

Supporting Statement A

Collection of Monies Due the Federal Government

OMB Control Number 1012-0008

Terms of Clearance: None.

General Instructions

A completed Supporting Statement A 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 below. If an item is not applicable, provide a brief explanation. When the question "Does this ICR contain surveys, censuses, or employ statistical methods?" is checked "Yes," then a Supporting Statement B must be completed. The Office of Management and Budget (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.**

The Secretary of the U.S. Department of the Interior (Secretary) is responsible for collecting royalties from lessees who produce minerals from leased Federal and Indian lands and the Outer Continental Shelf (OCS). Under various laws (see below), the Secretary's responsibility is to manage mineral resources production on Federal and Indian lands and the OCS, collect the royalties and other mineral revenues due, and distribute the funds collected. The Secretary also has a trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. The Office of Natural Resources Revenue (ONRR) performs the royalty management functions for the Secretary and assists the Secretary in carrying out the Department's trust responsibility for Indian lands.

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 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 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 information collected includes data necessary to ensure that the royalties are accurately valued and appropriately paid.

Specific ICR Information

We have posted the following laws pertaining to mineral leases on Federal and Indian lands and the OCS at https://www.onrr.gov/Laws_R_D/PubLaws/index.htm:

- Mineral Leasing Act of 1920, as amended, 30 U.S.C. 181 *et seq.*
- Outer Continental Shelf Lands Act of 1953, as amended, 43 U.S.C. 1331 *et seq.*
- Federal Oil and Gas Royalty Management Act of 1982, as amended, 30 U.S.C. 1701 *et seq.*
- Federal Oil and Gas Royalty Simplification and Fairness Act of 1996, as amended, 30 U.S.C. 1701 *et seq.*
- Indian Mineral Development Act of 1982, as amended 25 U.S.C. 2101-2108

This ICR covers the following unique reporting circumstances:

- Cross-lease netting in calculation of late-payment interest
- Designation of a designee
- Tribal permission for recoupment on Indian oil and gas leases

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.

- **Cross-Lease Netting in Calculation of Late-Payment Interest**

Regulations at 30 CFR 1218.54 require ONRR to assess interest on unpaid or underpaid amounts. We distribute these interest revenues to States, Indian Tribes, and the U.S. Treasury based on financial lease distribution information. Current regulations at 30 CFR 1218.42 provide that an overpayment on a lease or leases may be offset against an underpayment on a different lease or leases to determine the net payment subject to interest, when certain conditions are met. This process is called cross-lease netting. Lessees must demonstrate that cross-lease netting applies by submitting production reports, pipeline allocation reports, or other similar documentary evidence. This information is necessary for ONRR to determine the correct amount of interest the lessee owes and to ensure that we collect in full all monies owed the Federal government.

- **Designation of a Designee**

Requirements of RSFA established that owners of, primarily, operating rights or, secondarily, lease record title (both referred to as “lessees”) are responsible for making royalty and related payments on Federal oil and gas leases (see 30 CFR 1218.52). It is common, however, for a payor—rather than a lessee—to make these payments. When a payor makes payments on behalf of a lessee, RSFA section 6(g) requires that the lessee designate the payor as its designee and notify ONRR of this arrangement in writing. We designed form ONRR-4425, Designation Form for Royalty Payment Responsibility, to request all the information necessary for lessees to comply with these RSFA requirements

when choosing to designate an agent to pay for them. We require this information to ensure proper mineral revenue collection.

- **Tribal Permission for Recoupment on Indian Oil and Gas Leases**

In order to recoup overpayments made on Tribal Indian oil and gas leases, lessees must comply with regulations at 30 CFR 1218.53(a), which limit recoupments to the amount of royalties or other revenues owed on the same lease that month. However, regulations at 30 CFR 1218.53(b) allow lessees, with written permission from the Tribe, to recoup overpayments on one lease against a different lease for which the Tribe is the lessor. The lessee must provide ONRR with a copy of the Tribe's written permission.

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.*

- **Cross-Lease Netting in Calculation of Late-Payment Interest**

Lessees may submit by email documentation required to support allowance of cross-lease netting. According to our historical data, we estimate that 5 percent of respondents may use the email option.

