

Supporting Statement for Paperwork Reduction Act Submissions
30 CFR Parts 227, 228, and 229,
Delegated and Cooperative Activities with States and Indian Tribes
OMB Control Number 1010-0087
(Expiration Date: August 31, 2009)

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 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. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

The previous title of this information collection request (ICR) was “30 CFR Part 227—Delegation to States; 30 CFR Part 228—Cooperative Activities with States and Indian Tribes; and 30 CFR Part 229—Delegation to States.” The new title is “30 CFR Parts 227, 228, and 229, Delegated and Cooperative Activities with States and Indian Tribes.”

The Secretary of the U.S. Department of the Interior is responsible for mineral resource development on Federal and Indian lands and the Outer Continental Shelf (OCS). Under the Mineral Leasing Act of 1920, Outer Continental Shelf Lands Act of 1953 (OCS Lands Act), Geothermal Steam Act of 1970, and Indian Mineral Development Act of 1982, the Secretary is required to manage mineral resource production on Federal and Indian lands, collect the royalties and other mineral revenues due, and distribute the funds collected in accordance with applicable 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 mineral revenue management functions 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 (royalty) of the value received from production on 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. The information MMS collects includes data necessary to ensure that the lessee accurately values and appropriately pays all royalties and other mineral revenues due.

The Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA), as amended by the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996, sections 3, 4, and 8 for Federal lands, authorized the Secretary to develop delegated and cooperative agreements with states (sect. 205) and Indian tribes (sect. 202) to conduct certain inspections, audits, investigations, or limited enforcement activities for oil and gas leases within their respective boundaries. The states and Indian tribes are working partners and are an integral part of the overall onshore and offshore compliance effort. The Appropriations Act of 1992 also authorizes the states and Indian tribes to perform the same functions for coal and other solid mineral leases.

Applicable law citations pertaining to the delegated and cooperative activities with states and Indian tribes include:

- 25 U.S.C. 2103, Indian Mineral Development Act of 1920;
- 30 U.S.C. 1001, 1002, Geothermal Steam Act of 1970, chapter 23—Geothermal Steam and Associated Geothermal Resources;
- 30 U.S.C. 1923, Mineral Leasing Act of 1920;
- 43 U.S.C. 1353, Outer Continental Shelf Lands Act of 1953;
- Public Law 97-451—Jan. 12, 1983, FOGRMA, sections 202 and 205;
- Public Law 102-154—Nov. 13, 1991, 105 Stat. 1001, Appropriations Act of 1992 [authorized delegation for coal and solid mineral leases]; and
- Public Law 104-185—Aug. 13, 1996, as corrected by Public Law 104-200—Sept. 22, 1996, the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 (RSFA), sections 3, 4, and 8.

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

Relevant parts of the Code of Federal Regulations (CFR) include 30 CFR parts 227, 228, and 229, as described below.

Title 30 CFR Part 227—Delegation to States, provides procedures to delegate certain Federal minerals revenue management functions to states for Federal oil and gas leases. The regulation also provides only audit and investigation functions to states for Federal geothermal and solid mineral leases, and leases subject to 8(g) of the OCS Lands Act, within their state boundaries.

Title 30 CFR Part 228—Cooperative Activities with States and Indian Tribes, provides

procedures to utilize the capabilities of the Indian tribes to carry out audits and related investigations of their respective leased lands.

Title 30 CFR Part 229—Delegation to States, provides procedures to utilize the capabilities of the states to carry out audits and related investigations of leased Indian lands within their respective state boundaries, by permission of the respective Indian tribal councils or individual Indian mineral owners.

Effective September 11, 1997, parts 228 and 229 do not apply to Federal lands, due to implementation of RSFA amendments to FOGRMA section 205.

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.]

30 CFR Part 227—Delegation to States

The states audit Federal lands under provisions of 30 CFR part 227. Under section 205 of FOGRMA, as amended by RSFA section 3, the Secretary is authorized to delegate to states, all or part of authorities and responsibilities of the Secretary, to conduct inspections, audits, investigations, and limited enforcement activities for Federal leases within their respective state boundaries. Specifically, RSFA section 3 amended FOGRMA section 205 to add items e through g below for minerals revenue management functions on Federal lands:

- a. Conducting inspections, audits, and investigations;
- b. Issuing demands and subpoenas (except for solid mineral and geothermal leases);
- c. Issuing orders to perform restructured accounting;
- d. Issuing related tolling agreements and notices to lessees or their designees;
- e. Receiving and processing production and royalty reports;
- f. Correcting erroneous report data; and
- g. Performing automated verification.

