

Supporting Statement A

Leasing of Osage Reservation lands for Oil and Gas Mining, 25 CFR 226

OMB Control Number 1076-0180

This is a new information collection.

Terms of Clearance: On August 8, 2013, OMB filed a notice of action on the information collection request submitted with the proposed rule. The notice of action stated that, prior to publication of the final rule, the agency must submit to OMB a summary of all comments related to the information collection contained in the proposed rule and the agency response. The summary and response are in item #8.

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. OMB reserves the right to require the submission of additional information with respect to any request for approval.

Specific Instructions

Justification

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.**

Congress passed legislation specifically addressing oil and gas leasing on Osage lands and requiring Secretarial approval of leases. *See* 34 Stat. 543, section 3, as amended. The regulation, 25 CFR 226, implements that statute by specifying what information a lessee must provide related to drilling, development, and production of oil and gas on Osage reservation land. The oil, gas, and land are assets that the United States holds in trust or restricted status for Indian beneficiaries. The information collections in 25 CFR 226 are necessary to ensure that the beneficial owners of the mineral rights are provided the royalties due them, ensure that the oil and gas trust assets are protected, and to ensure that

the surface estate assets are protected.

The regulation at 25 CFR 226 is being amended to make several updates. A copy of the relevant law and the proposed regulation are attached.

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.

BIA uses the information it collects to determine whether or not a lease may be approved or canceled, how much oil or gas is being produced and sold under a lease, how much royalty payments are owed, and whether wells are drilled, operating in good repair, plugged, or abandoned.

Each information collection and the reason for the collection are listed in the following table:

Section	Information Collected	Reason for Collection	Form
226.5	Bidder must submit completed lease form	To identify lessee and obtain commitments to lease.	Form A – Mining Lease Form B – Oil Lease Form C – Oil & Gas Lease Form E – Evidence of Authority Lease Modification Form
226.9	Lessee must submit bonds.	To ensure resources to address contingencies and well shut down in protection of trust resource.	Form D – Mining Lease Bond Form G – Collective Bond Form H – Assignment Bond Form Nationwide Oil & Gas Lease Bond Letter of Credit
226.13	Corporate lessees must submit evidence of its officers’ authority to execute papers and a copy of its Articles of Incorporation	To ensure authority to enter into lease on behalf of the corporate entity and ensure existence of corporate entity.	--
226.26 226.27(a)	Lessee must provide certified monthly reports covering operations and on value of all oil/gas used off premises for development and operation.	To determine the amount of royalty payments.	Monthly Accounting Forms (Forms 101, 101A, 133, 157, and 300)
226.27(b)	Lessee must require purchaser of oil or gas to furnish statement of gross barrels of oil or gross McF of gas sold and sales price per barrel or gross McF during the preceding month.	To ensure appropriate royalties to owners are paid.	--
226.28	Submit agreement to unitize or terminate unitization of oil or gas leases to Secretary.	To identify and monitor lease operations.	--

226.29	Submit assignment or transfer of lease to Secretary.	To identify assignee who will be responsible for complying with lease.	Form F – Assignment of Lease Assignment of Operating Rights Form
226.34(b) 226.52	Lessee must submit applications on BIA forms for well drilling, treating, or workover operations, removing casing from well.	To identify and monitor lease operations.	Form 139 – Permit to Drill or Reenter; Easement Form Well Spud Form Seismic Permit
226.36	Lessee must notify and request meeting with surface owners by certified mail, provide copy to Superintendent, and provide info at meeting	To ensure that rights of surface owners of the trust land are protected.	--
226.40 226.41	Any person claiming an interest in the leased tract or in damages must provide a statement showing the claimed interest	To determine who is entitled to payment or damages.	--
226.43	Drivers must carry documentation showing the amount, origin and intended first purchaser of the oil or gas or marketable product	To ensure product is tracked to sale.	--
226.45(d)	Lessee must submit a contingency plan, when required	To ensure protection of trust assets.	--
226.54	Lessee must keep a full and correct account of all operations, receipts, and disbursements and make reports thereof, as required, and make available for inspection	To ensure appropriate royalties to owners are paid.	--
226.56	Lessee must keep records of drilling, redrilling, deepening, repairing, treating, plugging or abandonment of all wells and furnish reports as required in manner and method specified by Superintendent	To identify and monitor lease operations and protection of trust asset.	Form 139A – Notice & Reports on Wells
226.56	Lessee must transmit to Superintendent applicable information of completion of operations on any well on BIA forms; a copy of electrical, mechanical or radioactive log, or other types of survey of well bore, and core analysis of well.	To identify and monitor lease operations and protection of trust asset.	Form 208 – Well Completion or Recompletion Report & Log
226.56	Upon request, Lessee must furnish plat of wells in manner, form, and method prescribed by Superintendent.	To identify and monitor lease operations and protection of trust asset.	--
226.65	Lessee must maintain site security plan, including facility diagram	To identify and monitor lease operations and protection of trust asset.	--
226.66	Lessee must report accidents, fires, vandalism including an estimate of the volume of oil involved.	To identify and monitor lease operations and protection of trust asset.	--

