

Supporting Statement for Paperwork Reduction Act Submissions
30 CFR Part 243—Suspensions Pending Appeal and
Bonding—Minerals Revenue Management
(Forms MMS-4435, MMS-4436, and MMS-4437)
OMB Control Number 1010-0122
Expiration Date: July 31, 2008

Terms of Clearance: None

General Instructions

A Supporting Statement, including the text of the notice to the public required by 5 CFR §1320.5(a)(i)(iv) and its actual or estimated date of publication in the *Federal Register*, must accompany each request for approval of a collection of information. The Supporting Statement must be prepared in the format described below, and must contain the information specified in Section A below. If an item is not applicable, provide a brief explanation. When statistical methods are employed, Section B of the Supporting Statement must be completed. The OMB reserves the right to require the submission of additional information with respect to any request for approval.

Specific Instructions

A. Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

General Background

This information collection request (ICR) was previously titled “30 CFR 243—Suspensions Pending Appeal and Bonding—Minerals Revenue Management (Forms MMS-4435, Administrative Appeal Bond; MMS-4436, Letter of Credit; and MMS-4437, Assignment of Certificate of Deposit).” We changed the title of this ICR to clarify the regulatory language we are covering under 30 CFR part 243. The new title of this ICR is “30 CFR Part 243—Suspensions Pending Appeal and Bonding—Minerals Revenue Management.”

The Secretary of the U.S. Department of the Interior 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 Secretary also has a trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. The Minerals Management Service (MMS) performs the royalty management functions and assists the Secretary in carrying out the Department’s trust responsibility.

Minerals produced from Federal and Indian leases vary greatly in the nature of occurrence, production, and processing methods. 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, or volume, 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.

Specific ICR Information

Applicable citations of the laws pertaining to mineral leases include Mineral Leasing Act of 1920 (30 U.S.C. 1923); the Outer Continental Shelf Lands Act (43 U.S.C. 1353); Public Law 97-451—Jan. 12, 1983 (Federal Oil and Gas Royalty Management Act of 1982 [FOGRMA]); Public Law 104-185—Aug. 13, 1996 (Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 [RSFA]), as corrected by Public Law 104-200—Sept. 22, 1996; and Public Law 97-382—Dec. 22, 1982 (Indian Mineral Development Act of 1982). The RSFA Section 4(l), “Stay of Payment Obligation Pending Review,” requires MMS to evaluate any person, ordered by the Secretary or a delegated state to pay any obligation (other than an assessment) subject to RSFA, to determine whether that person is entitled to a stay of the order without bond or other surety instrument, pending an administrative or judicial proceeding, based on the financial solvency of that person.

Implementing regulations at 30 CFR part 243 govern the suspension of orders or decisions pending administrative appeal for Federal leases. These regulations require the submission of information demonstrating financial solvency by the person who represents the appellant, requesting a suspension without the need to provide a surety. For those appellants who are not financially solvent or for appeals involving Indian leases, MMS requires that a surety instrument be posted to secure the financial interest of the public and Indian lessors during the entire administrative or judicial appeal process. This information collection request covers the burden hours associated with appellants submitting financial statements or surety instruments, subject to annual audit, required to stay an MMS order.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection. [Be specific. If this collection is a form or a questionnaire, every question needs to be justified.]

Stay of Payment Pending Appeal

Title 30 CFR 243.1 states that lessees or recipients of MMS Minerals Revenue Management (MRM) orders may suspend compliance with an order if they appeal in accordance with 30 CFR Part 290, Subpart B—Minerals Revenue Management Appeal Procedures. Pending appeal, MMS suspends the payment requirement if the appellant submits a formal agreement of

payment in case of default, such as a bond or other surety, or demonstrates financial solvency. The MMS accepts the following surety types:

- Form MMS-4435, Administrative Appeal Bond;
- Form MMS-4436, Letter of Credit;
- Form MMS-4437, Assignment of Certificate of Deposit;
- Self-bonding; and
- U.S. Treasury Securities.

