

# Supporting Statements for Reporting and Recordkeeping Requirements for 30 CFR Part 785 – Requirements for Special Categories of Mining

OMB Control Number 1029-0040

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 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.*

## Supporting Statements for Reporting and Recordkeeping Requirements for 30 CFR Part 785

### Introduction

The Office of Surface Mining (we or OSM) is submitting this information collection clearance package to request approval to collect information and require retention of records under 30 CFR Part 785-- Requirements for permits for special categories of mining based on programmatic changes as a result of the Remining Incentives proposed rule. The Office of Management and Budget (OMB) previously reviewed and approved collections of information and recordkeeping requirements of this part under clearance number 1029-0040. This collection request reinstates the sunset provisions removed by operation of law in section 785.25 with passage of the Tax Relief and Health Care Act of 2006, Pub. L. No. 109-432, signed on December 20, 2006. This collection request also adds a new section 785.26 which will allow a waiver of reclamation fees during removal of abandoned coal mine waste, provided that the State agency designated to administer the program is consulted.

Each section of Part 785 for which there is an information collection or recordkeeping requirement is discussed separately. However, responses to some items in the supporting statement are identical for each section; these responses appear on pages 6-10 of this document. The average wage cost that is used as a basis for estimating quantified total annual wage costs for industry respondents is \$75 per hour, and for state regulatory authorities (SRAs) and OSM is \$60 per hour. Tables 1 and 2 below summarize the information collection requirements and changes for Part 785.

### INFORMATION COLLECTION SUMMARY FOR 30 CFR PART 785

Section	Number of Applicant Responses	Number of State Responses	Hours Per Applicant	Hours per State	Total Hours Requested	Current ICB Hours	Changes To ICB
785.13	6	6	110	40	900	900	0
785.14	4	4	250	420	2,680	2,680	0
785.15	50	50	150	40	9,500	9,500	0
785.16	5	5	10	40	250	250	0
785.17	6	6	60	10	420	420	0
785.18	7	6	10	10	130	130	0
785.19	1	1	300	7	307	307	0
785.20	35	34	25	30	1,895	1,895	0
785.22	1	1	40	24	64	64	0
785.25	80	79	80	24	8,296	0	8,296
785.26	0	79	0	1	79	0	79
<b>TOTAL</b>	195	192			24,521	16,146	8,375

## ITEMS WITH IDENTICAL RESPONSES

3. OSM continues to work with state regulatory authorities (SRA's) and coal companies to develop procedures for the preparation and processing of permit applications electronically. Progress has been made in most states to increase the use of electronic and information technology to improve efficiency and reduce the time and cost burden to permit applicants and SRA's. Virtually all SRA's have the capability of receiving permit applications electronically, either through an ftp site or via CD-ROM or diskettes. Some permit applicants use computer technology to create, store, and submit information electronically, but the percentage varies based on the size of the company and their technical abilities. Larger coal companies have in-house staff or hire engineering firms to prepare their applications. These companies use automated technology to prepare and submit the applications to SRA's. Small coal companies, which may not have the technical capability or personnel capable of preparing and submitting applications, may still submit paper forms. Once the SRA's receive paper applications, some states may be able to convert the applications to an electronic format for review and processing. The states with the greatest number of permit applications, such as Kentucky and Virginia, receive 80 - 98% electronically. Like Virginia, West Virginia recently has implemented a fully automated web-based electronic permitting system through which permit applications can be submitted entirely on-line, with technical corrections, review, and approval being done electronically. Nationally, OSM estimates that the SRA's are making progress in electronic permitting, receiving 33% of permit applications electronically. However, as more companies doing business in West Virginia take advantage of the new web-based system, OSM anticipates a greater percentage of electronic permitting.
4. The information requested by 30 CFR Part 785 is unique to each person or site. Circumstances vary with each proposed coal mining site in which a permit application has been received. Thus, there is no available information that can be used in lieu of that supplied on each application. Information is collected infrequently (generally only once, at the time that a person submits a special application for special categories of surface coal mining and reclamation operations). Duplication of such information is minimal to nonexistent.
5. There are no special provisions for small businesses or other small entities. Special provisions are not appropriate because the requested information is the minimum needed to document the permit to conduct special categories of coal mining and reclamation operations. Adequate documentation of this permit is essential to ensure protection of public health and safety, water quantity and quality, alluvial valley floors, prime farm lands, wild life and habitat, while encouraging maximizing the production or recovery of coal reserves and minimizing the environmental disturbances around the coal mining site. When applicable, small businesses may qualify for small operator assistance where the federal government may provide financial assistance to the operator under 30 CFR 795.
6. Information is collected only at the time an application is made; therefore, frequency of collection does not apply here. Failure to collect the information requested under 30 CFR