Forms

The Gas Mining Lease (Form A), Oil Mining Lease (Form B), and Oil & Gas Mining Lease (Form C)

are standard lease forms. The information requested is to identify the parties and their contact information and identification of the specific resources being leased. In addition, there is a Modification form available to make modifications to an existing lease. The Evidence of Authority (Form E) form must be submitted to the BIA to allow another individual or corporation to act behalf a lessee. Other information is legally required to establish a contract, such as a statement of the rental and/or royalty. Likewise, the Assignment of Lease form (Form F) identifies the new assignee and requires a signed commitment to abide by the terms of the lease. Notarization of signatures is required on both the original lease forms, evidence of authority, and assignments.

The bond form for original leases (Form D), the collective bond form (Form G), and the bond form for assignments of leases (Form H) identify the parties, the lease for which the bond is being issued, and the amount and type of bond entered into. This form requires two witnesses for each signature.

The monthly report forms require identification of the lease, royalty rate and amount, unit price, number of wells produced, and the date of last production:

- Dry Gas Lessee Report (Form 101)
- NGL Gas Lessee Report (Form 101-A)
- Oil Lessee Report (Form 133)
- Oil Lessee Report for Consolidated Leases (Form 157)
- Oil Lessee Report for Waterflood Leases (Form 300)

The Completed or Deepened Well Report (Form 208) requests information regarding the casing, drilling, and cementing of the well, and information on how fresh water was protected, to ensure that the drill will not create a hazard to trust resources.

The Notification of Well Spud Form requests information regarding the well conditions, requesting the time and date of the well spud, contractor information, date and time to plan run casing.

The Seismic Permit requests information regarding the location for the seismic activity, including a map, as well as standard terms and conditions.

Items that were determined not to be information collections requiring approval are:

- The “written application” referred to in 25 CFR 226.5(a)(1) – This is a actually a simple request from one or more landowners to make their mineral estates available for leasing. As such, it is a simple certification statement. The Bureau does the work of identifying the specific land descriptions, etc. For this reason, the “written application” at § 226.2(a) (1) is not an information collection requiring approval.
- The request to surrender (i.e., cancel) a lease in § 226.6 is a simple certification statement that does not require information collection approval.
- The allowance in § 226.14(f) for the Osage Mineral Council to submit a

written request and supporting materials for the Secretary to take appropriate action regarding any lease that has been terminated or may be terminated is not an information collection because it is at the initiative of the Council rather than a requirement of the Secretary. There is no prescribed form or guidelines for such a request.

- 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 regulations provide that reports be submitted in .csv (comma separated value) or ASCII format. Respondents may submit other information electronically, but in many instances, respondents submit in hard copy because, in practice, the transactions occur in person at the Osage agency.

- 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.**

There is no duplication of effort regarding collection of this information because only the Bureau of Indian Affairs has the statutory responsibility for approving and monitoring oil and gas leases on the Osage reservation. Further, most of the information will be developed and maintained in the normal course of business even in the absence of the regulatory requirements.

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

Most companies that lease oil and gas on the Osage reservation are large companies, but there are a small percentage of small “mom-and-pop” type companies that this collection of the information impacts. Osage Agency employees minimize the burden of the collection by assisting lessees with the forms and requirements.

- 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 information is not collected, oil and gas leasing on the Osage reservation cannot occur because the law requires Secretarial approval of the lease transactions. The information collection requirement involves minimum information necessary to protect trust assets and ensure that trust beneficiaries receive royalties due them.

- 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;**
- * requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- * requiring respondents to submit more than an original and two copies of any document;**
- * requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;**
- * 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;**
- * requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- * 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; or**
- * 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 special circumstances that would cause an information collection to be conducted in any manner listed above, as specified here:

- Lessees are required to provide certified reports on a monthly basis to ensure that monthly payments to trust beneficiaries are made;
- Lessees are required to maintain records on disbursements, drilling and well operations, meter calibrations and adjustments, inspections and monitoring, and site security plans for six years to as long as necessary..

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 three years, and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

The proposed rule published in the Federal Register sought comment on this information collection. See 78 FR 53083 (August 28, 2013). We received a few comments related to information collection requirements. A copy of each of the comments is attached with the relevant sections highlighted. The following is a summary of the comments and our responses.

Comment 1: The requirement in § 226.65 for submission of a site security plan is duplicative of the Spill Prevention Control and Countermeasure (SPCC) plans required by the U.S. Environmental Protection Agency.