When one of the surety types is selected and put in place, appellants must maintain the surety until completion of the appeal. If the appeal is decided in favor of the appellant, MMS returns the surety to the appellant. If the appeal is decided in favor of MMS, then MMS will take action to collect full royalty payment or draw down on the surety. The MMS draws down on a surety if the appellant fails to comply with requirements relating to amount due, time frame, or surety submission or resubmission. Whenever MMS must draw down on a surety, MMS must draw down the total amount due, which is defined as unpaid principal plus the interest accrued to the projected receipt date of the surety payment. Appellants may refer to the Surety Instrument Posting Instructions for each of the five surety types to submit the respective information. These instructions for the five surety types discussed below can also be found at <http://www.mrm.mms.gov/ReportingServices/PDFDocs/SuretyInst.pdf>.

Forms and Other Surety Types

Form MMS-4435, Administrative Appeal Bond

Appellants may file Form MMS-4435, Administrative Appeal Bond, which MMS uses to secure the financial interests of the public and Indian lessors during the entire administrative and judicial appeal process. Under 30 CFR 243.4, appellants are required to submit their contact and surety amount information in order to suspend an obligation to comply with an order. The bond must be issued by a qualified surety company that is approved by the Department of the Treasury [see Department of the Treasury Circular No. 570, revised periodically in the *Federal Register*]. The MRM Associate Director (Associate Director) or the MRM delegated bond-approving officer (officer) maintains these bonds in a secure facility. Once the appeal has concluded, MMS may release and return the bond to the appellant or collect royalty payment on the bond. If collection is necessary for a remaining royalty payment balance, MMS will issue a demand for payment to the surety company with a notice to the appellant. The MMS will also include all interest accrued on the affected bill.

Form MMS-4436, Letter of Credit

Appellants may choose to file Form MMS-4436, Letter of Credit, with no modifications. Requirements of 30 CFR 243.4 continue to apply. The Associate Director or officer maintains the Letter of Credit (LOC) in a secure facility. A bank must notarize and issue the LOC for appellants in which the bank has a minimum Fitch rating of “C” for an LOC of less than \$1 million, “B/C” for an LOC between \$1 million and \$10 million, or “B” for an LOC over \$10 million. The LOC must have a minimum coverage period of 1 year and be automatically renewable for up to 5 years.

The appellant is responsible for verifying that the bank provides a current rating to MMS. If the issuing bank's rating falls below the minimum acceptable level, a satisfactory replacement surety must be submitted within 14 days, or MMS will draw down the existing LOC. If the bank issuing the LOC chooses not to renew the existing LOC, it must provide MMS with a notice of its decision not to renew 30 days prior to expiration of the LOC. Once the appeal has been concluded, MMS may release and return the LOC to the appellant or collect royalty payment on the LOC. If collection is necessary for a remaining royalty payment balance, MMS will issue a demand for payment, which includes all interest assessed on the affected bill, to the bank with a notice to the appellant.

Form MMS-4437, Assignment of Certificate of Deposit

Appellants may choose to secure their debts by requesting to use a Certificate of Deposit (CD) from their bank and submitting Form MMS-4437, Assignment of Certificate of Deposit. Requirements of 30 CFR 243.4 continue to apply. Appellants must file the request with MMS prior to the invoice due date. The MMS will accept a book-entry CD that explicitly assigns the CD to the Associate Director. A bank must issue the CD in which the bank has a minimum Fitch rating or is confirmed by a bank with an acceptable rating. The acceptable ratings for a CD are the same as for an LOC. If collection of the CD is necessary for a royalty payment balance, MMS will return unused CD funds to the appellant after total settlement of the appealed issues including applicable interest charges.

Self-bonding

For Federal oil and gas leases, RSFA Section 4(l), as promulgated at 30 CFR 243.201, provides that no surety instrument is required when a person representing the appellant periodically demonstrates, to the satisfaction of MMS, that guarantor or appellant is financially solvent or otherwise able to pay the obligation. Appellants must submit a written request to "self-bond" every time a new appeal is filed. To evaluate the financial solvency and exemption from requirements of appellants to maintain a surety related to an appeal, MMS requires appellants to submit a consolidated balance sheet, subject to annual audit. In some cases, MMS also requires copies of the most recent tax returns—up to 3 years—filed by appellants.

