

**[4310-MR-W]**

**DEPARTMENT OF THE INTERIOR**

**Minerals Management Service**

**Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request**

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Notice of an extension of a currently approved information collection (OMB Control Number 1010-0042).

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**SUMMARY:** To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to OMB an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under 30 CFR Part 208—Sale of Federal Royalty Oil; Royalty-in-Kind (RIK) Program. This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements. This information collection request is specific as related only to the Government’s program to sell crude oil to eligible small refiners. The ICR is titled “30 CFR Part 208—Sale of Federal Royalty Oil; Royalty-in-Kind (RIK) Program (Form MMS-4070, Application for the Purchase of Royalty Oil).”

**DATES:** Submit written comments on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Submit written comments by either FAX (202) 395-6566 or email ([DOCKET@omb.eop.gov](mailto:DOCKET@omb.eop.gov)) directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (OMB Control Number

1010-0042). Mail or hand-carry a copy of your comments to Sharron L. Gebhardt, Lead Regulatory Specialist, Minerals Management Service, Minerals Revenue Management, P.O. Box 25165, MS 302B2, Denver, Colorado 80225. If you use an overnight courier service, our courier address is Building 85, Room A-614, Denver Federal Center, Denver, Colorado 80225. You may also email your comments to us at [mrm.comments@mms.gov](mailto:mrm.comments@mms.gov). Include the title of the information collection and the OMB Control Number in the “Attention” line of your comment. Also, include your name and return address. Submit electronic comments as an ASCII file avoiding the use of special characters and any form of encryption. If you do not receive a confirmation that we have received your email, contact Ms. Gebhardt at (303) 231-3211.

**FOR FURTHER INFORMATION CONTACT:** Sharron L. Gebhardt, telephone (303) 231-3211, FAX (303) 231-3781, email [Sharron.Gebhardt@mms.gov](mailto:Sharron.Gebhardt@mms.gov). You may also contact Sharron Gebhardt to obtain a copy at no cost of the form and regulations that require the subject collection of information.

**SUPPLEMENTARY INFORMATION:**

*Title:* 30 CFR Part 208—Sale of Federal Royalty Oil; Royalty-in-Kind (RIK) Program (Form MMS-4070, Application for the Purchase of Royalty Oil).

*OMB Control Number:* 1010-0042.

*Bureau Form Number:* Form MMS-4070.

*Abstract:* The Department of the Interior (DOI) is responsible for matters relevant to mineral resource development on Federal and Indian lands and the Outer Continental Shelf (OCS). The Secretary of the Interior (Secretary) under The Mineral Leasing Act

(30 U.S.C. 1923) and The Outer Continental Shelf Lands Act (43 U.S.C. 1353) is responsible for managing the production of minerals from Federal and Indian lands and the OCS, collecting royalties from lessees who produce minerals, and distributing the funds collected in accordance with applicable laws. MMS performs the royalty management functions for the Secretary.

"Royalty oil" is crude oil produced from leased Federal lands, both onshore and offshore, in instances in which the Government exercises the option to accept a lessee's royalty payment in oil rather than in money. Title to the oil is transferred to the Government and then sold to an eligible refiner. When the Secretary determines that small refiners do not have access to adequate supplies of oil, the Secretary may dispose of any oil taken as royalty by conducting a sale of such oil, or by allocating it to eligible refiners.

When the Secretary decides to offer royalty oil taken in kind for sale to eligible refiners, MMS will publish a "Notice of Availability of Royalty Oil" (also known as "Invitation for Offer") in the *Federal Register*, or other printed media, or on the MMS web site, when appropriate. The Notice includes administrative details concerning the application, allocation, and the contract award process for royalty oil. Refiners interested in purchasing oil will submit the Form MMS-4070 in accordance with instructions issued by MMS for completion of the form. MMS uses the information collected on the Form MMS-4070 to determine if the applicant meets eligibility requirements to contract to purchase royalty oil. Information collected also provides a basis for the allocation of

available royalty oil among qualified refiners. Responses to this information collection are necessary for refiners to participate in royalty oil sales.

