

**Supporting Statement for Issuing Orders Requested
by Indian Lessors (30 CFR Part 242, Subpart C)
(OMB Control Number 1010-0123)
(Expiration Date: July 31, 2002)**

A. Justification

1. What circumstances make this collection of information necessary?

The Department of the Interior (DOI) is responsible for matters relevant to mineral resource development on Federal and Indian lands and the Outer Continental Shelf (OCS). The Secretary of the Interior is responsible for managing the production of minerals from Federal and Indian lands and the OCS, collecting royalties from lessees who produce minerals, and distributing the funds collected in accordance with applicable laws. The Secretary also has an Indian trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. MMS performs the royalty management functions and assists the Secretary in carrying out DOI's Indian trust responsibility.

Section 101(a) of the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA), as amended, requires that the Secretary "establish a comprehensive inspection, collection, and fiscal and production accounting and auditing system to provide the capability to accurately determine oil and gas royalties, interest, fines, penalties, fees, deposits, and other payments owed, and collect and account for such amounts in a timely manner" (Attachment 1). In order to accomplish these tasks, Indian lessors need a procedure for requesting the Secretary to issue orders for payments or reports. MMS published a proposed rule on January 12, 1999 (64 FR 1930), to add Subpart C--Requests from Indian Lessors for MMS to Issue an Order to 30 CFR Part 242--Orders (Attachment 2). The subpart explained how Indian lessors could formally request that MMS issue an order to persons concerning the reporting of production and the reporting and payment of royalties and other payments due under their leases. A final rule codifying these provisions has not been published because MMS was awaiting the appointment of a new Director. A new MMS Director was recently appointed and briefed on this subject. She will be making her decision on whether to go forward with these regulations in the near future. However, because OMB approval of this information collection expires July 31, 2002, we are seeking OMB approval to renew these reporting requirements until a final rule is published.

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

Collection of royalties directly impacts the amount of funds made available to Indian Tribes and allottees. When a company or individual enters into a contract to develop, produce, and dispose of minerals from Indian lands, that company or individual agrees to pay the Indian tribe or allottee a monthly share (royalty) of the full value received for the minerals taken from leased lands. The proposed rule provides a procedure for Indian lessors to request that MMS investigate and issue an order to those companies that are failing in their payment or reporting obligations.

MMS will use the data provided by Indian lessors to determine the validity of the request and investigate the reasons for perceived errors or under payments. The information collected will be for internal MMS use only. If MMS determines that under payments exist or reports are inaccurate, it will issue an appropriate order. If MMS determines that the lessees, designees, or payor's payments and reports are accurate, then the Indian lessor's request will be denied. Indian lessors may then appeal the denial under 43 CFR Part 4, Subpart J.

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

No information technology will be used in the collection of this information due to the unique nature of the information collected. Any information submitted is expected to be copies of documents already in the possession of the Indian lessor or written descriptions of the circumstances needing investigation.

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

The information necessary to accomplish the royalty management functions required by FOGSMA, as amended by the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996, is not collected by any other governmental agency. The information is readily available only in the files of the Indian lessors who request MMS to issue orders.

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

Indian allottees and tribal governments are the small entities that may respond to this information collection. Small businesses are not among potential respondents. The information requested is the minimum necessary and places the least possible burden on respondents. There are no special reporting provisions for small organizations. MMS conducts numerous outreach sessions throughout Indian mineral producing areas each year and will provide toll-free telephone assistance to respondents as needed.

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?

MMS is required by law to collect and disburse funds monthly to Indian lessors. As a part of MMS compliance efforts, Indian leases are routinely selected for audit and a variety of automated comparisons. If an Indian lessor believes additional investigations are needed, the data they provide as a result of this information collection (30 CFR part 242, subpart C, in proposed rule) will allow for a thorough examination of the issues raised and provide a response to the requestor.

Collection of this information from Indian lessees ensures that MMS is collecting and disbursing the full value of royalties owed to the lessor. The proper collection of royalties directly impacts the amount of funds made available to the Indian tribes and allottees.

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). 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 March 22, 2002 (67 FR 13360) (Attachment 3). We did not receive any 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 provided to MMS relative to minerals removed from Federal leases may be proprietary. Trade secrets, proprietary, and other information shall be protected in accordance with standards established by the OCS Lands Act (43 U.S.C. 1352(c)), the Freedom of Information Act (5 U.S.C. 552(b)(4)), and DOI regulations (43 CFR 2). Storage of proprietary 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 recordkeeping “hour” burden?

MMS estimates that 12 Indian lessors will submit a request for an order annually. It is estimated that it will take 15 hours to prepare each request for a total of 180 annual burden hours (12 requests x 15 hours). Based on \$50 per hour, the annualized cost of this collection to Indian lessors is estimated to be \$9,000 (180 total burden hours x \$50).

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 annualized cost to the Federal Government?

MMS expects it will take an average of 32 hours to evaluate the merits of each request for an order. Of the expected 12 requests annually, MMS estimates that 4 will actually result in an order being issued. MMS expects it will take approximately 50 hours to issue each resulting order. Total cost to the Federal Government for this process is \$29,200 as described below:

Request Evaluation

12 requests x 32 hours = 384 annual burden hours
384 annual burden hours x \$50 hour = \$19,200 annual cost

Resulting Orders

4 orders x 50 hours = 200 annual burden hours
200 annual burden hours x \$50 hour = \$10,000 annual cost

The total annual burden is 584 hours, and the total annual cost is \$29,200.

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

In Item 13, the currently approved hours in OMB’s inventory remains unchanged at 180 hours. In Item 14, there are no costs.

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

The data collected will not be published for statistical use.

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

MMS is not seeking an exemption to display the expiration date.

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