In addition, appellants must annually submit financial statements, subject to annual audit, to support their net worth. The MMS uses the consolidated balance sheet or business information supplied to evaluate the financial solvency of a lessee, designee, or payor seeking a stay of payment obligation pending review. If appellants do not have a consolidated balance sheet documenting their net worth, or if they do not meet the \$300 million net worth requirement, MMS selects a business information or credit reporting service to provide information concerning an appellant's financial solvency. We charge the appellant a \$50 fee each time we need to review data from a business information or credit reporting service. The fee covers our costs in determining an appellant's financial solvency.

U.S. Treasury Securities

Appellants may choose to secure their debts by requesting to use a U.S. Treasury Security (TS). Appellants must file the letter of request with MMS prior to the invoice due date. The TS must be a U.S. Treasury note or bond with maturity equal to or greater than 1 year. The TS must equal 120 percent of the appealed amount plus 1 year of estimated interest (necessary to protect MMS against interest rate fluctuations). The MMS accepts only a book-entry TS.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden [and specifically how this collection meets GPEA requirements].

Our Government Paperwork Elimination Act Plan indicates that electronic transmission of this information is not practical because the bonding and banking industry require that original signature documents be submitted if draw-down is necessary. For the same reason of the original signature requirements, an electronic or telefax copy of Forms MMS-4435, MMS-4436, and MMS-4437 is not acceptable. For self-bonding, we will accept a letter of request and the consolidated balance statements from appellants by electronic means or telefax copy. We expect approximately 5 percent of the appellants for self-bonding will use the electronic means or telefax. We offer an electronic copy of these forms on our website at <http://www.mrm.mms.gov/ReportingServices/Forms/Forms.htm> that lessees may print and complete.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

The minimum required surety for Federal leases is \$10,000, and the minimum required surety for Indian leases is \$1,000. For sureties at or below the minimums, MMS makes use of existing MMS, Bureau of Land Management, and Bureau of Indian Affairs lease bonds to secure the debts during appeal; therefore, there is no duplication. The MMS lease bonds are covered under Office of Management and Budget Control Number 1010-0006.

For appealed amounts above the minimums, MMS requires one of the 5 surety types listed in Item 2 to be in place. The information collected for those surety types is unique to each appellant and is necessary for MMS to properly secure the disputed debt. No other agency collects similar information from lessees, designees, payors, appellants, or guarantors.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

Small businesses that do not have consolidated balance statements may request exemption from requirements to maintain a surety bond related to their appeal under the self-bonding option. Under this option, their credit information is accessed through a business information or credit reporting service selected by MMS. The MMS charges a processing fee of \$50 for this review. If these small businesses do not wish to have their credit information accessed, they have the option to post any of the other surety types listed in Item 2, or pay the appealed bill in lieu of self-bonding. We have provided a variety of options for small businesses to secure the public's interests when appeals are made. The impact is minimal for any option a small business might choose.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

If the information collection is not conducted for self-bonding and other surety types, the appellants cannot obtain the surety relief offered in RSFA section 4(l). Without self-bonding, MMS would then require sureties for each appeal, and appellants would incur the expense of supplying and maintaining sureties for every appeal. Without other surety types, MMS would require appellants to pay the royalty amounts due pending appeals. We cannot reduce the burden below an annual filing for surety relief because the financial status of appellants changes from year to year. We must be able to monitor an appellant's ability to pay disputed amounts in order to protect the public's interests in the minerals removed from Federal and Indian land.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

(a) requiring respondents to report information to the agency more often than quarterly.

Title 30 CFR part 243 requires that the respondent/appellant must submit information needed to determine financial solvency annually, or submit on occasion an MMS-specified surety instrument within a time period MMS prescribes in an order. In addition, MMS requires the appellant to renew annually the MMS-specified surety instrument for continuation of pending an appeal. There is no requirement to report more often than quarterly for self-bonding and other surety types.