- **Designation of a Designee**

ONRR continues to strive for full implementation of the Government Paperwork Elimination Act. We offer electronic copies of form ONRR-4425 on our website for respondents to print and complete. They may also submit the form electronically as an email attachment. During the current renewal period, no companies have used the email attachment option to request to designate a designee; however, according to our historical data, we estimate that 5 percent may use the email option.

- **Tribal Permission for Recoupment on Indian Oil and Gas Leases**

Submission of written Tribal permission to recoup overpayments varies in format according to each Tribe. However, a company can send a copy electronically as an attachment via email. According to our historical data, we estimate that 5 percent may use the email option.

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.*

- **Cross-Lease Netting in Calculation of Late-Payment Interest**

The documentation required to support ONRR's allowance of cross-lease netting is unique to each situation and is not available through other sources.

- **Designation of a Designee**

The Bureau of Land Management (BLM) and the Bureau of Ocean Energy Management (BOEM) for Federal onshore and offshore leases, respectively, maintain information on operating rights owners and lease record title owners. However, the information maintained by BLM and BOEM does not provide the specific information required by RSFA—designation of payment responsibility. Therefore, the information submitted on form ONRR-4425 is unique.

- **Tribal Permission for Recoupment on Indian Oil and Gas Leases**

Tribal written permission allowing payors to recoup overpayments on a lease is a situation unique to ONRR. Each submission requires a letter from the Tribe related to the specific lease and production month.

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

Small businesses are among potential respondents, and as such, ONRR carefully analyzed its requirements to ensure the information requested is the minimum necessary to accomplish our mission and to place the least burden on industry. Training is offered on a regular basis, and toll-free telephone assistance is available during business hours.

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.*

- **Cross-Lease Netting in Calculation of Late-Payment Interest**

If a lessee under-reports production on one lease and over-reports production on another lease, interest accrues in favor of the lessor on the under-reported production, but—under current law—does not accrue in favor of the lessee on over-reported production. In some instances, the lessee, upon proper proof, is allowed to avoid or minimize its obligation to pay interest on under-reported production because of its over-reporting of production on another lease. If ONRR is not authorized to collect information specific to the under- and over-reporting, it cannot approve a lessee's request to cross-lease net or offset interest, and the lessee may pay more interest as a result.

- **Designation of a Designee**

Operating rights owners are primarily liable for Federal oil and gas royalties, and record title owners are secondarily liable; their designees are not liable, but demands served on a designee may constitute service on the operating rights or record title owner. The information requested on form ONRR-4425 helps ONRR identify the operating rights owner, record title owner, and designee, and thus address demands to and serve the appropriate parties. Without authorization to collect the information required by form ONRR-4425, ONRR may misdirect its demands and service. As a result, ONRR may not collect all royalties and other revenues due.

- **Tribal Permission for Recoupment on Indian Oil and Gas Leases**

Situations requiring written permission from a Tribe to allow a lessee or payor to recoup an overpayment against a different lease are infrequent. A lessee or payor would not be permitted to recoup an overpayment if ONRR could not collect written documentation of the Tribe's permission to recoup.. Without this information collection authorization, lessees and payors would be required to pay more royalties.

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

*** requiring respondents to report information to the agency more often than quarterly.**

Form ONRR-4425 respondents may be required to report information to us more often than quarterly. For example, if a lessee designates a new/different payor for a given lease, then the lessee must immediately complete and submit a designation form.

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

There are no special circumstances with respect to 5 CFR 1320.5(d)(2)(ii).

*** requiring respondents to submit more than an original and two copies of any document.**

There are no special circumstances with respect to 5 CFR 1320.5(d)(2)(iii).

*** requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years.**

Indian Oil and Gas Records—Under 30 U.S.C. 1713(b), Indian oil and gas records must be maintained for six 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.

Federal Records—Under 30 U.S.C. 1713(b), Federal records must be maintained for six 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..

*** 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.**

There are no special circumstances with respect to 5 CFR 1320.5(d)(2)(v).

*** 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)(vi) because this collection is not a statistical survey and does not use statistical data classification.