Under FOGRMA

Eleven states currently have MMS-approved delegation agreements to perform audits and investigations, which are the functions previously authorized under FOGRMA (items a through d above). The most recent delegated agreement was established in 2004 between MMS and the state of Alaska.

The states perform nearly all audits and compliance reviews on Federal leases within their boundaries and receive 50 percent of the revenues from those leases: although Alaska receives

90 percent of the revenues from Federal leases within their state boundaries. Many states gain efficiencies by performing audits on state severance taxes concurrently on properties that have both Federal and state interests. Federal royalties are a significant portion of many states' annual budgets.

Under RSFA

To be considered for delegation under 30 CFR part 227, states must submit a written delegation proposal to, and receive approval from, the MMS Associate Director for Minerals Revenue Management (MRM). Delegation agreements benefit both MMS and states by ensuring that Federal royalty payments are in compliance with applicable laws, lease terms, and regulations.

When a state performs any of the delegated functions under 30 CFR part 227, the state also assumes the burden of providing various types of information to MMS. Under RSFA, and to properly administer the delegation of the functions to the requesting states, MRM must collect pertinent information from industry and states to ensure that this program continues to operate efficiently and effectively.

Currently, companies send all royalty reports and payments (ICR 1010-0140, expires November 30, 2009) and production reports (ICR 1010-0139, expires October 31, 2009) to MRM. The MRM verifies the accuracy of the reports and payments prior to disbursing the funds to states, Indian tribes, individual Indian mineral owners, the U.S. Treasury, and other Federal agencies. If states choose to participate in the delegable function of receiving and processing royalty and production reports, payors/reporters must send these reports to each participating state for the Federal leases within that state and to MRM for the remaining Federal leases. The states must verify the accuracy of these reports.

The MRM currently handles production and royalty reporting, error correction, end-to-end compliance review process (replacing automated verification functions that are no longer performed as independent processes), and issuance of demand letters and billing actions. The MRM is held accountable to certain measurements and standards and must file reports to outside entities. States choosing to participate in any delegable function are held to these same measurements and standards and, therefore, must provide data to document the work they are performing. This information, provided to MMS in the course of performing delegated agreements, is the focus of this information collection. States must comply with Generally Accepted Accounting Principles (GAAP) and MMS standards, as required under 30 CFR 227.200, and also with the *MMS Audit Procedures Manual*, as required under 30 CFR 227.301.

30 CFR Part 228—Cooperative Activities with State and Indian Tribes

The final rulemaking of Delegation of Royalty Management Functions to States was published on August 12, 1997 (62 FR 43076), effective September 11, 1997, and stated that part 228 does not apply to Federal lands because delegation for Federal lands is now covered under part 227.

Under FOGRMA section 202, Cooperative Agreements, as amended by RSFA section 8, the Secretary is authorized to enter into cooperative agreements with any state or Indian tribe upon their written request; to share oil or gas revenue management information; and to use the

capabilities of states and Indian tribes to carry out inspection, auditing, investigation, or limited enforcement activities for tribal leases.

States

A state must receive written permission from the respective Indian tribe(s) or individual Indian mineral owner(s) to carry out the above functions. There are no states with cooperative agreements, as no state has proposed to enter into a cooperative agreement to undertake activities on Indian lands within its boundaries.

Indian Tribes

Currently, seven Indian tribes have cooperative agreements to perform audits and investigations. To be considered for a cooperative agreement, Indian tribes must comply with the regulations at this CFR part. The Indian tribes who want to do royalty audits in cooperation with MMS must submit a written proposal to enter into a cooperative agreement, signed by the tribal chairman or other appropriate official, to the MMS Director. In their request, the Indian tribes should outline the activities to be undertaken and present evidence that they can meet the standards established by the Secretary for the activities to be conducted. Prior to beginning work, the Indian tribes must obtain approval from the MMS Director.

When the Indian tribes perform any of the cooperative activities under this CFR part, they also assume the burden of providing various types of information to MMS. This information, provided to MMS in the course of performing cooperative agreements, is another part of this information collection. After MMS approves the request and places the cooperative agreement in effect, Indian tribes must submit an annual work plan and budget, as well as quarterly reimbursement vouchers. They must follow GAAP and MMS standards. Under the cooperative agreements, the Indian tribes must also comply with the *MMS Audit Procedures Manual* and Generally Accepted Government Auditing Standards (GAGAS).