(b) requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it.

Not applicable in this collection.

(c) requiring respondents to submit more than an original and two copies of any document.

Not applicable in this collection.

(d) requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than 3 years.

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 unless the Secretary notifies the record holder that such records must be maintained for a longer period due to an ongoing audit or investigation. Appellants are required by 30 CFR 212.200 to maintain records for 6 years or for longer periods if notified in writing. When an audit or investigation is underway, records must be maintained until released by written notice.

For Federal records, RSFA section 4(f) requires that Federal lessees maintain records for 7 years after the obligation becomes due.

(e) in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study.

Not applicable in this collection.

(f) requiring the use of statistical data classification that has been reviewed and approved by OMB.

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 classification.

(g) that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use.

This collection does not include a pledge of confidentiality not supported by statute or regulation.

(h) requiring respondents to submit proprietary trade secrets or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

Appellants will be required to provide confidential/proprietary information to us under the provisions of surety types listed in Item 2. Standard agency procedures provide strict security measures to control the use, storage, and access to such information. We protect the information in accordance with standards identified in Item 10 below.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice [and in response to the PRA statement associated with the collection over the past 3 years] and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported. [Please list the names, titles, addresses, and phone numbers of persons contacted.] Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years – even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

As required in 5 CFR 1320.8(d), MMS published a 60-day review and comment notice in the *Federal Register* on August 13, 2007 (72 FR 45264). We received no comments in response to this *Federal Register* notice. The MMS will accept comments at any time on the information collection and the burden.

We called and faxed copies of the notice soliciting comments to three producers (see below). We consulted with the three producers and received no suggestions for changes:

Ms. Kathy Zievert, ChevronTexaco, (713) 752-7314
1111 Bagby, Room 3718, Houston, TX 77002

Ms. Mary Holman, Exxon Mobil Corporation, (713) 680-6134
P.O. Box 2024, Houston, TX 77252

Ms. Bette Smart, BP America, (281) 366-7491
501 Westlake Park Blvd, E415A-Enclave Bldg, Houston, TX 77079

On an on-going basis, MMS maintains regular contact with appellants by providing telephone assistance over toll-free lines and answering questions regarding requirements.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

We will not provide any payment or gift to respondents in this collection.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

This information collection contains confidential information. Information obtained through a third-party business information or credit reporting service, or through surety providers is considered proprietary and, therefore, will not be released.

Commercial or financial information provided to MMS, relative to minerals removed from Federal and Indian leases, may be proprietary. Trade secrets and proprietary and other information are protected in accordance with standards established by FOGRMA, as amended (30 U.S.C. 1733), and the Freedom of Information Act [5 U.S.C. 552(b)(4)] and Department regulations (43 CFR 2).

In addition, the Indian Mineral 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 proprietary information and access to it are controlled by strict security measures.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

The collection does not include sensitive or private questions.

12. Provide estimates of the hour burden of the collection of information. The statement should:

(a) Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.

(b) If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.

(c) Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.

There are approximately 140 appellants (Federal/Indian lessees) annually. Responses are generally annually and on occasion. The MMS estimates that there will be 75 surety instruments and 65 self-bonding submissions each year. The MMS estimates the total annual burden is 140 reporting hours, based on 1 hour per response, regardless of the type of surety.

According to the Bureau of Labor Statistics May 2006 National Occupational Employment and Wage Estimates for industry lawyers, the estimated labor cost per hour is \$77 (\$54.65 x 1.4 benefit cost factor = \$77). These statistics are located at <http://www.bls.gov/bls/wages.htm>. Based on a cost factor of \$77 per hour for lawyers who prepare sureties, we estimate the total hour burden cost to industry is \$10,780 (140 hours x \$77 = \$10,780).

Additionally, for approximately 5 of the self-bonding appellants, MMS must obtain data from a business information or credit reporting service at a cost of \$50 each to these appellants. The total cost for obtaining this data is \$250.

