

Supporting Statement for Paperwork Reduction Act For 30 CFR Part 700

OMB Control Number 1029-0094

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 Item 17 of the OMB Form 83-I is checked "Yes", Section B of the Supporting Statement must be completed. 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.*
- 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.]*
- 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.].*
- 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.*
- 5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.*
- 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.

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.*
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.*

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.

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

10. *Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.*
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.*
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 in Item 13 of OMB Form 83-I.*
 - * 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.*
13. *Provide an estimate of the total annual [non-hour] cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).*
 - * The cost estimate should be split into two components: (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]. 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.*

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.*
15. *Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.*
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.*
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.*
18. *Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.*

B. Collections of Information Employing Statistical Methods

The agency should be prepared to justify its decision not to use statistical methods in any case where such methods might reduce burden or improve accuracy of results. When Item 17 on the OMB Form 83-I is checked "Yes", the following documentation should be included in the Supporting Statement to the extent that it applies to the methods proposed:

1. *Describe (including a numerical estimate) the potential respondent universe and any sampling or other respondent selection method to be used. Data on the number of entities (e.g., establishments, State and local government units, households, or persons) in the universe covered by the collection and in the corresponding sample are to be provided in tabular form for the universe as a whole and for each of the strata in the proposed sample. Indicate expected response rates for the collection as a whole. If the collection had been conducted previously, include the actual response rate achieved during the last collection.*
2. *Describe the procedures for the collection of information including:*

- * *Statistical methodology for stratification and sample selection,*
 - * *Estimation procedure,*
 - * *Degree of accuracy needed for the purpose described in the justification,*
 - * *Unusual problems requiring specialized sampling procedures, and*
 - * *Any use of periodic (less frequent than annual) data collection cycles to reduce burden.*
3. *Describe methods to maximize response rates and to deal with issues of non-response. The accuracy and reliability of information collected must be shown to be adequate for intended uses. For collections based on sampling, a special justification must be provided for any collection that will not yield "reliable" data that can be generalized to the universe studied.*
 4. *Describe any tests of procedures or methods to be undertaken. Testing is encouraged as an effective means of refining collections of information to minimize burden and improve utility. Tests must be approved if they call for answers to identical questions from 10 or more respondents. A proposed test or set of tests may be submitted for approval separately or in combination with the main collection of information.*
 5. *Provide the name and telephone number of individuals consulted on statistical aspects of the design and the name of the agency unit, contractor(s), grantee(s), or other person(s) who will actually collect and/or analyze the information for the agency.*

Introduction

This information collection clearance package is being submitted by the Office of Surface Mining Reclamation and Enforcement (OSM) to request permission to continue collecting information under 30 CFR Part 700. The regulations govern termination of jurisdictions, petitions for rulemaking, and citizen suits under the Surface Mining Control and Reclamation Act and its implementing regulations.

This information collection was previously reviewed and approved by the Office of Management and Budget (OMB), control number 1029-0094. The justification statements that follow discuss each section separately.

SUMMARY FOR 30 CFR 700

SECTION	NO. OF RESPONSES	REPORTS/ RESPONDENT	HOURS PER REPORT	TOTAL HOURS REQUESTED	CURRENT ICB HOURS	CHANGE TO ICB
700.11	1	1	10mins.	10mins.	10 mins.	0
700.12	1	1	4	4	4	0
700.13	4	1	20	80	80	0
TOTAL	6	3	24	84	84	0

Supporting Statement for Reporting Requirements
30 CFR 700.11(d)