Part 785 would impair the ability of OSM and SRA's to ensure that respondents are conducting special categories of coal mining and reclamation operations in a manner that preserves and enhances environmental values in accordance with the Surface Mining Control and Reclamation Act (the Act or SMCRA).

7. No collection of information under 30 CFR Part 785 is inconsistent with the guidelines in 5 CFR 1320.5(d)(2) as summarized in the instructions for this item of the supporting document.
8. OSM contacted several respondents who had experience in preparing applications for the various special categories of mining. Table 3 below gives the burden estimates they provided. Full contact information is listed below. Respondents provided estimates of the reporting burden for each section within Part 785, which were used to determine an average burden, along with information from OSM field office personnel who are closely involved with the oversight of the application approval process for special categories of mining. None of the respondents contacted expressed any particular concerns with the reporting requirements for this Part.

### **Respondent information**

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And 3 OSM field employees/managers:

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## RESULTS OF DISCUSSIONS WITH RESPONDENTS

Section	Total Number of Operations	Respondents	Burden Hour Estimate
785.13	6	Operator	110
		SRA	40
785.14	4	Operator	150
		SRA	40
		SRA	800
785.15	50	Operator	150
		SRA	20
		SRA	500
785.16	5	Operator	10
		SRA	40
785.17	6	Operator	60
		SRA	10
785.18	7	Operator	10
		SRA	1
		SRA	20
785.19	1	Operator	300
		SRA	7
785.20	35	Operator	25
		SRA	20
		SRA	200
785.22	1	Operator	40
		SRA	24
785.25	80	Operator	80
		SRA	25
785.26	79	Operator	0
		SRA	1

OSM will publish in the Federal Register the Remining Incentives proposed rule which will request 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 will give the public a minimum of 60 days in which to comment.

9. Not applicable. OSM and SRA's provide no payments or gifts to respondents.
10. Under 30 CFR 773.13(d)(3), each permit application must be available for public inspection. However, the applicant has the right to request confidentiality for information in the application, such as analysis of the chemical and physical properties of the coal to be mined, and the nature and location of archeological resources on public land and Indian land. Sections 507(b)(17), 508(a)(12), and 508(b) of SMCRA require that certain types of permit application information be kept confidential. The Archeological Resources Protection Act of 1979, 16 U.S.C. 470, requires that information on the nature and location of archaeological resources be kept confidential.
11. Not applicable. There are no questions of a sensitive nature.
13. a. Annualized Capital and Start-up Costs  
  
Compliance with 30 CFR 785 does not involve any capital or start-up costs apart from those associated with customary business practices in the mining industry.  
  
b. Operation and Maintenance Costs  
  
There are no significant or distinct operation or maintenance costs associated with this section beyond that required under normal and customary business activities.
16. Not applicable. OSM has no plans to publish the information collected.
17. Not applicable. OSM is not seeking a waiver from the requirement to display the expiration date of the OMB approval of the information collection.
18. Not applicable. There are no exceptions to the certification statement in item 19 of OMB Form 83-1.

## **Supporting Statement for Reporting and Recordkeeping Requirements for § 785.13**

### **A. Justification**

1. Section 785.13 requires that a permit application include information for conducting experimental coal mining and reclamation practices, including a description of the performance standards for which variances or departures are requested, the duration of the experimental practice and any special monitoring mechanisms that will be implemented. Furthermore, the information includes documents, records, descriptions or narratives, maps, plans and data which demonstrate, or show: (1) how use of the experimental practice promotes advances in mining and reclamation technology; (2) how such practices allow an alternative postmining land use for industrial, commercial, residential or public use; (3) whether such practices are environmentally protective in compliance with the performance standards provided under subchapter K of SMCRA regulations or will not reduce the protection provided by the requirements of subchapter K; and (4) whether an operator undertaking such an experimental practice will conduct the periodic monitoring, recording and reporting program delineated in the application or supporting documents.