Cooperative activities benefit both MMS and Indian tribes by ensuring that royalty payments for Indian leases are in compliance with applicable laws, lease terms, regulations. Indian tribes currently manage audits for 92 percent of all tribal mineral royalties through seven cooperative agreements.

30 CFR Part 229—Delegation to States

The final rulemaking of Delegation of Royalty Management Functions to States was published on August 12, 1997 (62 FR 43076), effective September 11, 1997, and stated that part 229 does not apply to Federal lands because delegation for Federal lands is now covered under part 227.

Under the Secretary's delegation of authority at this part, a state may conduct audits and related investigations of oil and gas payments made to MMS regarding leased Indian lands within the state's boundaries. A state must receive written permission from the respective Indian tribe(s) or individual Indian mineral owner(s).

After the state receives approval from the Secretary, the governor or other authorized official of a state may petition the Secretary to assume responsibilities of conducting audits and related

investigations of Indian oil and gas leases. A state petitioning for a delegation of authority will have the opportunity to present testimony at a public hearing within the state.

After the state receives approval of the Secretary's delegation of authority, it must submit annual audit work plans detailing its audits and related investigations, annual budgets, and quarterly reimbursement vouchers. The state must maintain books and records and provide a quarterly summary of costs following Department standards, as required under 30 CFR 229.109. In addition, under this part, no state has proposed to undertake delegated functions on Indian lands within its boundaries.

In addition, 30 CFR 229.101(b), covering the Federal Government's administration of delegations, states:

(b) A State may enter into a delegation of authority under this part [229] without affecting a State's ability to enter into a cooperative agreement under Part 228 of this chapter.

Summary

This collection of information is necessary in order for states and Indian tribes to conduct audits and related investigations of Federal and Indian oil, gas, coal, any other solid minerals, and geothermal royalty revenues from Federal and Indian tribal leased lands.

The MMS protects proprietary information submitted under this collection. The MMS does not collect items of a sensitive nature. A response to engage in these programs is required to obtain the benefit of entering into a cooperative agreement with the Secretary.

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 encourages states and Indian tribes to use electronic reporting in any phase of this information collection. The MMS estimates states and Indian tribes will submit, on an average, 27 percent of the activity conducted under this information collection via electronic technology. Currently, states and Indian tribes choose to provide hard-copy information when submitting delegation proposals, vouchers, progress reports, and work plans. Therefore, under MMS' Government Paperwork Elimination Act, this information collection is not cost effective to convert to electronic format. If states request additional delegations related to royalty reporting and production by industry, then this information collection will be revised and amended to reflect this situation.

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.

Each delegated or cooperative agreement is unique to that particular state or Indian tribe. The information collected does not duplicate information collected by any other Federal agency, nor can any similar information be used or modified for this collection.

The information collected, i.e., royalty reports, production reports, related documents, measurements, and statistics, is also unique. There are no other Federal agencies collecting this information. If there is any duplication of information between state or Indian tribe and Federal reports, it will be reviewed. Duplication will be eliminated, if at all possible.

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

There is no adverse impact on small businesses or other small entities. The MMS has made the process of requesting a delegated or cooperative agreement as simple as possible so that even states or Indian tribes of small size and with limited resources may be considered for these agreements. According to OMB's definition of small entities, there are no small state entities, but there are 6 small Indian tribal entities. We provide telephone assistance, written guidelines, and onsite assistance for the preparation of cooperative agreements, annual work plans and budgets, and quarterly reimbursement vouchers.

In keeping with our overall minerals revenue management and compliance mission, MMS provides periodic training, reporter handbooks, and Internet access to current information on our Web site.

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 this collection is not conducted or is conducted less frequently, we could not administer and delegate audit functions to individual states as prescribed by 30 CFR parts 227 and 229, and to individual Indian tribes as prescribed in 30 CFR part 228.

There are no technical or legal obstacles to reducing the burden.

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 227.112 (d) and 229.109(b) prescribe states to submit quarterly vouchers; however, some states voluntarily provide vouchers on a monthly basis. Likewise, §228.105(c) prescribes Indian tribes to submit quarterly vouchers. The information required in a request to enter into a delegated or cooperative audit agreement to conduct audits and investigations is not collected on

a regularly scheduled basis. It is required only when a state or Indian tribe requests to be considered for an agreement. Once MMS approves a delegated or cooperative audit agreement, quarterly vouchers are required so that MMS will reimburse the state or Indian tribe. Also, the state or Indian tribe must submit an annual work plan and budget.