A. Justification

1. As authorized by sections 502, 515, and 516 of the Surface Mining Control and Reclamation Act (SMCRA), 30 CFR 700.11(d)(1) and (2) define the criteria and procedures for determining when regulatory jurisdiction ends under SMCRA over a surface mining control and reclamation operation site. The information required includes a written determination by the regulatory authority that all of the regulatory requirements imposed by either the initial or permanent program have been met and, therefore, there no longer exists a surface coal mining and reclamation operation on the particular site or increment thereof. Initial program sites and permanent program sites will require a written finding by the regulatory authority that all requirements imposed under the regulatory program have been successfully completed. Final bond release for permanent program sites will indicate that the site has met all the applicable regulatory requirements, and jurisdiction may be terminated. This information collection submittal only reflects burden placed on State regulatory authorities under its initial programs to terminate jurisdiction since the State permanent program responsibilities are found at 30 CFR 800 and the collection authority has been approved separately.
2. The information is used by the OSM and States to establish a point where a site is no longer a surface coal mining and reclamation operation and, therefore, regulatory jurisdiction ends.
3. This information is unique to each mining operation. Respondents are State regulatory authorities that prepare documentation prior to terminating regulatory jurisdiction over a surface coal mining operation. Form letters are prepared on computer which reduces the burden placed on State regulatory authorities each time the States prepare to terminate jurisdiction on an interim site or upon completion of reclamation activities after bond forfeiture. Although electronic submission of the written findings is encouraged, since there are so few interim sites remaining, it is not practical for OSM to require State regulatory authorities to submit this information electronically.
4. Since circumstances vary with each permit application, there is no other available source of information that can be used to satisfy the law. No similar information pertaining to terminating jurisdiction over an interim permitted coal mining operation is required by other Federal agencies.
5. There are no small entities associated with this collection. Respondents are the 24 State regulatory authorities.
6. Termination of jurisdiction occurs when the regulatory authority determines that all requirements under the regulatory program have been completed. Information collection will occur at these times. Therefore, the frequency of collection does not apply here.

7. Not applicable. There are no special circumstances that require the collection of information to be conducted in a manner inconsistent with the guidelines in 5 CFR 1320.5(d)(2).
8. In June 2006, OSM contacted several of its field offices to determine the information collection burden required of section 700.11, including contact with the Knoxville Field Office which is the regulatory authority in Tennessee. The result of those discussions was incorporated into this statement.

On August 11, 2006, OSM published in the Federal Register (71 FR 46240) a notice requesting comments from the public regarding the need for the collection of information, the accuracy of the burden estimate, ways to enhance the information collection, and ways to minimize the burden on respondents. This notice gave the public 60 days in which to comment. However, no comments were received.

9. Not applicable. OSM provides no payments or gifts to respondents beyond grants authorized by law.
10. There are no confidentiality provisions for this part since termination of liability decisions are a matter of public record.
11. Not applicable. Sensitive questions are not asked.
12. Reporting, Recordkeeping, and Reviewing Burden

a. Estimated Reporting Burden:

Section 30 CFR 700.11(d) requires regulatory authorities to provide written documentation in support of terminating jurisdiction over initial program sites. Based on consultation with the OSM's Appalachian and Mid-Continent Regional Offices, there have been no written determinations regarding termination of jurisdiction on initial program sites during 2005. Had there been any termination of jurisdiction their burden would have been calculated as follows:

Each written determination requires approximately 10 minutes preparing since the written determination is standardized and easily generated.

$$1 \text{ response} \times 10 \text{ minutes per response} = \text{approximately } 10 \text{ minutes.}$$

b. Estimate of wage cost to respondents:

At a rate of pay of \$ 45 per hour, the total annual cost to all respondents would be 1 site x 10 minutes per site x \$ 45 = approximately \$ 7.50.

13. Estimated Total Annual Cost

Not applicable. There are no costs incurred beyond the hourly wage costs. All associated inspection time is found at 30 CFR 840.11.

14. Estimate of Cost to the Federal Government

Through oversight of State programs, OSM would review 10% of the termination of jurisdiction decisions where written findings are required. In the above example the total cost would be negligible.

15. This information collection request does not change the burden estimate currently approved by OMB.

10 minutes currently approved
0 minutes/hours requested change
10 minutes requested on the OMB 83-I

16. There are no plans to publish this information.

17. Not applicable. The OMB control number is displayed at 30 CFR 700.10.

18. Not applicable. There are no exemptions to item 19 of the OMB 83-I form.

B. Collection of Information Employing Statistical Methods

This section is not applicable because statistical methods are not employed.