Section 785.13(e) requires that the variances applicable to prime farmlands may be granted after consultation with the U.S. Department of Agriculture, Soil Conservation Service (currently, Natural Resource Conservation Services). Section 785.13(g) requires that after a permit is granted, the regulatory authority assess such experimental practices after two and a half years. The regulatory authority, then, may request appropriate modifications of the experimental practices.

Section 711 of SMCRA provides departure on an individual experimental or research basis from the environmental protection standards under sections 515 and 516 in SMCRA and subchapter K of SMCRA regulations. The objective of such departures is to encourage advances in mining technology and alternative reclamation practices or to allow alternative postmining land use for industrial, commercial, residential, or public use (including recreational facilities). Experimental practices may be undertaken if they are approved by the SRA or the Director of OSM, with the approval of the Secretary. The SRA or the Director may require additional information as they feel necessary or may request reasonable modifications of the experimental practice as are necessary to ensure that the activities fully protect the environment and the public health and safety.

Section 201(c)(2) of SMCRA, which provides that the Secretary shall promulgate such regulations as are necessary to carry out the purposes and provisions of the Act, authorizes collection of the information required by 30 CFR 785.13 that is not expressly required under sections 515, 516 and 711 of the Act. Collection of this information is necessary to enforce the performance standards requirements of sections 515 and 516 of the Act, as well as to determine whether an experimental practice permit is required under section 711 of the Act.

2. OSM and SRA's under SMCRA use the information collected under 30 CFR 785.13 in order to: (1) ensure the protection of the environment and public health and safety during and after the experimental practice granted under section 711 of SMCRA; (2) promote advances in mining technology and alternative reclamation practices; (3) allow alternative postmining land uses; and (4) effectively monitor the progress of such experimental practices.
3. See list of items with identical responses.
4. See list of items with identical responses.
5. See list of items with identical responses.
6. See list of items with identical responses.
7. See list of items with identical responses.
8. See list of items with identical responses.
9. See list of items with identical responses.
10. See list of items with identical responses.
11. See list of items with identical responses.
12. Estimated Information Collection Burden
  - a. Burden Hour Estimates for Respondents

### ***Burden on Applicants for Experimental Practices Permits***

OSM regional staff indicated that an average of about 6 applications per year is approved. Respondents estimate that preparation of a permit application for experimental mining and reclamation practices takes an average of 110 hours. Accordingly, the total annual information collection burden for all respondents filing applications under 30 CFR 785.13 is estimated at 660 hours (6 applications x 110 hours per application).

### ***Burden on State Regulatory Authorities***

The SRA's estimate that 40 hours are required to review and process the information contained under 30 CFR 785.13. Therefore, the burden is estimated to be 240 hours (6 applications x 40 hours per application).

### ***Total Burden***

For all respondents, we estimate that the total annual information collection burden under

30 CFR 785.13 will be 900 hours (660 hours for permit applicants + 240 hours for SRA's).

b. Estimate of Respondent Annual Wage Cost

At an average wage rate of \$75 per hour, we estimate that applicants for coal experimental practice permits will incur annual wage costs of \$49,500 [660 hours (from item 12.a.) x \$75 per hour] to comply with the information collection requirements of 30 CFR 785.13. We also estimate that SRA's incur annual wage costs of \$14,400 hours (240 hours from item 12.a.) x \$60 per hour] to implement this section. For all respondents, we estimate that the annual wage costs of compliance will total \$50,400.

13. See list of items with identical responses.

14. Estimate of Annualized Cost to the Federal Government

OSM is the decision authority on Experimental Practices. We conduct the review, prepare the decision package, complete the NEPA review, and make the decision. It is estimated that OSM requires 312 hours for compliance with these requirements, with an annual cost of \$18,720 (312 x \$60).

Oversight: In keeping with the current guidance concerning oversight of state program implementation, which de-emphasizes process reviews, we do not anticipate conducting any significant oversight review of state compliance with the requirements of 30 CFR 785.13 in the absence of an indication of problems. However, assuming we conduct an oversight review of this topic for one state program per year and that each review requires an average of 80 hours, the annual cost to the federal government for this oversight activity is an estimated \$4,800 (80 hours x \$60 per hour).

