



[4335-30]

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

[Docket No. ONRR-2011-0008; DS63644000 DR2000000.CH7000 190D1113RT;

OMB Control Number 1012-0006]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Suspensions Pending Appeal and Bonding

AGENCY: Office of Natural Resources Revenue, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Office of Natural Resources Revenue (ONRR) is proposing to renew an information collection. Through this Information Collection Request renewal (ICR), ONRR seeks renewed authority to collect information related to the paperwork requirements necessary to post a surety or bond, or demonstrate financial solvency.

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

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. You may find this particular information collection by selecting "Currently under 30-day Review - Open for Public Comments" or by using the search function. Please provide a copy of your comments to Mr. Luis Aguilar, Regulatory Specialist, ONRR, Building 85, MS 64400B, Denver Federal Center,

West 6th Ave. and Kipling St., Denver, Colorado 80225, or by email to *Luis.Aguilar@onrr.gov*. Please reference OMB Control Number 1012-0006 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Kimberly Werner, Financial Services, ONRR, at (303) 231-3801, or email to *Kimberly.Werner@onrr.gov*. You may also view the ICR at <http://www.reginfo.gov/public/do/PRAMain>.

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), ONRR is providing the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps ONRR assess the impact of the information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format. A *Federal Register* notice with a 60-day public comment period soliciting comments on this collection of information was published on March 25, 2020 (85 FR 16954). ONRR did not receive any comments.

As part of our continuing effort to reduce paperwork and respondent burdens, ONRR is again soliciting comments from the public and other Federal agencies on the proposed ICR described below. ONRR is especially interested in public comments addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of ONRR's estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, (for example, permitting electronic submission of response).

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask in your comment to withhold your personal identifying information from public review, ONRR cannot guarantee that it will be able to do so.

Abstract: The Secretary of the United States Department of the Interior is responsible for mineral resource development on Federal and Indian lands and the Outer Continental Shelf (OCS). Under various laws, the Secretary's responsibility is to carry out a comprehensive inspection, collection, and fiscal and production accounting and auditing system that provides the capability to: (1) accurately determine mineral royalties, interest, and other payments owed, (2) collect and account for such amounts in a timely manner, and (3) disburse the funds collected.

The Secretary also has a trust responsibility to seek advice and information from Indian beneficiaries. ONRR performs the minerals revenue management functions for the Secretary and assists the Secretary in carrying out the Department's trust responsibility for Indian lands.

The laws pertaining to mineral leases on Federal and Indian lands are posted at http://www.onrr.gov/Laws_R_D/PubLaws/default.htm.

(a) *General Information:* When a company or an individual enters into a lease to explore, develop, produce, and dispose of minerals from Federal or Indian lands, that company or individual agrees to pay the lessor a share in an amount or value of production from the leased lands. The lessee or its designee must report various kinds of information to the lessor relative to the disposition of the leased minerals. Such information is generally available within the records of the lessee or others involved in developing, transporting, processing, purchasing, or selling such minerals.

If ONRR determines that a lessee did not properly report or pay, it may issue orders, notices of noncompliance, and civil penalty notices to compel corrective reporting, payment, or both. Lessees have a right to appeal ONRR's determinations.

(b) *Information Collections:* Regulations under 30 CFR part 1243 govern the submission of appropriate surety instruments to suspend compliance with orders or decisions and to stay the accrual of civil penalties (if the Office of Hearings and Appeals grants a lessee's petition to stay accrual of civil penalties) pending administrative appeal for Federal and Indian leases. For Federal oil and gas leases, under 30 U.S.C. 1724(l) and its implementing regulations under 30 CFR part 1243, an appellant requesting a suspension without providing a surety must submit information to demonstrate financial

solvency. This ICR covers the burden hours associated with submitting financial statements and surety instruments required to stay an ONRR order, decision, or accrual of civil penalties.

(c) *Stay of Payment Pending Appeal*: Title 30 CFR 1243.1 states that lessees or recipients of ONRR orders may suspend compliance with an order if they appeal under 30 CFR part 1290. Pending appeal, ONRR may suspend the payment requirement if the appellant submits a formal agreement of payment in the case of default, such as a bond or other surety. For Federal oil and gas leases only, the appellant may alternatively demonstrate financial solvency. If the Office of Hearings and Appeals grants a lessee's, or other recipient of a notice of noncompliance or civil penalty notice, request to stay the accrual of civil penalties under 30 CFR 1241.55(b)(2) and 1241.63(b)(2), the lessee or other recipient must post a bond or other surety. For Federal oil and gas leases only, the appellant may alternatively demonstrate financial solvency.

ONRR accepts the following surety types: form ONRR-4435, Administrative Appeal Bond; form ONRR-4436, Letter of Credit; form ONRR-4437, Assignment of Certificate of Deposit; Self-bonding; and U.S. Treasury Securities.