(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.

Under RSFA section 4(f), Federal oil and gas lessees must maintain records for 7 years after the obligation becomes due. Under 30 CFR 227.200(d), all Federal records obtained or created under the delegated function, i.e., royalty reports, production reports, other related information, must be maintained for 7 years. Also, all Federal oil and gas records must be maintained for additional periods should there be an appeal or litigation as a result of an audit.

The states and Indian tribes must maintain indefinitely Indian oil and gas records generated through delegated and/or cooperative agreements as a result of the Cobell v. Kempthorne litigation.

(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) because 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. See also No. 10.

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 27, 2008 (73 FR 63723). We received no comments in response to the *Federal Register* notice.

Frequent and routine contact between participating states or Indian tribes and MMS employees allows participants to keep abreast of current issues in this cooperative program. The MMS assists states and Indian tribes in preparing their delegated or cooperative agreement proposals, statements of work, work plans, and budgets. The MMS provides a package of instructions and examples, makes personal visits, and provides assistance over the telephone.

Our outreach to four respondents showed that none of the contacts had read and/or remembered the published *Federal Register* notice regarding the extension of this ICR. We sent copies of the notice via electronic mail soliciting comments from the following four producers and received no revisions to our current estimates.

Ms. Winifred Serawop Ute Indian Tribe Royalty Management Audit P. O. Box 70 Fort Duchesne, Utah 84026	Mr. Perry Shirley Ms. Rowena Cheromiah The Navajo Nation Minerals Audit Program Window Rock Blvd., P.O. Box 1910 Window Rock, Arizona 86515
Mr. Steve Dilsaver Wyoming Department of Audit Minerals Audit Division Herschler Building Third Floor East Cheyenne, Wyoming 82002	Mr. Mark Hudson Oklahoma State Auditor and Inspector's Office Minerals Management Division P.O. Box 700001 Oklahoma City, Oklahoma 73107-00001

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

When quarterly vouchers are received, MMS will reimburse states or Indian tribes who have an approved delegated or cooperative audit agreement, work plan, and budget for eligible costs of performing audits and investigations. The MMS will not provide a 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 or 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 Freedom of Information Act (5 U.S.C. 552(b)(4)) and its implementing 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. In addition, MMS has strict security measures in place regarding the storage of, and access to, proprietary information.

Conditional requirements of a delegated or cooperative agreement are that states and Indian tribes must:

- a. Consent in writing to restrict the dissemination of trade secrets and proprietary and other

confidential information to those who are directly involved in an audit or investigation and who have a need to know;

- b. Accept liability for wrongful disclosure of proprietary information; and
- c. Demonstrate that proprietary information is essential to the conduct of an audit or investigation and waive sovereign immunity by express consent for wrongful disclosure by such tribe.

Also, FOGRMA states that the Federal Government shall not be liable for the wrongful disclosure by any individual or Indian tribe of any information provided to such individual or Indian tribe pursuant to any cooperative agreement authorized by this Act.

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.

There are approximately 18 respondents (11 states and 7 Indian tribes).

- The 11 states are Alaska, California, Colorado, Louisiana, Montana, New Mexico, North Dakota, Oklahoma, Texas, Utah, and Wyoming.
- The 7 Indian tribes are Blackfeet Nation, Jicarilla Apache Nation, Navajo Nation, Shoshone and Arapaho Tribes, Southern Ute Tribe, Ute Tribe, and Ute Mountain Ute Tribe.

The MMS estimates that there will be 770 responses each year from these 18 respondents who have cooperative/delegated audit agreements. Based on the functions performed, responses are monthly, quarterly, annually, on occasion, and varied. There are 99.68 fulltime equivalents (FTEs) who audit for the 18 states and Indian tribes. The total estimated annual reporting and recordkeeping hour burden is 6,178 (4,389 for states and 1,789 for Indian tribes).

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

There is no form for this information collection.

(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.

We estimate the total annual cost to respondents is \$183,425 ($\$130,310 + \$53,115 = \$183,425$).