Federal Program: Based on discussions with OSM staff we have not received an application for experimental practices in federal program states in several years.

Total Federal Cost: Accordingly, we estimate that the information collection burden to the federal government under 30 CFR 785.13 will cost \$23,520 (\$18,720 + 4,800) for federal regulatory compliance and oversight purposes.

15. This information collection request does not change the burden currently approved by OMB for 900 hours.

16. See list of items with identical responses.

17. See list of items with identical responses.

18. See list of items with identical responses.

## **Supporting Statement for Reporting and Recordkeeping Requirements for § 785.14**

### **A. Justification**

1. Section 785.14, authorized by section 515(c) of the Act, requires that a permit application include the information for conducting mountaintop removal mining and reclamation operations after consulting with the appropriate land-use planning agencies, engineers, and consultants. The permit applicant is required to demonstrate the following requirements: (1) an equal or better economic or public use for the proposed postmining land use -- an industrial, commercial, agricultural, residential or public facility use; and (2) compliance with the requirements of 30 CFR 824 in place of restoration to the approximate original contour (AOC).

Section 785.14(d) provides that after mountaintop removal mining is granted, the regulatory authority reviews the progress and development of mining activities. After evaluation of such mining activities, the regulatory authority may request modifications of the mountaintop removal if it determines that more stringent measures are necessary.

Section 201(c)(2) of SMCRA, which provides that the Secretary shall promulgate such regulations as are necessary to carry out the purposes and provisions of the Act, authorizes collection of the information required by 30 CFR 785.14 that is not expressly required under section 515(c) of the Act. Collection of this information is necessary to ensure adherence to and enforce the requirements for mountaintop removal mining and reclamation activities under section 515(c) of the Act, as well as to determine whether a permit is granted without regard to the requirement to restore to AOC.

2. OSM and SRA's use the information collected under 30 CFR 785.14 in order to: (1) review information provided in the permit application regarding a variance from the original contour to make an evaluation and determination on original contour reclamation and reconstruction of pre-mining land use; (2) determine whether to approve or disapprove the land use variance of mountaintop removal mining; (3) assess the progress and development of mining activities to establish that the operator is proceeding in accordance with the terms of the variance; (4) determine the immediate and cumulative effect of stream losses due to valley fills and watershed vegetational alterations to aquatic ecosystems; (5) identify flooding potential sources as a result of mountaintop mining; (6) determine whether the proposed plan for a postmining land use is compatible with state and local land use plans and programs; and (7) ensure that the postmining land use plan is fully in compliance with the provisions of the regulatory program and the Act.
3. See list of items with identical responses.
4. See list of items with identical responses.
5. See list of items with identical responses.

6. See list of items with identical responses.
7. See list of items with identical responses.
8. See list of items with identical responses.
9. See list of items with identical responses.
10. See list of items with identical responses.
11. See list of items with identical responses.
12. Estimated Information Collection Burden
  - a. Burden Hour Estimates for Respondents

### ***Burden on Applicants for Mountaintop Removal Mining Permits***

Based on discussions with individuals identified in item 8, OSM estimates that approximately 4 permit applications are received each year in this category, which represents a significant decrease from the prior reporting period. This can be attributed to the effect of various court decisions on litigation on mountaintop removal operations that have greatly increased the time required for compliance for permittees. To adjust to these new requirements, many operators likely have had to reduce the number of operations in West Virginia or have turned to other methods of mining.

Based on experience and consultation with those identified in item 8 with experience with mountaintop removal mining operations in West Virginia and other parts of Appalachia, the development of the mountaintop removal portion of a mining permit is estimated to require, on average, 250 hours. This estimate takes into account the differences in reporting burden in West Virginia than in other states, as West Virginia has many additional requirements that go beyond SMCRA that cannot be clearly separated. Accordingly, the total annual information collection burden for all respondents filing permit applications under 30 CFR 785.14 is an estimated 1,000 hours (4 applications x 250 hours per application).