*** 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.**

There are no special circumstances with respect to 5 CFR 1320.5(d)(2)(vii) as this collection does not include a pledge of confidentiality not supported by statute or regulation.

*** 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.**

There are no special circumstances with respect to 5 CFR 1320.5(d)(2)(viii) as this collection does not require proprietary, trade secret, or other confidential information not protected by agency procedures. We protect this information under the 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 titles, company names, City, and State names 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 three 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), ONRR published a 60-day notice in the **Federal Register** on July 24, 2017 (82 FR 34333). We did not receive any comments in response to the **Federal Register** notice available at www.regulations.gov.

We also contacted the companies (listed below) regarding the burden hour estimates and the clarity of the regulations requiring this collection of information. Program staff reported the following:

Contacts made / comments received:

Continental Resources, Inc.
Oklahoma City, OK

Cimarex Energy Co.
Tulsa, OK

Apache Corporation
Houston, Texas

WPX Energy Corporation
Tulsa, OK

Linn Energy
Houston, TX

Sanguine Gas Exploration, LLC
Tulsa, OK

Here are comments from companies regarding ***Tribal Permission for Recoupment on Indian Oil and Gas Leases:***

Public Comments: In the San Juan basin where we pay royalties, our recoupment process takes around 2 hours per month, or around 20 hours per year. A colleague who reports royalties in the Williston Basin, however, spends much more time and can have over a day's worth of work associated with tracking and reporting recoupments during the month. The colleague would estimate closer to 70 hours per year.

I'm sorry. I know I agreed to do this survey, but I find the request takes more time to read than I would like to spend on the entire survey. We have had some unexpected projects come up and I cannot spare the time.

ONRR Response: We changed the hour burden from 1 hour to 20 hours based on the comments from one of the companies. We believe that the suggested 20 hours represent the amount of time it takes annually for a lessee to perform the tracking and reporting recoupment function.

Here are comments from companies regarding ***Cross Lease Netting:***

Public Comments: I forwarded your request to CLR legal, for their review; I read the FRN then passed it to our company's lawyers. I have no comments.

I talked to my Supervisor this morning. Cimarex as a company doesn't comment on items like this. Cimarex in the past, through COPAS/PASO has taken part in discussions on items like this. Cimarex will follow COPAS/PASO's jointly discussed approach. We are not aware of any discussions taking place within COPAS/PASO regarding ICR 1012-0008. Hope this resolves your question.

ONRR Response: No changes to the burden hours are necessary.

ONRR accept comments at any time on the information collection and the burden hour estimates, as explained in the PRA statement at the bottom of form ONRR-4425. The ONRR also maintains regular, ongoing contact with companies. We provide toll-free telephone assistance and encourage customer feedback as we respond to questions regarding requirements. We address issues as they come up and continually improve our processes.

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 ONRR, relative to minerals removed from Federal and Indian leases, may be proprietary. The FOGRMA, as amended, (30 U.S.C. 1701 *et seq.*), the Freedom of Information Act (5 U.S.C 552 (b)(4)), and its implementing regulations establish standards to protect trade secrets and other proprietary information.

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. ONRR also has strict security measures in place for storage and access of proprietary information.

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 information collection does not include sensitive or private questions.

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

*** 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.**

The burden estimates include the time for reviewing instructions; searching existing data sources; gathering and maintaining the data needed; and completing and reviewing the collection of information. The following chart shows the estimated burden hours by CFR section and paragraph:

SECTION A.12 BURDEN BREAKDOWN

Citation 30 CFR 1218	Reporting and Recordkeeping Requirement	Hour Burden	Average Number of Annual Responses	Annual Burden Hours
Subpart A—General Provisions— Cross-lease netting in calculation of late-payment interest.				
1218.42(b) and (c)	Cross-lease netting in calculation of late-payment interest. (b) Royalties attributed to production from a lease or leases which should have been attributed to production from a different lease or leases may be offset *** if *** the payor submits production reports, pipeline allocation reports, or other similar documentary evidence pertaining to the specific production involved which verifies the correct production information ***. (c) If ONRR assesses late-payment interest and the payor asserts that some or all of the interest is not owed *** the burden is on the payor to demonstrate that the exception applies ***.	2	25	50
Subpart B—Oil and Gas, General—How does a lessee designate a Designee?				
1218.52(a) , (c), and (d)	How does a lessee designate a Designee? (a) If you are a lessee under 30 U.S.C. 1701(7), and you want to designate a person to make all or part of the payments due under a lease on your behalf *** you must notify ONRR *** in writing of such designation. *** (c) If you want to terminate a designation *	1	1	1

Citation 30 CFR 1218	Reporting and Recordkeeping Requirement	Hour Burden	Average Number of Annual Responses	Annual Burden Hours
	<p>** you must provide [the following] to ONRR in writing ***.</p> <p>(d) ONRR may require you to provide notice when there is a change in the percentage of your record title or operating rights ownership.</p> <p>ONRR currently uses Form ONRR-4425, Designation Form for Royalty Payment Responsibility to collect this information.</p>			
Subpart B—Oil and Gas, General—Recoupment of overpayments on Indian mineral leases.				
1218.53(b)	<p>Recoupment of overpayments on Indian mineral leases. (b) With written permission authorized by tribal statute or resolution, a payor may recoup an overpayment against royalties or other revenues owed *** under other leases ***. A copy of the tribe's written permission must be furnished to ONRR ** *.</p>	20	5	100
TOTAL BURDEN			31	151

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

This ICR only covers form ONRR-4425, Designation Form for Royalty Payment Responsibility.

*** 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 35 respondents (Federal and Indian lessees). We receive responses on occasion. We estimate the total annual burden is 151 reporting hours (there are no recordkeeping hours). We used tables from the Bureau of Labor Statistics (BLS) located at http://www.bls.gov/oes/current/oes_26420.htm#13-0000.htm to estimate the hourly cost for industry accountants in a metropolitan area. We added a multiplier of 1.4 (based on BLS News Release USDL 17-0770 dated June 9, 2017, at <http://www.bls.gov/news.release/pdf/ecec.pdf>) for benefits. Based on this information, we estimate the hourly cost for an industry accountant would be \$61, calculated as follows:

$$\$43.22 \text{ [mean hourly wage]} \times 1.4 \text{ [benefits cost factor]} = \$60.508 \text{ [rounded to } \$61/\text{hr.}]$$

The estimated annual cost to industry would be \$9,211, calculated as follows:

151 [reporting hours] x \$61/hr. [for industry accountants] = \$9,211

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).

** 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.*

** 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.*

** 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.*

ONRR has identified no “non-hour” cost burdens for this information collection.

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.

The Federal government spends an average of 5.5 hours per year to analyze and review the cross-lease netting in calculation of late-payment interest and the recoupment of overpayments on Indian mineral leases, and to process the form ONRR-4425. An employee paid at the United States 2017 General Schedule, Grade 7/Step 5 pay-scale level currently performs the work. The 2017 salary tables for the Denver, Colorado, area are located at http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2017/DEN_h.pdf. We added a multiplier of 1.6 [based on BLS News Release USDL 17-0770 dated June 9, 2017, at

<http://www.bls.gov/news.release/pdf/ecec.pdf> for benefits. Based on this information, we estimate the hourly cost for a Federal employee to perform the work will be \$38, calculated as follows:

$$\$23.94 \text{ [GS-7/5]} \times 1.6 \text{ [benefits cost factor]} = \$38.304 \text{ [rounded to } \$38/\text{hr.}]$$

The estimated annual cost to the Federal Government is \$209, calculated as follows:

$$5.5 \text{ hrs. /year [estimated time]} \times \$38/\text{hr. [for Federal employee]} = \$209$$

15. Explain the reasons for any program changes or adjustments in hour or cost burden.

The current OMB-approved inventory is 59 annual burden hours. Our current estimate of the burden hours is 151, resulting in a total adjustment **increase** of +92 hours.

There is no program change for this information collection, but there is an adjustment decrease of 3 hours based on historical data and an increase of +95 hours based on public comments (see item 8 above) for a net increase of 92 hours.

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.

ONRR 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.

ONRR will display the OMB approval expiration date on form ONRR-4425. The remainder of this collection concerns regulatory requirements.

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

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.”