Cost Breakout

Information Collections (ICs)	Number of Respondents	Number of Responses	Total Hours	Total Cost
1. States (30 CFR parts 227 and 229)	11	711	4,389	\$130,310
2. Indian Tribes (30 CFR part 228)	7	59	1,789	\$53,115
TOTAL	18	770	6,178	\$183,425

The actual average cost factor, which includes benefit/fringe costs, for the states and Indian tribes is \$29.69 per burden hour (includes any compensation benefits multiplier), derived from their paid FY2007 vouchers. Based on this cost factor of \$29.69 per burden hour, the total estimated annual cost is \$183,425 ($6,178 \times \$29.69 = \$183,425$).

- States' Estimated Annual Reporting and Recordkeeping Burden Hours:
 - From the 11 states, we estimate a total of 711 responses (695 related to 30 CFR part 227 and 16 related to part 229) for reporting and recordkeeping.
 - We estimate the total annual burden hours for reporting and recordkeeping are 4,389 hours (4,373 from 30 CFR part 227 and 16 from part 229). Based on a cost factor of \$29.69 per burden hour, we estimate the total annual cost to states is \$130,310 ($4,389 \text{ burden hours} \times \$29.69 \text{ per hour} = \$130,310$).
- Indian tribes' Estimated Annual Reporting and Recordkeeping Burden Hours:
 - From the 7 Indian tribes, we estimate a total of 59 responses (related to 30 CFR part 228) for reporting and recordkeeping.
 - We estimate the total annual burden hours for reporting and recordkeeping are 1,789 hours. Based on a cost factor of \$29.69 per burden hour, we estimate the total annual cost to Indian tribes is \$53,115 ($1,789 \text{ burden hours} \times \$29.69 \text{ per hour} = \$53,115$).

The hour 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. We have not included in our estimates certain requirements performed in the

normal course of business and considered usual and customary.

The Federal Government, from current appropriations, will reimburse eligible costs for administration and performance of work under delegated and cooperative agreements. One state requested to perform the four additional functions authorized by RSFA. At this time, MRM has not granted approval.

Burden Chart

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

SECTION A.12 BURDEN BREAKDOWN

30 CFR	Reporting and Recordkeeping Requirements	Hour Burden	Number of Annual Responses	Annual Burden Hours
PART 227—DELEGATION TO STATES				
DELEGATION PROPOSALS				
227.103; 107; 109; 110(a) and (b) (1); 110 (c) and (e); 111(a) and (b); 805	What must a State's delegation proposal contain? If you want MMS to delegate royalty management functions to you, then you must submit a delegation proposal to the MMS Associate Director for Minerals Revenue Management. MMS will provide you with technical assistance and information to help you prepare your delegation proposal. . . .	200	1	200
DELEGATION PROCESS				
227.110 (b)(2)	(b)(2) If you want to change the terms of your delegation agreement for the renewal period, you must submit a new delegation proposal under this part.	15	11	165
EXISTING DELEGATIONS				
COMPENSATION				
227.112 (d) and (e)	What compensation will a State receive to perform delegated functions? You will receive compensation for your costs to perform each delegated function subject to the following conditions . . . (d) At a minimum, you must provide vouchers detailing your expenditures quarterly during the fiscal year. However, you may agree to provide vouchers on a monthly basis in your delegation agreement . . . (e) You must maintain adequate books and records to support your vouchers... ^a	4	84	336
STATES' RESPONSIBILITIES TO PERFORM DELEGATED FUNCTIONS				
227.200 (a), (b),	What are a State's general responsibilities if it accepts a	200	11	2,200

30 CFR	Reporting and Recordkeeping Requirements	Hour Burden	Number of Annual Responses	Annual Burden Hours
(c), and (d)	<p>delegation? For each delegated function you perform, you must: (a) . . . seek information or guidance from MMS regarding new, complex, or unique issues. . . . (b)(1) . . . Provide complete disclosure of financial results of activities; (2) Maintain correct and accurate records of all mineral-related transactions and accounts; (3) Maintain effective controls and accountability; (4) Maintain a system of accounts . . . (5) Maintain adequate royalty and production information . . . (c) Assist MMS in meeting the requirements of the Government Performance and Results Act (GPRA) . . . (d) Maintain all records you obtain or create under your delegated function, such as royalty reports, production reports, and other related information. . . . You must maintain such records for at least 7 years. . . .</p>			
227.200 (e); 801(a); 804	(e) Provide reports to MMS about your activities under your delegated functions . . . At a minimum, you must provide periodic statistical reports to MMS summarizing the activities you carried out . . . ^b	3	44	132
227.200 (f); 401(e); 601(d)	(f) Assist MMS in maintaining adequate reference, royalty, and production databases. . . .	1	250	250
227.200 (g); 301(e)	(g) Develop annual work plans. . .	60	11	660
227.200 (h)	(h) Help MMS respond to requests for information from other Federal agencies, Congress, and the public . . .	8	10	80
227.400 (a)(4) and (a)(6); 401(d); 501(c)	<p>What functions may a State perform in processing production reports or royalty reports? Production reporters or royalty reporters provide production, sales, and royalty information on mineral production from leases that must be collected, analyzed, and corrected. (a) If you request delegation of either production report or royalty report processing functions, you must perform... (4) Timely transmitting production report or royalty report data to MMS and other</p>	1	250	250