### ***Burden on State Regulatory Authorities***

Discussions with SRA's in the Appalachian region indicate that the time to review and process the information contained in a permit application for mountaintop removal mining can vary greatly, depending on the complexity and location of the proposed operation, and the extent of the requirements imposed, including those that are beyond SMCRA which cannot be separated out. The SRA's also indicated that the time for the permit review process has increased due to the continuing effect of various court decisions on litigation on mountaintop removal operations. Accordingly, upon consultation with the SRA's and OSM personnel experienced in mountain top removal

mining in Appalachia, the average time required by the SRA is estimated to be 420 hours, and the total annual information collection burden on all SRA's under 30 CFR 785.14 is estimated to be 1,680 hours (4 applications x 420 hours per application).

### ***Total Burden***

For all respondents, we estimate that the total annual information collection burden under 30 CFR 785.14 will be 2,680 hours (1,000 hours for permit applicants and 1,680 hours for SRA's).

#### b. Estimate of Respondent Annual Wage Cost

At an average wage rate of \$75 per hour, we estimate that applicants for mountaintop removal mining permits will incur annual wage costs of \$ 75,000 [1,000 hours (from item 12.a.) x \$75 per hour] to comply the information collection requirements of 30 CFR 785.14. We also estimate that the SRA's will incur annual wage costs of \$ 100,800 [1,680 hours (from item 12.a.) x \$60 per hour] to implement this section. For all respondents, we estimate that the annual wage cost of compliance will total \$ 175,800 (\$75,000 for permit applicants + \$100,800 for SRA's).

13. See list of items with identical responses.

#### 14. Estimate of Annualized Cost to the Federal Government

Oversight: In keeping with the current guideline concerning oversight of state program implementation, which de-emphasize process reviews, we do not anticipate conducting any significant oversight review of state compliance with the requirements of 30 CFR 785.15 in the absence of an indication of problems. Assuming that we conduct an oversight review of this topic for one state program per year and that each review requires an average of 75 hours, the annual total cost to the federal government for this oversight activity in compliance with 30 CFR 785.14 is an estimated \$4,500 (1 application x 75 hours per application x \$60 per hour).

Federal Programs: Discussions with OSM federal program regulatory authority personnel indicate that we have not received any applications for a mountaintop removal mining permit for which we are the regulatory authority in the last three years, and do not expect to receive any in the next few years.

Therefore, the total federal cost is \$4,500 for Oversight.

15. This information collection request does not change the burden currently approved by OMB for 2,680 hours.

16. See list of items with identical responses.

17. See list of items with identical responses.



18. See list of items with identical responses.

## **Supporting Statement for Reporting and Recordkeeping Requirements for § 785.15**

### **A. Justification**

1. Section 785.15 requires that a permit application include the information for conducting steep slope mining and reclamation operations in accordance with the requirements of §816.107 (backfilling and grading for surface mining on steep slope) and §817.107 (backfilling and grading for underground mining on steep slope).

Section 515(d) of the Act provides that a regulatory authority may grant a permit for a steep slope mining if the permit applicant adheres, in addition to the general performance standards under section 515 of the Act, to the following performance standards requirements: (1) no debris, abandoned or disabled equipment, spoil material, or waste material on the down slope below the bench or mining cut; (2) completion of backfilling with spoil material necessary to cover the highwall and return the site to the AOC; and (3) non-disturbance of the land above the top of the highwall unless the regulatory authority finds that such disturbance will facilitate compliance with the environmental standards under section 515 of the Act.

Collection of this information is necessary to ensure adherence to and enforce the performance standards requirements of section 515(d) of the Act, as well as to determine whether a permit is granted without regard to the reclamation requirements for steep slope mining in certain situations where steep slope mining is not applicable as set forth in section 515(d) of the Act.

2. OSM and SRA's use the information collected under 30 CFR 785.15 in order to: (1) ensure compliance with the requirements of 30 CFR 816.107; (2) ensure that any disturbance of land above the highwall is limited to that necessary to facilitate compliance with the environmental protection standards of section 515 of the Act; (3) evaluate the design to make sure that an excessive area above the highwall is not disturbed; (4) ensure that the backfilled area will remain stable and not be subject to excessive erosion if woody materials are allowed to be placed in the backfill area; and (5) determine that the plan for the reclaimed area is properly designed and does not present an environmental and public safety hazard.
3. See list of items with identical responses.
4. See list of items with identical responses.
5. See list of items with identical responses.
6. See list of items with identical responses.
7. See list of items with identical responses.