There are no additional recordkeeping costs associated with this information collection. We have not included in our estimates certain requirements performed in the normal course of business and considered usual and customary.

The estimated total cost to industry is \$11,030 (\$10,780 + \$250 = \$11,030).

The following chart shows the breakdown of the estimated annual burden hours by CFR section and paragraph.

Section A.12 Burden Breakdown

Citation 30 CFR 243	Reporting and Recordkeeping Requirement	Hour Burden	Average Number of Annual Responses	Annual Burden Hours
<i>Subpart A—General Provisions</i>				
243.4(a)(1)	How do I suspend compliance with an order? (a) If you timely appeal an order, and if that order or portion of that order: (1) Requires you to make a payment, and you want to suspend compliance with that order, you must post a bond or other surety instrument or demonstrate financial solvency * * *	1 hour	75 surety instruments (including Forms MMS-4435, MMS-4436, and MMS-4437, or TS)	75
243.6	When must I or another person meet the bonding or financial solvency requirements under this part? If you must meet the bonding or financial solvency requirements	Burden hours covered under §243.4(a)(1).		

Citation 30 CFR 243	Reporting and Recordkeeping Requirement	Hour Burden	Average Number of Annual Responses	Annual Burden Hours
	under § 243.4(a)(1), or if another person is meeting your bonding or financial solvency requirements, then either you or the other person must post a bond or other surety instrument or demonstrate financial solvency within 60 days after you receive the order or the Notice of Order.			
243.7(a)	<p>What must a person do when posting a bond or other surety instrument or demonstrating financial solvency on behalf of an appellant?</p> <p>If you assume an appellant's responsibility to post a bond or other surety instrument or demonstrate financial solvency * * *.</p> <p>(a) Must notify MMS in writing * * * that you are assuming the appellant's responsibility * * *.</p>	Burden hours covered under §243.4(a)(1).		
243.8(a)(2) and (b)(2)	<p>When will MMS suspend my obligation to comply with an order?</p> <p>(a) <i>Federal leases.</i> * * *</p> <p>(2) If the amount under appeal is \$10,000 or more, MMS will suspend your obligation to comply with that order if you:</p> <p>(i) Submit an MMS-specified surety instrument under subpart B of this part within a time period MMS prescribes; or</p> <p>(ii) Demonstrate financial solvency under subpart C.</p> <p>(b) <i>Indian leases.</i> * * *</p> <p>(2) If the amount under appeal is \$1,000 or more, MMS will suspend your obligation to comply with that order if you submit an MMS-specified surety instrument under subpart B of this part within a time period MMS prescribes.</p>	Burden hours covered under §243.4(a)(1).		
<i>Subpart B—Bonding Requirements</i>				
243.101(b)	<p>How will MMS determine the amount of my bond or other surety instrument?</p> <p>* * * (b) If your appeal is not decided within 1 year from the</p>	Burden hours covered under §243.4(a)(1).		

Citation 30 CFR 243	Reporting and Recordkeeping Requirement	Hour Burden	Average Number of Annual Responses	Annual Burden Hours
	filing date, you must increase the surety amount to cover additional estimated interest for another 1-year period. You must continue to do this annually * * *.			
<i>Subpart C—Financial Solvency Requirements</i>				
243.200(a) and (b)	<p>How do I demonstrate financial solvency?</p> <p>(a) To demonstrate financial solvency under this part, you must submit an audited consolidated balance sheet, and, if requested by the MMS bond-approving officer, up to 3 years of tax returns to the MMS, * * *.</p> <p>(b) You must submit an audited consolidated balance sheet annually, and, if requested, additional annual tax returns on the date MMS first determined that you demonstrated financial solvency as long as you have active appeals, or whenever MMS requests. * * *</p>	1 hour	65 self-bonding submissions (demonstration of financial solvency)	65
243.201 (c)(1), (c)(2)(i) and (c)(2)(ii) and 243.201 (d)(2)	<p>How will MMS determine if I am financially solvent?</p> <p>* * * (c) If your net worth, minus the amount we would require as surety under subpart B for all orders you have appealed is less than \$300 million, you must submit * * *:</p> <p>(1) A written request asking us to consult a business-information, or credit-reporting service or program to determine your financial solvency; and</p> <p>(2) A nonrefundable \$50 processing fee:</p> <p>(i) You must pay the processing fee * * *;</p> <p>(ii) You must submit the fee with your request * * * and then annually on the date we first determined that you demonstrated financial solvency, as long as you are not able to demonstrate financial solvency * * * and you have active appeals.</p> <p>(d)* * * (2) For us to consider you financially solvent, the</p>	Burden hours covered under §§243.4(a)(1) and 243.200(a) and (b).		