30 CFR	Reporting and Recordkeeping Requirements	Hour Burden	Number of Annual Responses	Annual Burden Hours
	affected Federal agencies . . . (6) Providing production data or royalty data to MMS and other affected Federal agencies. . . .			
227.400 (c)	(c) You must provide MMS with a copy of any exceptions from reporting and payment requirements for marginal properties and any alternative royalty and payment requirements for unit agreements and communitization agreements you approve.	1	12	12
227.601 (c)	What are a State's responsibilities if it performs automated verification? To perform automated verification of production reports or royalty reports, you must . . . (c) Maintain all documentation and logging procedures . . .	8	11	88
Subtotal Burden for 30 CFR Part 227			695	4,373
PART 228—COOPERATIVE ACTIVITIES WITH STATES AND INDIAN TRIBES				
SUBPART C—OIL AND GAS, ONSHORE				
228.100 (a) and (b); 101(c); 107(b)	Entering into an agreement. (a) . . . Indian tribe may request the Department to enter into a cooperative agreement by sending a letter from . . . tribal chairman . . . to the Director of MMS. (b) The request for an agreement shall be in a format prescribed by MMS and should include at a minimum the following information: (1) Type of eligible activities to be undertaken. (2) Proposed term of the agreement. (3) Evidence that . . . Indian tribe meets, or can meet by the time the agreement is in effect . . . (4) If the State is proposing to undertake activities on Indian lands located within the State, a resolution from the appropriate tribal council indicating their agreement to delegate to the State responsibilities under the terms of the cooperative agreement for activities to be conducted on tribal or allotted land.	200	1	200
228.101 (a)	Terms of agreement. (a) Agreements entered into under this part shall be valid for a period of 3 years and shall be renewable . . . upon request of . . . Indian tribe. . . .	15	7	105

30 CFR	Reporting and Recordkeeping Requirements	Hour Burden	Number of Annual Responses	Annual Burden Hours
228.101 (d)	(d) . . . Indian tribe will be given 60 days to respond to the notice of deficiencies and to provide a plan for correction of those deficiencies	80	1	80
228.103 (a) and (b)	Maintenance of records. (a) . . . Indian tribe entering into a cooperative agreement under this part must retain all records, reports, working papers, and any backup materials . . . (b) . . . Indian tribe shall maintain all books and records . . .	120	7	840
228.105 (a)(1) and (a)(2)	Funding of cooperative agreements. (a)(1) The Department may, under the terms of the cooperative agreement, reimburse . . . Indian tribe up to 100 percent of the costs of eligible activities. Eligible activities will be agreed upon annually upon the submission and approval of a work plan and funding requirement. (2) A cooperative agreement may be entered into with . . . Indian tribe, upon request, without a requirement for reimbursement of costs by the Department.	60	7	420
228.105 (c)	(c) . . . Indian tribe shall submit a voucher for reimbursement of eligible costs incurred within 30 days of the end of each calendar quarter. . . . Indian tribe must provide the Department a summary of costs incurred, for which . . . Indian tribe is seeking reimbursement, with the voucher. ^c	4	36	144
Subtotal Burden for 30 CFR Part 228			59	1789
PART 229—DELEGATION TO STATES				
SUBPART C—OIL AND GAS, ONSHORE				
ADMINISTRATION OF DELEGATIONS				
229.100 (a)(1) and (a)(2)	Authorities and responsibilities subject to delegation. (a) All or part of the following authorities and responsibilities of the Secretary under the Act may be delegated to a State authority: (1) Conduct of audits related to oil and gas royalty payments made to the MMS which are attributable to leased . . . Indian lands within the State. Delegations with respect to any Indian lands require the written permission, subject to the review of the MMS, of the affected Indian tribe or allottee. (2) Conduct of investigations related to oil	1	1	1