8. See list of items with identical responses.
9. See list of items with identical responses.
10. See list of items with identical responses.
11. See list of items with identical responses.
12. Estimated Information Collection Burden

- a. Burden Hour Estimates for Respondents

***Burden on Applicants for Steep Slope Mining Permits***

Steep slope mining and reclamation operations are conducted predominantly in Kentucky, Virginia and West Virginia. Discussions with SRA's indicate that approximately 50 permit applications in these states contained requests for steep slope mining. Consultation with the permittees identified in item 8 indicates that development of the steep slope portion of a mining permit requires an average of 150 hours. Accordingly, the total annual information collection burden for respondents filing permit applications under 30 CFR 785.15 is an estimated 7,500 hours (50 applications x 150 hours per application).

***Burden on State Regulatory Authorities***

Discussions with the SRA's indicate that the SRA burden can vary depending of a variety of factors, including the size, complexity and location of the operation, as well as the level of applicable regulatory requirements. Based on this information, OSM estimates that a regulatory authority needs 40hours to review and process the information contained in a permit application for steep slope mining under 30 CFR 785.15. This estimate is heavily weighted towards the burden in Kentucky, as approximately 90% of the number of reported operations occurs in that state. Accordingly, we estimate the total annual information collection burden on SRA's under 30 CFR 785.15 to be 2,000 hours (50 applications x 40 hours per application).

***Total Burden***

For all respondents, we estimate that the total annual information collection burden under 30 CFR 785.15 will be 9,500 hours for applications for steep slope mining permits (7,500 hours for permit applicants + 2,000 hours for regulatory authorities).

- b. Estimate of Respondent Annual Wage Cost

At an average wage rate of \$75 per hour, we estimate that the time required for applicants to prepare the steep slope portion of mining permits will incur annual wage costs of

\$562,500 [7,500 hours (from item 12.a.) x \$75 per hour].

We also estimate that the SRA's will incur annual wage costs of \$120,000 [2,000 hours (from item 12.a.) x \$60 per hour] to implement this section. For all respondents, we estimate that the annual wage cost of compliance will total \$682,500 (\$562,500 for permit applicants + \$120,000 for SRA's).

13. See list of items with identical responses.

14. Estimate of Annualized Cost to the Federal Government

Oversight: In keeping with the current guideline concerning oversight of state program implementation, which de-emphasize process reviews, we do not anticipate conducting any significant oversight review of state compliance with the requirements of 30 CFR 785.15 in the absence of an indication of problems. Assuming that we conduct an oversight review of this topic for one state program per year and that each review requires an average of 75 hours, the annual total cost to the federal government for this oversight activity is an estimated \$4,500 (75 hours per application x \$60 per hour).

Federal Programs: Discussions with OSM federal regulatory program staff identified no recent applications for steep slope mining, and do not anticipate receiving any in the near future.

Accordingly, at an average wage rate of \$60 per hour, the estimated annual wage cost to the federal government under 30CFR 785.15 is \$4,500 for oversight.

15. This information collection request does not change the burden currently approved by OMB for 9,500 hours.

16. See list of items with identical responses.

17. See list of items with identical responses.

18. See list of items with identical responses.

## **Supporting Statement for Reporting and Recordkeeping Requirements for § 785.16**

### **A. Justification**

1. Section 785.16 provides that a regulatory authority may issue a permit for surface coal mining and reclamation operations which includes a variance from the requirements to restore the disturbed areas to their approximate original contour (AOC) on steep slope operations in compliance with sections 816.102, .104, .105, and .107, or 817.102 and .107. Section 785.16 requires that a permit applicant include information to support the application for an AOC variance on steep slope operations. The permit applicant is required to demonstrate the following requirements: (1) the applicability of a postmining land use for an industrial, commercial, residential or public postmining land use (including recreational facilities); (2) the performance standards associated with postmining land use as required in §816.133 or §817.133; (3) an improved watershed for lands within the proposed permit and adjacent areas; and (4) the landowner's request for the AOC variance.