Response 1: The SPCC plans required by the EPA are not submitted to the Bureau and are

submitted to the EPA only to prevent a spill of oil into navigable waters or shorelines, whereas site security plans are required by the Bureau and submitted for all oil and gas operations to proactively address a multitude of public safety concerns. For these reasons, the site security plans are not duplicative of the SPCC Plans. The site security plans will help promote lessee compliance with EPA's requirement for SPCC plans regarding oil spills, because lessees will have information more readily available from the site security plans to assist them in completing an SPCC Plan. No change was made in response to this comment.

Comment 2: In § 226.66, lessees should be required to report environmental accidents, in addition to other accidents, fires, theft, vandalism, to the Superintendent, and law enforcement (in case of theft). A commenter also stated that reports of theft should also be made within one business day of discovery rather than "promptly." The commenter also stated that notice to the surface owner should be required.

Response 2: In response to this comment, the Bureau has further revised Section 226.66 (previously numbered 226.41) to require that, in addition to requiring lessees to report fires, theft, vandalism, lessees also report environmental accidents. The Bureau has also changed "promptly" to require reports of theft within one business day of discovery, and has added a requirement for the lessee to provide or attempt to provide notice to the surface owner or the current resident/occupant in writing by U.S. mail of any such incidents. This has resulted in a small increase in reporting 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.

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.

Most, if not all, of the respondents are from the Oklahoma region; therefore, BIA focused on contacting persons in the Oklahoma region who have experience responding to this collection to request their input on burden estimates and their views on the availability of data, frequency of collection, clarity of instructions and recordkeeping, disclosure, and data elements. The following individuals responded:

Mary Johnson, Constellation Energy Partners (CEP), (918) 877-2926
Don Westall, CEP, (918) 877-2929

Ms. Johnson and Mr. Westall have 11 years of experience leasing oil and gas from the Osage agency. These representatives said that the original estimate of 3 hours to complete the lease is high because

the agency personnel fill in all the information and all that is necessary is for CEP to review. As a result, we have reduced the time burden estimate to 0.5 hours. Overall the representatives stated that the leasing process runs smoothly, but that the requirement for filing monthly reports is burdensome in that each individual report must be manually signed. In CEP's case, over 500 monthly reports are due, and while the process of developing the reports is fast, the time it takes to print and manually sign each is burdensome. The agency has included this time in its estimated burden hours, but is investigating a way to make it less burdensome (e.g., by allowing one signature for several reports).

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

No payments or gifts are provided to respondents.

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

This is not applicable.

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.

There are no questions of a sensitive nature included in the information collected.

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

The estimated total annual number of respondents is estimated to be 965 (700 current lessees + 160

new lessees + 45 purchasers + 60 drivers). The annual number of responses is 14,436. The hourly burdens are averages because the actual time it takes per response varies based on the experience of the lessee and complexity of the lease. The estimated total annual hour burden is 21,954 hours. The estimated salary burden is \$ 1,625,255.

Section	Information collection	Respondents	Annual Responses	Hourly burden per response	Total Annual Hourly Burden	Salary Burden @ \$74.03/hr_{1, 2}
226.5	Lessee must submit completed lease form	160	160	0.5	80	\$ 5,713
226.9	Lessee must submit bonds.	160	160	0.5	80	\$ 5,713
226.13	Corporate lessees must submit evidence of is officers' authority to execute papers and a copy of its Articles of Incorporation	150	150	0.25	38*	\$ 2,678
226.26 226.27(a)	Lessee must provide certified monthly reports covering operations and on value of all oil/gas used off premises for development and operation.	700	8,400	0.5	4,200	\$ 299,922
226.27(b)	Purchaser of oil or gas to furnish statement of gross barrels of oil or gross Mcf of gas sold and sales price per barrel or gross McF during the preceding month.	45	540	0.5	270	\$ 19,281
226.28	Submit agreement to unitize or terminate unitization of oil or gas leases to Secretary	1	1	1	1	\$ 71
226.29	Submit assignment or transfer of lease to Secretary	500	500	0.5	250	\$ 17,853
226.34(b) 226.52	Lessee must submit applications on BIA forms for well drilling, treating, or workover operations, removing casing from well. Application to shut down or plug well, with justification.	600	600	8	4,800	\$ 342,768
226.36	Lessee must notify and request meeting with surface owners by certified mail, provide copy to Superintendent, and provide info at meeting	160	160	1	160	\$ 11,426
226.40 226.41	Any person claiming an interest in the leased tract or in damages must provide a statement showing the claimed interest	1	1	1	1	\$ 71