When an appellant selects one of the surety types and puts it in place, the appellant must maintain the surety until the appeal's completion. If the appeal is decided in favor of the appellant, ONRR will return the surety to the appellant. If the appeal is decided in favor of ONRR, then ONRR will take action to collect the total amount due or draw down on the surety. ONRR will draw down on a surety if the appellant fails to comply with requirements relating to the amount due, timeframe, or surety submission or resubmission. Whenever ONRR draws down on a surety, it reduces the total amount due,

which is defined as the unpaid principal plus the interest accrued to the projected receipt date of the surety payment. Appellants may refer to the Surety Instrument Posting Instructions, available on our web site at <http://www.onrr.gov/compliance/appeals.htm>.

(d) *Forms and Other Surety Types:* An appellant may file the following forms and surety types:

(1) *Form ONRR-4435 Administrative Appeal Bond* - An appellant may file form ONRR-4435, Administrative Appeal Bond, which ONRR uses to secure the financial interests of the public and Indian lessors during the entire administrative and judicial appeal processes. Under 30 CFR 1243.4, an appellant is required to submit its contact and surety amount information on the bond to obtain the benefit of suspension of an obligation to comply with an order. The bond must be issued by a qualified surety company that the U.S. Department of the Treasury approves (see Department of the Treasury Circular No. 570, revised periodically in the *Federal Register*). ONRR's Director, or the delegated bond-approving officer, maintains the bonds in a secure facility. After an appeal's conclusion, ONRR may release and return the bond to the appellant or collect payment on the bond. If collection is necessary for a remaining balance, ONRR will issue a demand for payment to the surety company with a notice to the appellant. ONRR will also include all interest accrued on the affected receivable.

(2) *Form ONRR-4436 Letter of Credit* - An appellant may choose to file form ONRR-4436, Letter of Credit, with no modifications. Requirements under 30 CFR 1243.4 continue to apply. ONRR's Director, or the delegated bond-approving officer, maintains the Letter of Credit (LOC) in a secure facility. The appellant is responsible for verifying that the bank provides a current Fitch rating to ONRR. After the appeal's

conclusion, ONRR may release and return the LOC to the appellant or collect payment on the LOC. If collection is necessary for a remaining balance, ONRR will issue a demand for payment that includes the principal amount, plus the interest assessed on the receivable, to the bank with a notice to the appellant.

(3) *Form ONRR-4437 Assignment of Certificate of Deposit* - An appellant may choose to secure a debt by requesting to use a Certificate of Deposit (CD) from a bank with the required minimum rating and submitting form ONRR-4437, Assignment of Certificate of Deposit. Requirements under 30 CFR 1243.4 continue to apply. The appellant must file the request with ONRR prior to the invoice due date. ONRR will accept a book-entry CD that explicitly assigns the CD to ONRR's Director. If collection of the CD is necessary for an unpaid balance, ONRR will return unused CD funds to the appellant after total settlement of the appealed issues, including applicable interest charges.

(4) *Self-bonding* - For Federal oil and gas leases, regulations under 30 CFR 1243.201 provide that no surety instrument is required when a person representing the appellant periodically demonstrates, to ONRR's satisfaction, that the guarantor or appellant is financially solvent or otherwise able to pay the obligation. The appellant must submit a written request to "self-bond" every time a new appeal is filed. To evaluate the financial solvency and exemption from requirements of an appellant to maintain a surety related to an appeal, ONRR requires the appellant to submit a consolidated balance sheet, subject to annual audit. In some cases, ONRR also requires copies of the most recent tax returns (up to three years) filed by the appellant.

In addition, an appellant must annually submit financial statements, subject to annual audit, to support its net worth. ONRR uses the consolidated balance sheet or business information supplied to evaluate the financial solvency of a lessee, designee, or payor seeking a stay of payment obligation pending review. If the appellant does not have a consolidated balance sheet documenting its net worth, or if it does not meet the \$300 million net worth requirement, ONRR selects a business information or credit reporting service to provide information concerning the appellant's financial solvency. ONRR charges the appellant a \$50 fee each time it reviews data from a business information or credit reporting service. The fee covers ONRR's cost to determine an appellant's financial solvency.

(5) *U.S. Treasury Securities* - An appellant may choose to secure its debts by requesting to use a U.S. Treasury Security (TS). The appellant must file the letter of request with ONRR prior to the invoice due date. The TS must be a U.S. Treasury note or bond with maturity equal to or greater than one year. The TS must equal 120 percent of the appealed amount plus 1 year of estimated interest (necessary to protect ONRR against interest rate fluctuations). ONRR only accepts book-entry TS.

Title of Collection: Suspensions Pending Appeal and Bonding.

OMB Control Number: 1012-0006.

Form Number: Forms ONRR-4435, ONRR-4436, and ONRR-4437.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Businesses

Total Estimated Number of Annual Respondents: 105 Federal or Indian appellants.

Total Estimated Number of Annual Responses: 105

Estimated Completion Time per Response: 2 hours

Total Estimated Number of Annual Burden Hours: 210

Respondent's Obligation: Mandatory

Frequency of Collection: Annual and on occasion.

Total Estimated Annual Nonhour Burden Cost: There are no additional recordkeeping costs associated with this information collection. However, ONRR estimates 5 appellants per year will pay a \$50 fee to obtain credit data from a business information or credit reporting service, which is a total “non-hour” cost burden of \$250 per year (5 appellants per year x \$50 = \$250).

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.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Kimbra G. Davis,
Director, Office of Natural Resources Revenue.

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