Section 785.16(e) also requires that after a variance for steep slope mining is granted, the regulatory authority review the progress and development of mining activities. Section 515 (d) and (e) of the Act provides that the regulatory authority may issue a permit for surface mining activities incorporating a variance from the requirement of AOC if the following conditions are met: (1) an equal or better economic or public use for the potential use of the affected land; (2) compliance with environmental standards established to assure the stability, drainage, and configuration necessary for the intended use of the site; and (3) the improved watershed of the affected land. Section 515(e)(5) of the Act provides that the regulatory authority shall promulgate specific regulations to govern the granting of variances in accordance of the provisions of section 515 of the Act and may impose such additional requirements as necessary.

Section 201(c)(2) of SMCRA, which provides that the Secretary shall promulgate such regulations as are necessary to carry out the purposes and provisions of the Act, authorizes collection of the information required by 30 CFR 785.16 that is not expressly required under section 515(c) of the Act. Collection of this information is necessary to ensure adherence to and enforce the performance standards requirements of section 515(c) of the Act.

2. OSM and SRA's use the information collected under 30 CFR 785.16 in order to: (1) evaluate the request for a variance from achieving AOC; (2) determine whether to approve or disapprove the land use variance for steep slope mining; (3) assess the progress and development of mining activities to ensure that the operator is proceeding in accordance with the terms of the variance; (4) determine whether the proposed plan for a postmining land use is compatible with state and local land use plans and programs; (5) determine the immediate and cumulative effect of stream losses due to valley fills and watershed vegetational alterations to aquatic ecosystems; (6) identify flooding potential sources as a result of mountaintop mining; and (7) ensure that the postmining land use

plan is fully in compliance with the provisions of the Act.

3. See list of items with identical responses.
4. See list of items with identical responses.
5. See list of items with identical responses.
6. See list of items with identical responses.
7. See list of items with identical responses.
8. See list of items with identical responses.
9. See list of items with identical responses.
10. See list of items with identical responses.
11. See list of items with identical responses.
12. Estimated Information Collection Burden

a. Burden Hour Estimates for Respondents

***Burden on Applicants of AOC Variances Permits for Steep Slope Mining***

Steep slope mining and reclamation operations are conducted mostly in the Appalachian states of Kentucky, Virginia and West Virginia. AOC variances are part of mountaintop removal mining permits under 30 CFR 785.14. Based on discussions with the SRA's identified in item 8, approximately 5 permit applicants requested a variance from AOC for steep slope mining. Respondents estimated that it takes approximately 10 hours to prepare a variance request. Therefore, the total annual information collection burden for a person filing a permit application under 30 CFR 785.16 is an estimated 50 hours (5 applications x 10 hours per application).

***Burden on State Regulatory Authorities***

SRA's estimated that the regulatory review time for a variance request would take 40 hours per permit variance application.. Therefore, the total annual information collection burden on the SRA's under 30 CFR 785.16 is estimated to be 200 hours (5 applications x 40 hours per application).

***Total Burden***

For all respondents, we estimate that the total annual information collection burden under

30 CFR 785.16 will be 250 hours (50 hours for a permit applicant and 200 hours for SRA's).

b. Estimate of Respondent Annual Wage Cost

At an average wage rate of \$75 per hour, we estimate that applicants for steep slope mining permits incorporating a variance from the requirement to restore AOC will incur annual wage costs of \$3,750 [50 hours (from item 12.a.) x \$75 per hour] to comply the information collection requirements of 30 CFR 785.16. We also estimate that the SRA's will require incur annual wage costs of \$ 12,000 [200 hours (from item 12.a.) x \$60 per hour] to implement this section. For all respondents, we estimate that the annual wage cost of compliance will total \$15,750 (\$3,750 for permit applicants + \$12,000 for SRA's).

13. See list of items with identical responses.

14. Estimate of Annualized Cost to the Federal Government

Oversight: In keeping with the current guideline concerning oversight of state program implementation, which de-emphasize process reviews, we do not anticipate conducting any significant oversight review of state compliance with the requirements of 30 CFR 785.16. Assuming that we conduct an oversight review of this topic for one state program per year and that each review requires an average of 40 hours, the annual total cost to the federal government for this oversight activity is an estimated \$2,400 ( 1 application x 40 hours x \$60 per hour).

Federal Programs: Discussions with OSM federal regulatory program staff identified no recent applications for steep slope mining, and do not anticipate receiving any in the near future.

Therefore, the total burden to the federal government is \$2,400 for oversight.