226.43	Drivers must carry documentation showing the amount, origin and intended first purchaser of the oil or gas or marketable product	60	60	0.5	30	\$ 2,142
226.45(d)	Lessee must submit a contingency plan, when required	160	160	5	800	\$ 57,128
226.54	Lessee must keep a full and correct account of all operations, receipts, and disbursements and make reports thereof, as required, make available for inspection, and maintain for 6 yrs	700	700	1	700	\$ 49,987
226.56	Lessee must keep records of drilling, re-drilling, deepening, repairing, treating, plugging or abandonment of all wells and furnish reports as required in manner and method specified by Superintendent	700	700	1	700	\$ 49,987
226.56	Lessee must transmit to Superintendent applicable information of completion of operations on any well on BIA forms; a copy of electrical, mechanical or radioactive log, or other types of survey of well bore, and core analysis of well.	700	700	8	5,600	\$ 399,896
226.56	Upon request, Lessee must furnish plat of wells in manner, form, and method prescribed by Superintendent.	700	700	2	1,400	\$ 99,974
226.65	Lessee must maintain site security plan, including facility diagram	700	700	4	2,800	\$ 199,948
226.66	Lessee must report accidents, fires, vandalism including an estimate of the volume of oil involved and notify surface owner.	22	44	1	44	\$ 3,142
		Total	14,436	--	21,954	\$ 1,625,255

*Rounded up.

¹We have used the Bureau of Labor Statistics, EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—September 2014 (released December 10, 2014), USDL 14-2208, Table 4, State and Local Government Workers, for the category of Management, Professional, and related staff (\$52.88), as a guide for our estimates, including the benefits multiplier 1.4. See <http://www.bls.gov/news.release/ecec.t04.htm>.

²Total Cost is rounded to the nearest dollar.

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 already reflected in item 12.)

*** The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) 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 for form processing). 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 burdens 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.**

Lessees must request a meeting with surface landowners by certified mail, costing \$3.10 each. Because 160 lessees are estimated to have to fulfill this requirement each year, the total estimated non-hour annual cost is \$496.

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.

BIA Osage agency currently has staff, at GS levels 4, 9, and 13 devoted to processing the information collections and administering the oil and gas program, in general. These three levels of staff split their time roughly equally among them. The total Federal burden hours is approximately 8,433, as shown in the table below, meaning each GS level would spend approximately 2,811 hours each year on these information collections. The hourly wage and annual salary cost* for each GS level is:

- GS-4/5 – hourly: \$15.51; annual: \$43,599
- GS-9/5 – hourly: \$26.28; annual: \$73,873
- GS-13/5 – hourly: \$45.33; annual: \$127,423.

The total estimated annual salary cost to the Federal Government is therefore \$244,895.

The estimated total annual number of responses reviewed by the Federal Government, the estimated total annual hour burden, and total salary cost to the Federal Government are shown in the table below.

Section	Federal Government Task	Annual responses	Federal burden per response	Total Federal burden hours
226.5	Review and process lease.	160	6	960.00
226.9	Review bonding documentation.	160	0.5	80.00
226.13	Review corporate documentation.	150	0.5	75.00
226.26 226.27(a)	Review certified monthly reports.	8,400	0.25	2,100.00
226.27(b)	Review purchaser statements.	540	0.25	135.00
226.28	Review unitization agreements.	1	2	2.00
226.29	Review assignment or transfer of lease.	500	3	1,500.00
226.34(b) 226.52	Review application for well drilling, treating, workover, etc.	600	3	1,800.00
226.36	File copy of meeting request.	160	0.25	40.00
226.40 226.41	Review statement showing the claimed interest or damages	1	0.5	0.50
226.43	---	60	0	0.00
226.45(d)	Review contingency plan.	160	1	160.00
226.54	---	700	0	0.00
226.56	---	700	0	0.00
226.56	Review documentation of completion of operations.	700	0.25	175.00
226.56	Review plat of wells	700	1	700.00
226.65	Review site security plan.	700	1	700.00
226.66	Review report of accidents, fires, etc.	22	0.25	5.50
			Total	8,433

*We have used Salary Table 2015-RUS, http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2015/RUS_h.pdf. The multiplier of 1.5 is derived from the Bureau of Labor Statistics, Employer Costs for Employee Compensation – September 2014 at <http://www.bls.gov/news.release/ecec.t04.htm>.

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

This is a new information collection. At the time the regulations governing this program were promulgated, the information collections contained therein were not subject to the Paperwork Reduction Act that was in effect. Since that time, the 1995 amendments to the Paperwork Reduction Act were passed. We have determined in reviewing this regulation for revisions that the 1995 amendments to the Paperwork Reduction Act now subject the information collection requirements in these regulations to OMB approval. For this reason, the hour and cost burden is new.

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.

There are no plans to publish the results of this collection of information. However, a summary may be used for budget justification.

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.

We intend to display the expiration date with the OMB Control Number.

18. Explain each exception to the topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions."

There are no exceptions.