Supporting Statement for Reporting Requirements
30 CFR 700.12

A. Justification

1. Section 201(g) of SMCRA provides for a process by which persons may petition the Secretary of the Interior for the “issuance, amendment or repeal of a rule under this Act.” Subsection 201(g)(2)-(4) sets forth the process for such petition. These provisions were implemented as regulations at 30 CFR 700.12(b). This provision gives any person, State or local government an opportunity to initiate rulemaking proceedings by filing a petition for rulemaking with OSM. The petition is required to set forth a concise statement of the facts, technical justification, and law that require the amendment or repeal of a regulation. Petitioners are also to indicate their desire for a public hearing on the petition. Individuals or organizations seeking changes in the regulations volunteer petitions.
2. The information required by this regulation is to be used by the Director of OSM to consider the need, costs and benefits of the proposed regulatory change in order to grant or deny the petition submitted. If the information were not submitted, there could be no petitions for rulemaking, limiting public participation in the regulatory process.
3. This information is unique to each petitioner. Respondents are citizens, State regulatory authorities, and individual companies or entities that request changes to the Federal regulations as needed. Respondents may submit their petition for rulemaking electronically.
4. No similar information pertaining to amending Chapter VII of the Code of Federal Regulations is required by other Federal agencies.
5. There are no special provisions to minimize burden for small coal mining operations or other small entities.
6. Information collection will occur at the time a petition for rulemaking is made; therefore, the frequency of collection does not apply here.
7. Not applicable. There are no special circumstances that require the collection of information to be conducted in a manner inconsistent with the guidelines in 5 CFR 1320.5(d)(2).
8. In June 2006, OSM contacted all its regional coordinating centers regarding the information collection requirements associated with filing petitions for rulemaking at 30 CFR 700.12. The Knoxville Field Office, the regulatory authority in Tennessee, was also contacted for information. The results of these discussions are incorporated into this statement. Since OSM has not received a petition to conduct rulemaking recently, there were no respondents whom to contact.

On August 11, 2006, OSM published in the Federal Register (71 FR 46240) a notice requesting comments from the public regarding the need for the collection of information, the accuracy of the burden estimate, ways to enhance the information collection, and ways to minimize the burden on respondents. This notice gave the public 60 days in which to comment. However, no comments were received.

9. Not applicable. No payments or gifts are provided to respondents.
10. There are no provisions for confidentiality of information since petitions for rulemaking are a matter of public record.
11. Not applicable. Sensitive questions are not asked.

12. Estimated Burden

a. Estimate reporting and reviewing burden:

Based on information supplied by OSM's regional coordinating center no petitions have been submitted during the last several years. Based on previous estimates one petition requires about 4 hours to prepare.

$$1 \text{ petition per year} \times 4 \text{ hours per petition} = 4 \text{ hours}$$

b. Estimated wage cost to respondents:

The total annual cost for all respondents (assuming a petition was filed) would be 4 hours x \$100 per hour (average attorney salary) = \$ 400.

13. Estimated Total Annual Cost

Not applicable. There are no costs incurred beyond the hourly wage costs or minimal postage costs.

14. Estimate of Cost to the Federal Government

It has been previously estimated that it takes OSM staff 80 to 120 hours to review a petition for rulemaking changes and to prepare a written response to accept or deny the petitioners request.

$$100 \text{ hours/petition} \times 1 \text{ petition/year} = 100 \text{ total hours}$$

$$100 \text{ hours/year} \times \$45 \text{ per hour} = \text{approximately } \$4,500.$$

15. This information collection request does not change the burden estimate currently approved by OMB.

4 hours currently approved by OMB
+ 0 hours adjustment
4 hours requested on OMB 83-I

16. There are no plans for publication of this information.

17. Not applicable. The OMB approval information is displayed at 30 CFR 700.10.

18. Not applicable. There are no exemptions to item 19 of the OMB 83-I form.

B. Collection of Information Employing Statistical Methods

This section is not applicable because statistical methods are not employed.