15. This information collection request does not change the burden currently approved by OMB for 250 hours.

16. See list of items with identical responses.

17. See list of items with identical responses.

18. See list of items with identical responses.

## **Supporting Statement for Reporting and Recordkeeping Requirements for §785.17**

### **A. Justification**

1. The Surface Mining Control and Reclamation Act of 1977, contains special permitting and performance standards governing mining on prime farmlands as defined in section 701(20). Permit application and approval requirements are contained in sections 507(b)(16), 508(a)(2)(C), 508(a)(5) and 510(d). Section 507(b)(16) requires that a permit application contain a soil survey for those lands, which a reconnaissance inspection suggests may be identified as prime farmlands. Section 508(a)(2)(C) requires permit applications to contain a statement of the productivity of the land prior to mining including the appropriate classification as prime farmlands. Furthermore, section 510(d)(1) provides that the regulatory authority shall grant a permit to mine on prime farmlands if it "finds in writing that the operator has the technological capability to restore such mined area, within a reasonable time, to equivalent or higher levels of yield as non-mined prime farmland in the surrounding area under equivalent levels of management and can meet the soil reconstruction standards in Section 515(b)(7).

2. Section 785.17(b) [Authority Sec. 507(b)(16)] requires that the operator report the results of a reconnaissance inspection to determine if prime farmland exists. This report must include a confirmation that prime farmland does or does not exist in the permit area. The details and adequacy of the reconnaissance inspection is to be determined by the regulatory authority in consultation with the U.S. Department of Agriculture's, Soil Conservation Service (SCS) [currently, Natural Resources Conservation Service (NRCS)]. The reconnaissance inspection could involve a simple desk top review of a current soil survey or a complicated preparation of a complete soil survey to the standards of the National Cooperative Soil Survey.

Section 785.17(c) [Authority Sec. 508(b)(5)] requires that, where prime farmland soils have been located, a plan for soil reconstruction, replacement, and stabilization must be prepared. This prime farmland soil reclamation plan will be used as the basis to establish proof of technological capability to restore the prime farmland soil horizons in the soil profile. Also other scientific data must be presented to establish that the method of soil reconstruction will result in equivalent or higher levels of yield.

Section 785.17(d) [Authority Sec. 510(d)(1)] requires the regulatory authority to consult with the SCS before issuing any permit that contain prime farmland soils. This review is to assist the regulatory authority in evaluating the adequacy of the proposed prime farmland soil reclamation plan so that restoration of equal or higher levels of productivity is achieved.

3. See list of items with identical responses.

4. See list of items with identical responses.



5. See list of items with identical responses.
6. See list of items with identical responses.
7. See list of items with identical responses.
8. See list of items with identical responses.
9. See list of items with identical responses.
10. See list of items with identical responses.
11. See list of items with identical responses.
12. Estimated Information Collection Burden
  - a. Burden Hour Estimates for Respondents

### ***Burden on Applicants for Prime Farmland Permits***

Surface coal mining and reclamation operations on prime farmlands are conducted predominantly in the Mid-western primary States of Illinois, Indiana, Ohio and North Dakota. Discussions with SRA's in prime farmland states indicate that the number of permits received annually that include operations on prime farmland has remained the same as previously reported. Approximately 6 permits are received annually that include operations on prime farmland. The consultant to mining operators in item 8 estimated that the time required for preparing the prime farmland portion of a permit would generally vary with the size of the mine, from about 40 hours for a medium sized mine to about 80 hours for a large mine. Therefore, the reporting burden is estimated to average 60 hours. Thus, approximately 360 hours are required to prepare the required information (6 permits x 60 hours per permit) for all applicants.

### ***Burden on State Regulatory Authorities***

In a discussion with the SRA on Prime farmland operations, he estimated that the state regulatory authority needs about 10 hours to review, process, and consult with the SCS (currently, NRCS) as needed, for permit applications for surface coal mining on prime farmlands under 30 CFR 785.17. Accordingly, we estimate that the total annual information collection burden on SRA's to be 60 hours (6 applications x 10 hours per permit).

### ***Total Burden***

For all respondents, we estimate that the total annual information collection burden under 30 CFR 785.17 will be 420 hours for a permit for surface mining on prime farmlands

(360 hours for permit applicants and 60 hours for SRA's).

b. