

Supporting Statement for Paperwork Reduction Act Submissions
30 CFR Part 220, OCS Net Profit Share Payment Reporting
OMB Control Number 1010-0073
Current Expiration Date: September 30, 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. 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 Information

The previous title of this ICR was “30 CFR 220—Accounting Procedures for Determining Net Profit Share Payment for Outer Continental Shelf Oil and Gas Leases, §220.010 NPSL capital account, §220.030 Maintenance of records, §220.031 Reporting and payment requirements, §220.032 Inventories, and §220.033 Audits.” The new title of this ICR is “30 CFR Part 220, OCS Net Profit Share Payment Reporting.” This ICR affects only oil and gas leases on submerged Federal lands on the Outer Continental Shelf (OCS).

The Secretary of the U.S. Department of the Interior is required by various laws to manage mineral resources production on Federal lands and the OCS, collect the royalties and other mineral revenues due, and distribute the funds in accordance with those laws. The Minerals Management Service (MMS) performs the mineral revenue management functions and assists the Secretary in carrying out the Department’s responsibility.

When a company or an individual enters into a lease to explore, develop, produce, and dispose of minerals from Federal lands and the OCS, that company or individual agrees to pay the lessor a share in an amount or value of production from the leased lands. The lessee is required to report various kinds of information to the lessor relative to the disposition of the leased minerals. Such

information is generally available within the records of the lessee or others involved in developing, transporting, processing, purchasing, or selling of such minerals.

The MMS collects and uses this information to determine all allowable direct and allocable joint costs incurred during the lease term, appropriate overhead allowance permitted on these costs under §220.012, and allowances for capital recovery calculated under §220.020. The MMS also collects this information to ensure royalties or net profit share payments are accurately valued and appropriately paid.

Applicable Citations

Applicable legal citations (Attachment 1) pertaining to mineral leases include:

1. Public Law 97-451—Jan. 12, 1983 (Federal Oil and Gas Royalty Management Act of 1982 [FOGRMA]);
2. 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;
3. Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1353); and
4. Mineral Leasing Act of 1920 (30 U.S.C. 1923).

These citations can be viewed at http://www.mrm.mms.gov/Laws_R_D/PublicLawsAMR.htm.

Applicable Code of Federal Regulations (CFR) citations covering the net profit share lease (NPSL) program are located at 30 CFR part 220—Accounting Procedures for Determining Net Profit Share Payment for Outer Continental Shelf Oil and Gas Leases (Attachment 2). Part 220 establishes reporting requirements for determining the net profit share base and calculating net profit share payments due the Federal Government for the production of oil and gas from OCS leases.

NPSL Bidding System

To encourage exploration, development, and production of oil and gas lease resources on submerged Federal lands on the OCS, regulations were promulgated at 30 CFR part 260—Outer Continental Shelf Oil and Gas Leasing. Part 260, subpart B establishes the bidding systems that MMS may use to offer and sell Federal leases.

Specific implementation regulations for the NPSL bidding system are promulgated at §260.110(d) of part 260, subpart B. The MMS established the NPSL bidding system to balance a fair market return to the Federal Government for the lease of its public lands, with a fair profit to companies risking their investment capital. The system provides an incentive for early and expeditious exploration and development and provides for sharing the risks by the lessee and the Federal Government. The NPSL bidding system incorporates a fixed capital recovery system as a means through which the lessee recovers costs of exploration and development from production revenues, along with a reasonable return on investment.

NPSL Capital Account

Under §220.031(b), the lessee report and pay NPSL payment due the Federal Government beginning with the first month in which production revenues are credited to the NPSL capital account not later than 60 days following the end of each month.

The Federal Government does not receive a profit share payment from an NPSL until the lessee shows a credit balance in its capital account; that is, cumulative revenues and other credits exceed cumulative costs. The credit balance is multiplied by the net profit share rate (30 to 50 percent), resulting in the amount of net profit share payment due the Federal Government.

The MMS requires lessees to maintain an NPSL capital account for each lease, which transfers to a new owner when sold. Following the cessation of production, lessees are also required to provide either an annual or a monthly report to the Federal Government, using data from the capital account.

NPSL Inventories

The NPSL lessees must notify MMS of their intent to perform an inventory and file a report after each inventory of controllable materiel.

NPSL Audits

When non-operators of an NPSL call for an audit, they must notify MMS. When MMS calls for an audit, the lessee must notify all non-operators on the lease. These requirements are located at §220.033.

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.]

Under the NPSL bidding system, a notice of an OCS lease sale is published in the *Federal Register* with a net profit share rate and a capital recovery factor (CRF) established for each tract within the sale. The regulations allow the lessee to inflate certain costs by multiplying those costs by the CRF. However, the calculation of this allowance differs by time period, within and outside the capital recovery period.

