,000 allowance data lines annually. Lessees may be involved in more than one type of allowance proposal and can complete an allowance data line in about 1/4 hour. The estimate of the annual burden hours to respondents for this information collection is 750 hours (3,000 allowance data lines x 1/4 hour). There are no recordkeeping requirements. Using a cost estimate of $50 per hour, the annual estimated cost to respondents is $37,500 (750 hours x $50).

The Gas Transportation Allowance Report, Form MMS-4295, comprises approximately 80 percent of the forms received, and the Gas Processing Allowance Summary Report, Form MMS-4109, comprises 20 percent of the forms received. Therefore, the annual estimate of the burden hours by form is 600 hours for Form MMS-4295 and 150 hours for Form MMS-4109. The following chart lists the regulatory components of the burden estimate:

Citation	Reporting Requirement	Burden Hour per Line	Annual Number of Lines	Annual Burden Hours
§ 206.178 (b)(1)(ii)	You must submit the actual cost information to support the allowance to MMS on Form MMS-4295, Gas Transportation Allowance Report, within 3 months after the end of the 12-month period to which the allowance applies.	1/4 hour	2,400 lines	600 hours
§ 206.180 (b)(1)(ii)	You must submit the actual cost information to support the allowance to MMS on Form MMS-4109, Gas Processing Allowance Summary Report, within 3 months after the end of the 12-month period for which the allowance applies.	1/4 hour	600 lines	150 hours
		Total	3,000 lines	750 hours

13. What is the estimated reporting and recordkeeping "non-hour cost" burden.

We have identified no "non-hour cost" burdens for this collection of information.

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

The estimate of the annual burden hours to the Federal Government for this information collection is 208 hours (Form MMS-4295, 166 hours and Form MMS-4109, 42 hours). The time estimate includes maintaining a log of allowance forms filed by payor code and developing and maintaining a system comparing the allowance amounts claimed by payors on Form MMS-2014 to amounts stated in allowance forms. Using a cost estimate of $50 per hour, the annual estimated cost to the Federal Government is $10,400 (208 hours x $50).

15. Are there any program changes or adjustments reported in Items 13 or 14 for the Form OMB 83-I?

In Item 13 of Form OMB 83-I, the burden hours in the current OMB inventory remain the same at 750 hours. There is no cost burden requested in Item 14.

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-4109 and 4295.

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

To the extent the topics apply to this collection of information, we are not requesting exceptions to the “Certification for 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.