Supporting Statement for Reporting Requirements
30 CFR 700.13

A. Justification

1. Section 520 of SMCRA authorizes citizens to sue OSM and/or State regulatory authorities to compel regulatory compliance with the SMCRA or duties under the SMCRA that are not discretionary. In 30 CFR 700.13, those citizens intending to sue under Section 520 are required to send notice of such a suit to the Secretary of the Interior and the Director of OSM, the head of the State regulatory authority, (if the State is part of the suit) and the alleged violator (if part of the suit). The person needs to provide certain information pertinent to the suit, such as the section of SMCRA or regulation violated, identification of the party responsible for the violation, identification of the person suing as well as identification of legal counsel.
2. The information is used by OSM or the State to identify the person and the nature of the suit, so that OSM or the State can respond to it. If this information collection were not conducted, OSM and the States could not properly defend itself under due process.
3. This information is unique to each lawsuit and mining situation. Respondents are citizens and individual companies who intend to sue the Federal and/or State government. Although OSM has not received any Notices of Intent by electronic means, we are not opposed to this method, and support electronic means to communicate with citizens and industry.
4. No similar information pertaining to citizen suits is required by other Federal agencies relating to the conduct of surface coal mining. Since circumstances vary with each notice of citizen suit, there is no other available source of information that can be used to satisfy the law.
5. There are no special provisions to minimize burden for small coal mining operations or other small entities.
6. Information collection will occur at the time a notice of intent (NOI) to sue by a citizen is made. Therefore, the frequency of collection does not apply here.
7. Not applicable. There are no special circumstances that require the collection of information to be conducted in a manner inconsistent with the guidelines in 5 CFR 1 320.5(d)(2).
8. In June 2006, OSM contacted its regional coordinating centers, and solicitors in the Regions and at Headquarters regarding the information collection requirements associated with submitting NOI's under 30 CFR 700.13. An attorney representing environmental groups was contacted.

Walton J. Morris, Jr.
P.O. Box 6804
Charlottesville, VA 22906
434/293-6616

Mr. Morris did not express any concerns with the availability of information, the format for submittal or clarity of instructions. He expressed that the process for submitting an NOI was straightforward and uncomplicated.

On August 11, 2006, OSM published in the Federal Register (71 FR 46240) a notice requesting comments from the public regarding the need for the collection of information, the accuracy of the burden estimate, ways to enhance the information collection, and ways to minimize the burden on respondents. This notice gave the public 60 days in which to comment. However, no comments were received.

9. No payments or gifts are provided to respondents.
10. There are no provisions for confidentiality of information since NOI's are a matter of public record.
11. Not applicable. Sensitive questions are not asked.
12. Reporting, Recordkeeping and Reviewing Burden

a. Estimate Reporting Burden:

OSM and State regulatory authorities receive approximately 3 to 4 NOI's each year. Based on information provided by the Department of the Interior's Regional Solicitor's Offices and the environmental organization identified in item 8, it takes from 2 hours to a maximum of 40 hours, and an average of 20 hours to complete the information required by 30 CFR 700.13. Assuming that OSM and States continue to receive approximately four NOI's each year the following formula applies:

$$4 \text{ notices} \times 20 \text{ hours/notice} = 80 \text{ hours.}$$

b. Estimate of wage cost to respondents:

Total costs would be 4 respondent per year x 20 hours per respondent x \$100 per hour = \$8,000, using a rate of pay of \$100 per hour as an average attorney cost.

13. Estimate of Total Annual Cost

Not applicable. There are no costs incurred beyond the hourly wage costs.

14. Estimated Cost to the Federal Government

There are no direct costs to the Federal government associated with the receipt of notices of citizen suits.

15. This information collection request will remain the same as previously reported due to no increases or decreases in NOI's. Therefore, the following formula applies:

80 hours currently approved by OMB
+ 0 hours adjustment
80 hours requested on OMB 83-I

16. There are no plans for publication of this information.
17. Not applicable. The OMB approval information is displayed at 30 CFR 700.10.
18. Not applicable. There are no exemptions to item 19 of the OMB 83-I form.

B. Collection of Information Employing Statistical Methods

This section is not applicable because statistical methods are not employed.