The lessee is required to maintain an NPSL capital account. The capital account balance represents the cumulative total of all costs and credits received over the life of the lease. When companies enter into NPSL agreements, they agree to submit reports required by §220.031. There are no specific formats required for these reports. The MMS uses the data submitted in these reports to verify costs, revenues or credits, and net profit share payments due. Failure to submit the information could result in the loss of net profit share payments due the Federal Government.

All information submitted is taken directly from the lessee's own records. No unique information is required. Six leases, all in the Gulf of Mexico, are producing leases for

which monthly reports are submitted. Currently, five of these six producing leases are profitable.

The last OCS lease sale involving NPSLs was in August 1983. Leases issued from 1980 through 1983 totaled 209, including 14 offshore Alaska leases and 51 offshore Atlantic leases. Of the 209 leases, 203 have terminated, expired, or been relinquished; and 6 are still active.

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].

The MMS Minerals Revenue Management (MRM) program is moving to fully implement the Government Paperwork Elimination Act (GPEA). However, our GPEA Plan indicates that the use of information technology is not practicable for this information collection because of the small number of lessees and the variety and complexity of computer programs used by the reporting companies.

Currently, only six lessees report monthly. Because of the limited number of leases involved and lessee respondents (less than 10) and their differing and complex system designs, MMS has not attempted to interface the companies' systems with MMS systems. Therefore, at this time, submission of information electronically is not practicable; nor is e-mail an option because an original signature is required.

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.

Reports and other information are unique for each individual lease. Each lease is numbered for identification, and a separate report must be filed for each lease. No other Federal Government agency collects this information.

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

This collection of information does not have a significant economic effect on a substantial number of small entities.

Due to the extremely difficult and expensive processes associated with deepwater exploration and drilling, few small businesses were involved in the initial lease acquisitions. However, a few small businesses now own leases through purchases from larger companies or operate leases through farm-outs. Some of these purchased or farm-out properties may include NPSL terms. There are no special provisions for mitigating reporting requirements for small businesses in these circumstances; however, MMS assists small entities by maintaining regular and routine

contact with these lessees as they file their reports. In addition, MMS provides toll-free telephone assistance to lessees, answering their questions regarding NPSL regulations and responding to other concerns related to NPSLs. Since NPSLs are ongoing and require constant monitoring, numerous contacts have been developed and maintained over many years, providing timely opportunities to discuss any concerns regarding the information collected.

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.

The MMS is required by law to gather this information. Title I of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1711) requires that the Secretary “. . . establish a . . . system to provide the capability to accurately determine oil and gas royalties, interest, fines, penalties, fees, deposits, and other payments owed and to collect and account for such amounts in a timely manner.” By regulation, the lessee must submit either annual or monthly reports related to NPSLs. Less frequent collection of information places the lessee in noncompliance with the regulations and may also result in loss of net profit share payments to the Federal Government.

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 220 requires that respondents submit annual, monthly, and on occasion reports for NPSL. Respondents submit annual reports until the account has paid out. When accounts are paid out, respondents are required to report monthly capital account plus Form MMS-2014, Report of Sales and Royalty Remittance (ICR 1010-0140). Respondents also submit an inventory report on occasion or every 3 years.

(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.

Not applicable in this collection.

(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.

This collection does not require proprietary, trade secret, or other confidential information not protected by agency procedures.

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 notice in the *Federal Register* on October 2, 2007 (72 FR 56090) (Attachment 3). We received no comments in response to the *Federal Register* notice.

We sent copies of the notice via electronic mail soliciting comments from the following four producers and received no comments:

Ms. Judith Mojica, Chevron
P.O. Box 9043, Sec 731; Concord, CA 94524-9043; (925) 680-3355

Ms. Tania Tobias, Regulatory, Royalty and Audit Support, ConocoPhillips
1090 Plaza Office Building; Bartlesville, OK 74004; (918) 661-1697

Ms. Kathy Davis, Production Analyst, ERT
400 North Sam Houston Parkway East; Houston, TX 77060; (281) 618-0515

Mr. Robert B. Ostrander, ExxonMobil Corporation
P.O. Box 2024; Houston, TX 77252-2024; (713) 680-5134

The MMS and lessees find it helpful to maintain regular and routine contact on these leases as the lessees file their reports. In addition, MMS provides toll-free telephone assistance to lessees, answers their questions regarding NPSL regulations, and responds to lessees' other concerns related to NPSLs. Since NPSL leases are ongoing and require constant monitoring, numerous contacts have been developed and maintained over many years, providing timely opportunities to discuss any concerns regarding the information collected.

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.