We are also revising this ICR to include reporting requirements contained in 30 CFR Part 208 that were inadvertently overlooked when the final rule was published. See the chart below for these requirements and associated burden hours. These reporting requirements are rare and unusual circumstances where the standard procedures set out in the rule are not appropriate.

MMS is requesting OMB's approval to continue to collect this information. Not collecting this information would limit the Secretary's ability to discharge his/her duties and may also result in loss of royalty payments. Proprietary information submitted is protected, and there are no questions of a sensitive nature included in this information collection.

We have also changed the title of this ICR from "Application of the Purchase of Royalty Oil" to "30 CFR Part 208—Sale of Federal Royalty Oil; Royalty-in-Kind (RIK) Program (Form MMS-4070, Application for the Purchase of Royalty Oil)" to clarify the regulatory language we are covering under 30 CFR Part 208.

*Frequency:* On occasion.

*Estimated Number and Description of Respondents:* 8 small oil refiners.

*Estimated Annual Reporting and Recordkeeping "Hour" Burden:* 21 hours (rounded).

The following chart details the individual components and estimated hour burdens. In calculating the burdens, we assumed that respondents perform certain requirements in the normal

course of their activities. Therefore, we consider these to be usual and customary and took that into account in estimating the burden.

**Respondent Annual Burden Hour Chart**

<b>30 CFR Section</b>	<b>Reporting Requirement</b>	<b>Burden Hours per Response</b>	<b>Annual Number of Responses</b>	<b>Annual Burden Hours</b>
208.4 (a)	<b>Royalty oil sales to eligible refiners.</b> (a) <i>Determination to take royalty oil in kind.</i> * * * The Secretary will review these items [submitted by small refiners] and will determine whether eligible refiners have access to adequate supplies of crude oil * * *. <i>(Determination process)</i>	Burden covered by OMB Control Number 1010-0119.		
208.4 (d)	<b>Royalty oil sales to eligible refiners.</b> (d) <i>Interim sales.</i> * * * The potentially eligible refiners, individually or collectively, must submit documentation demonstrating that adequate supplies of crude oil at equitable prices are not available for purchase * * *. <i>(Determination process)</i>	Burden covered by OMB Control Number 1010-0119.  See § 208.4(a)		
208.6 (a) and (b)	<b>General application procedures.</b> (a) To apply for the purchase of royalty oil, an applicant must file a Form MMS-4070 with MMS in accordance with instructions provided in the “Notice of Availability of Royalty Oil” and in accordance with any instructions issued by MMS for completion of Form MMS-4070. The applicant will be required to submit a letter of intent from a qualified financial institution stating that it would be granted surety coverage for the royalty oil for which it is applying, or other such proof of surety coverage, as deemed acceptable by MMS. The letter of intent must be submitted with a completed Form MMS-4070.  (b) In addition to any other application requirements specified in the Notice, the following information is required on Form MMS-4070 at the time of application: * * *. <i>(Application process)</i>	1.25	8	10

30 CFR Section	Reporting Requirement	Burden Hours per Response	Annual Number of Responses	Annual Burden Hours
208.7 (a)	<b>Determination of eligibility.</b> (a) The MMS will examine each application and may request additional information if the information in the application is inadequate * * *. <i>(Application process)</i>	0.25	1	1 (rounded up from 0.25)
208.8 (a)	<b>Transportation and delivery.</b> (a) * * * The purchaser must have physical access to the oil at the alternate delivery point and such point must be approved by MMS. <i>(Application process)</i>	1	1	1
208.8 (b)	<b>Transportation and delivery.</b> (b) * * * If the delivery point is on or immediately adjacent to the lease, the royalty oil will be delivered without cost to the Federal Government as an undivided portion of production in marketable condition at pipeline connections or other facilities provided by the lessee, unless other arrangements are approved by MMS. If the delivery point is not on or immediately adjacent to the lease, MMS will reimburse the lessee for the reasonable cost of transportation to such point in an amount not to exceed the transportation allowance determined pursuant to 30 CFR part 206 * * *. <i>(Application process)</i>	Burden covered by OMB Control Number 1010-0140.  This provision is no different than the transportation allowances allowed in Part 206 for royalties paid in value. The lessee enters allowance amount on Form MMS-2014.		
208.9 (a)	<b>Agreements.</b> (a) A purchaser must submit to MMS two copies of any written third-party agreements, or two copies of a full written explanation of any oral third-party agreements, relating to the method and costs of delivery of royalty oil, or crude oil exchanged for the royalty oil, from the point of delivery under the contract to the purchaser's refinery. In addition, the purchaser must submit copies of agreements pertaining to quality differentials which may occur between leases and delivery points. <i>(Application process)</i>	1	8	8

30 CFR Section	Reporting Requirement	Burden Hours per Response	Annual Number of Responses	Annual Burden Hours
208.10 (d)	<p><b>Notices.</b>            (d) After MMS notification that royalty oil will be taken in kind, the operator shall be responsible for notifying each working interest on the Federal lease * * *.  <i>(Application process)</i></p>	Burden covered by OMB Control Number 1010-0126.		
208.10 (e)	<p><b>Notices.</b>            (e) A purchaser cannot transfer, assign, or sell its rights or interest in a royalty oil contract without written approval of the Director, MMS. * * *            Without express written consent from MMS for a change in ownership, the royalty oil contract shall be terminated * * *.  <i>(Application process)</i></p>	1	1	1
208.11 (a), (b), (d), and (e)	<p><b>Surety requirements.</b>            (a) The eligible purchaser, prior to execution of the contract, shall furnish an “MMS-specified surety instrument,” in an amount equal to the estimated value of royalty oil that could be taken by the purchaser in a 99-day period, plus related administrative charges * * *.             (b) * * * The purchaser or its surety company may elect not to renew the letter of credit at any monthly anniversary date, but must notify MMS of its intent not to renew at least 30 days prior to the anniversary date * * *.             (d) The “MMS-specified surety instrument” shall be in a form specified by MMS instructions or approved by MMS * * *.             (e) All surety instruments must be in a form acceptable to MMS and must include such other specific requirements as MMS may require adequately to protect the Government's interests.  <i>(Sureties Forms MMS-4071 and MMS-4072)</i></p>	Burden covered by OMB Control Number 1010-0135.		

30 CFR Section	Reporting Requirement	Burden Hours per Response	Annual Number of Responses	Annual Burden Hours
208.15	<b>Audits.</b> Audits of the accounts and books of lessees, operators, payors, and/or purchasers of royalty oil taken in kind may be made annually or at such other times as may be directed by MMS * * *.	PRODUCE RECORDS  Office of Regulatory Affairs determined that the compliance process is exempt from the PRA because MMS staff ask non-standard questions to resolve exception.		
<b>Total</b>		<b>4.5</b>	<b>19</b>	<b>21</b> (rounded up from 20.25)

*Estimated Annual Reporting and Recordkeeping “Non-hour” Cost Burden:* We have identified no “non-hour” cost burdens.

*Public Disclosure Statement:* The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

*Comments:* Section 3506(c)(2)(A) of the PRA requires each agency “\* \* \* to provide notice \* \* \* and otherwise consult with members of the public and affected agencies concerning each proposed collection of information \* \* \*.” Agencies must specifically solicit comments to: (a) evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, we published a notice in the *Federal Register* on October 30, 2003 (68 FR 61823), announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. We received no comments in response to the notice.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the ADDRESSES section of this notice. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

*Public Comment Policy:* We will post all comments in response to this notice on our web site at [http://www.mrm.mm.gov/Laws\\_R\\_D/InfoColl/InfoColCom.htm](http://www.mrm.mm.gov/Laws_R_D/InfoColl/InfoColCom.htm). We will also make copies of the comments available for public review, including names and addresses of respondents, during regular business hours at our offices in Lakewood, Colorado. Individual respondents may request that we withhold their home addresses from the public record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you request that we withhold your name and/or address, state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

*MMS Federal Register Liaison Officer:* Denise Johnson (202) 208-3976.

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Date

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Lucy Querques Denett  
Associate Director for  
Minerals Revenue Management