30 CFR	Reporting and Recordkeeping Requirements	Hour Burden	Number of Annual Responses	Annual Burden Hours
	and gas royalty payments made to the MMS which are attributable to . . . Indian lands within the State. Delegation with respect to any Indian lands require the written permission, subject to the review of the MMS, of the affected Indian tribe or allottee. No investigation will be initiated without the specific approval of the MMS. . . .			
229.101 (a) and (d)	<p>Petition for delegation. (a) The governor or other authorized official of any State which contains . . . Indian oil and gas leases where the Indian tribe and allottees have given the State an affirmative indication of their desire for the State to undertake certain royalty management-related activities on their lands, may petition the Secretary to assume responsibilities to conduct audits and related investigations of royalty related matters affecting . . . Indian oil and gas leases within the State . . . (d) In the event that the Secretary denies the petition, the Secretary must provide the State with the specific reasons for denial of the petition. The State will then have 60 days to either contest or correct specific deficiencies and to reapply for a delegation of authority.</p>	1	1	1
229.102 (c)	<p>Fact-finding and hearings. (c) A State petitioning for a delegation of authority shall be given the opportunity to present testimony at a public hearing.</p>	1	1	1
229.103 (c)	<p>Duration of delegations; termination of delegations. (c) A State may terminate a delegation of authority by giving a 120-day written notice of intent to terminate.</p>	1	1	1
229.105	<p>Evidence of Indian agreement to delegation. In the case of a State seeking a delegation of authority for Indian lands... the State petition to the Secretary must be supported by an appropriate resolution or resolutions of tribal councils joining the State in petitioning for delegation and evidence of the agreement of individual Indian allottees whose lands would be involved in a delegation. Such evidence shall specifically speak to having the State assume delegated responsibility for specific functions related to royalty management activities.</p>	1	1	1

30 CFR	Reporting and Recordkeeping Requirements	Hour Burden	Number of Annual Responses	Annual Burden Hours
229.106	<p>Withdrawal of Indian lands from delegated authority. If at any time an Indian tribe or an individual Indian allottee determines that it wishes to withdraw from the State delegation of authority in relation to its lands, it may do so by sending a petition of withdrawal to the State. . . .</p>	1	1	1
229.109 (a)	<p>Reimbursement for costs incurred by a State under the delegation of authority. (a) The Department of the Interior (DOI) shall reimburse the State for 100 percent of the direct cost associated with the activities undertaken under the delegation of authority. The State shall maintain books and records in accordance with the standards established by the DOI and will provide the DOI, on a quarterly basis, a summary of costs incurred . . .</p>	1	1	1
229.109 (b)	<p>(b) The State shall submit a voucher for reimbursement of costs incurred within 30 days of the end of each calendar quarter.</p>	1	1	1
DELEGATION REQUIREMENTS				
229.120	<p>Obtaining regulatory and policy guidance. All activities performed by a State under a delegation must be in full accord with all Federal laws, rules and regulations, and Secretarial and agency determinations and orders relating to the calculation, reporting, and payment of oil and gas royalties. In those cases when guidance or interpretations are necessary, the State will direct written requests for such guidance or interpretation to the appropriate MMS officials. . . .</p>	1	1	1
229.121 (a), (b), (c), and (d)	<p>Recordkeeping requirements. (a) The State shall maintain in a safe and secure manner all records, workpapers, reports, and correspondence gained or developed as a consequence of audit or investigative activities conducted under the delegation . . . (b) The State must maintain in a confidential manner all data obtained from DOI sources or from payor or company sources under the delegation... (c) All records subject to the requirements of paragraph (a) must be maintained for a 6-year period measured from the end of the calendar year in which the records were created . . . Upon termination of a</p>	1	1	1