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 the Federal Oil and Gas Royalty Management Act of 1982, as amended (30 U.S.C. 1733), and the Freedom of Information Act (5 U.S.C. 552(b)(4)) and its implementing regulations (43 CFR 2).

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 burden.

(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 six respondents (Federal net profit share oil and gas OCS lessees). We estimate the total annual burden is 1,040 reporting hours and 6 recordkeeping hours, for a total burden of 1,046 hours. According to Bureau of Labor Statistics May 2006 National Occupational Employment and Wage Estimates, the cost factor for industry accountants is \$41 ($\29.17 [mean hourly wage] \times 1.4% [benefits cost rate] = \$41). Based on \$41 per hour, we estimate the total annual cost to industry is \$42,886 (1,046 hours \times \$41/hour = \$42,886). Responses are submitted annually, monthly, and on occasion. Refer to the chart below for an explanation of the burden hours.

SECTION A.12 BURDEN HOUR DETAIL

Citation 30 CFR 220	Reporting & Recordkeeping Requirement	Hour Burden	Number of Annual Responses	Annual Burden Hours
PART 220—ACCOUNTING PROCEDURES FOR DETERMINING NET PROFIT SHARE PAYMENT FOR OUTER CONTINENTAL SHELF OIL AND GAS LEASES				
§220.010 NPSL capital account.				
220.010(a)	(a) For each NPSL tract, an NPSL capital account shall be established and maintained by the lessee for NPSL operations . . .	1	1	1
§220.030 Maintenance of records.				
220.030(a) and (b)	(a) Each lessee . . .shall establish and maintain such records as are necessary . . .	1	6	6
§220.031 Reporting and payment requirements.				
220.031(a)	(a) Each lessee subject to this part shall file an annual report during the period from issuance of the NPSL until the first month in which production revenues are credited to the NPSL capital account . . .	1	1	1
220.031(b)	(b) Beginning with the first month in which production revenues are credited to the NPSL capital account, each lessee . . .shall file a report for each NPSL, not later than 60 days following the end of each month . . .	13	72 ¹	936
220.031(c)	(c) Each lessee subject to this Part 220 shall submit, together with the report required . . .any net profit share payment due . . .	Burden hours covered under 220.031(b).		
220.031(d)	(d) Each lessee . . .shall file a report not later than 90 days after each inventory is taken . . .	8	6	48
220.031(e)	(e) Each lessee . . .shall file a final report, not later than 60 days following the cessation of production . . .	4	6	24
§220.032 Inventories.				
220.032(b)	(b) At reasonable intervals, but at least once every three years, inventories of controllable materiel shall be taken by the lessee. Written notice of intention to take inventory shall be given by the lessee at least 30 days before any inventory is to be taken so that the Director may be represented at the taking of inventory . . .	1	6	6

Citation 30 CFR 220	Reporting & Recordkeeping Requirement	Hour Burden	Number of Annual Responses	Annual Burden Hours
§220.033 Audits.				
220.033(b)(1)	(b)(1) When nonoperators of an NPSL lease call an audit in accordance with the terms of their operating agreement, the Director shall be notified of the audit call . . .	2	6	12
220.033(b)(2)	(b)(2) If DOI determines to call for an audit, DOI shall notify the lessee of its audit call and set a time and place for the audit . . .The lessee shall send copies of the notice to the nonoperators on the lease . . .	2	6	12
220.033(e)	(e) Records required to be kept under § 220.030(a) shall be made available for inspection by any authorized agent of DOI . . .	The Office of Regulatory Affairs determined that the audit process is exempt from the Paperwork Reduction Act of 1995 because MMS staff asks non-standard questions to resolve exceptions.		
TOTAL BURDEN			110	1,046

¹(6 NPSL reports x 12 months = 72 reports)

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

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 ½ hour for each reporting burden hour spent by respondents. The total estimated Federal Government time is 523 hours (1,046 x ½ = 523) for a Federal auditor paid at the 2008 United States General Schedule, GS-12, Step 5 pay-scale level for Denver, CO area. Based on a cost factor of \$57 per hour (\$37.93 x 1.5 [benefits cost rate] = \$57), the total annual estimated burden on the Federal Government is \$29,811 (523 hours x \$57 = \$29,811).

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 Change Estimated Burden Hours	Total Estimated Burden Hour
1,583	0	-537	1,046

There is no program change for this information collection, but there is an adjustment **decrease** of 537 hours due to re-estimating the number of submissions and hour burden.

(b) Annual Cost Burden: There is no annual cost burden to report.

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.

This collection concerns regulatory requirements. There is no form associated with this ICR. The MMS will display the OMB approval expiration date on all appropriate material.

18. Explain each exception to the certification statement identified in Item 19, “Certification for Paperwork Reduction Act Submissions.”

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.”