Citation 30 CFR 243	Reporting and Recordkeeping Requirement	Hour Burden	Average Number of Annual Responses	Annual Burden Hours
	business-information or credit-reporting service or program must demonstrate your degree of risk as low to moderate: * * *			
243.202(c)	When will MMS monitor my financial solvency? * * * (c) If our bond-approving officer determines that you are no longer financially solvent, you must post a bond or other MMS-specified surety instrument under subpart B.		Burden hours covered under §§243.4(a)(1) and 243.200(a) and (b).	
TOTAL BURDEN			140	140

13. Provide an estimate of the total annual [non-hour] cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

(a) The cost estimate should be split into two components: (1) a total capital and start-up cost component (annualized over its expected useful life) and (2) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information [including filing fees paid]. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.

(b) If cost estimates are expected to vary widely, agencies should present ranges of cost burden and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.

(c) Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

We collect a processing fee of \$50 each time we must consult a business information or credit reporting service for appellants who cannot comply with the consolidated balance sheet requirement, or for a publicly traded company that does not meet our established net worth of \$300 million. We estimate that 5 of the self-bonding appellants will file this fee of \$50. Therefore, the total estimated “non-hour” cost to these 5 appellants for payment of fees is \$250 (5 x \$50 = \$250).

14. Provide estimates of annualized cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

To analyze and review the information, the Federal Government spends an average of 1 hour for each hour spent by appellants. The total estimated Federal Government time is essentially the same for each type of surety instrument, approximately 1 hour per instrument. In addition, the Federal Government spends 1 hour reviewing data inquiries from a business information or credit reporting service for appellants. The Federal Government also consults a business information or credit reporting service for all small entities or non-publicly traded companies that cannot comply with the consolidated balance sheet requirement, or for a publicly traded company that does not meet our established net worth of \$300 million requirement. These tasks are currently performed by an employee paid at the United States 2008 General Schedule, Grade 12/Step 5 pay-scale level for Denver, CO area, which is located at http://www.opm.gov/oca/08tables/html/den_h.asp. The GS 12/5 pay-scale level at \$37.93 per hour times 1.5 multiplier for benefits equals \$56.90 per hour.

The estimated total annualized cost to the Federal Government is \$8,251 [(140 surety requests x 1 hour per surety = 140 hours x \$56.90 per hour [GS-12/5] = \$7,966) plus (5 data inquiries x 1 hour = 5 hours x \$56.90 = \$285)].

15. Explain the reasons for any program changes or adjustments reported.

(a) Annual Hour Burden.

Currently Approved OMB Burden Hour Inventory	Program Change Estimated Burden Hours	Adjustment Estimated Burden Hours	Total Estimated Burden Hour
300	0	-160	140

There is no program change for this information collection, but there is an adjustment **decrease** of 160 hours for §§243.4(a)(1) and 243.200(a) and (b), based on current data analysis.

(b) Non-hour Annual Cost Burden.

There is a cost burden of \$250 that is not a program change because costs estimated under \$500 were not previously reported.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

The MMS will not publish the data.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

The MMS will display the OMB approval expiration date on Forms MMS-4435, MMS-4436, and MMS-4437. The remainder of this collection concerns regulatory requirements.

18. Explain each exception to the certification statement identified.

To the extent that the topics apply to this collection of information, we are not making any exceptions to the “Certification for Paperwork Reduction Act Submissions.”