30 CFR	Reporting and Recordkeeping Requirements	Hour Burden	Number of Annual Responses	Annual Burden Hours
	delegation, the State shall, within 90 days from the date of termination, assemble all records specified in subsection (a), complete all working paper files in accordance with § 229.124, and transfer such records to the MMS. (d) The State shall maintain complete cost records for the delegation in accordance with generally accepted accounting principles. . . .			
229.122 (a), (b), and (c)	Coordination of audit activities. (a) Each State with a delegation of authority shall submit annually to the MMS an audit workplan specifically identifying leases, resources, companies, and payors scheduled for audit . . . A State may request changes to its workplan . . . at the end of each quarter of each fiscal year. All requested changes are subject to approval by the MMS and must be submitted in writing. (b) When a State plans to audit leases of a lessee or royalty payor for which there is an MMS or OIG resident audit team, all audit activities must be coordinated through the MMS or OIG resident supervisor. . . . (c) The State shall consult with the MMS and/or OIG regarding resolution of any coordination problems encountered during the conduct of delegation activities.	1	1	1
229.123 (b)(3)(i)	Standards for audit activities. (b)(3) <i>Standards of reporting.</i> (i) Written audit reports are to be submitted to the appropriate MMS officials at the end of each field examination.	1	1	1
229.124	Documentation standards. Every audit performed by a State under a delegation of authority must meet certain documentation standards. In particular, detailed workpapers must be developed and maintained.	1	1	1
229.125 (a) and (b)	Preparation and issuance of enforcement documents. (a) Determinations of additional royalties due resulting from audit activities conducted under a delegation of authority must be formally communicated by the State, to the companies or other payors by an issue letter prior to any enforcement action. . . . (b) After evaluating the company or	1	1	1

30 CFR	Reporting and Recordkeeping Requirements	Hour Burden	Number of Annual Responses	Annual Burden Hours
	payor's response to the issue letter, the State shall draft a demand letter which will be submitted with supporting workpaper files to the MMS for appropriate enforcement action. Any substantive revisions to the demand letter will be discussed with the State prior to issuance of the letter. . . .			
229.126 (a) and (b)	<p>Appeals.</p> <p>(a) . . . The State regulatory authority shall, upon the request of the MMS, provide competent and knowledgeable staff for testimony, as well as any required documentation and analyses, in support of the lessor's position during the appeal process.</p> <p>(b) An affected State, upon the request of the MMS, shall provide expert witnesses from their audit staff for testimony as well as required documentation and analyses to support the Department's position during the litigation of court cases arising from denied appeals. . . .</p>	1	1	1
229.127	<p>Reports from States.</p> <p>The State, acting under the authority of the Secretarial delegation, shall submit quarterly reports which will summarize activities carried out by the State during the preceding quarter of the year under the provisions of the delegation. . . .</p>	1	1	1
Subtotal Burden for 30 CFR Part 229			16	16
TOTAL BURDEN			770	6,178

^a NOTE: 5 states x 12 monthly vouchers = 60 and 6 states x 4 quarterly vouchers = 24

^b NOTE: 4 quarterly reports x 11 states = 44

^c NOTE: 1 tribe x 12 monthly vouchers = 12 and 6 tribes x 4 quarterly vouchers = 24

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.

There are 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.

Labor Costs

Position	Grade Level	Hourly Pay rate ¹	Hourly rate including benefits (1.5 x \$/hour) ²	Percent of time spent on collection	Weighted Average (\$/hour)
Minerals Revenue Technician	7	\$22.18	\$33	10%	\$3
Program Analyst	11	\$32.83	\$49	5%	\$2
Auditor	12	\$39.35	\$59	25%	\$15
Auditor	13	\$46.80	\$70	50%	\$35
Supervisory Auditor	14	\$55.30	\$83	10%	\$8
Weighted Average (\$/hour)				100%	\$63

¹ \$/hour from 2009 U.S. OPM GS Pay Schedule, Denver locality

² multiplier of 1.5 (as implied by BLS news release USDL 08-1802, Dec. 10, 2008) was added for benefits.

To analyze, review, and process the information, the Federal Government spends an average of 1 hour for each hour spent by respondents. The total estimated Federal Government time is 6,178 hours. The total estimated burden to the Federal Government is based on time or effort needed to complete all data gathering requirements, analyze submissions in response to this information collection, and approve payment for eligible costs. These tasks are currently performed by employees paid according to the United States Office of Personnel Management (OPM) 2009 General Schedule (GS), which is located at <http://www.opm.gov/oca/09tables/indexGS.asp>. Based on a weighted average cost factor of \$63 per burden hour, the total annual estimated cost burden on the Federal Government is \$389,214 (6,178 hours x 1 hour = 6,178 hours x \$63 = \$389,214).

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

(a) Annual Hour Burden

Currently Approved OMB Burden Hour Inventory	Program Change Estimated Burden Hours	Adjustment Change Estimated Burden Hours	Total Estimated Burden Hours
6,194	0	-16	6,178

There is no program change for this information collection, but there is an adjustment **decrease** of 16 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 data collected will not be tabulated and published for statistical use. The MMS will not use any complex analytical techniques.

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 is not applicable to this information collection. This collection concerns regulatory requirements.

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

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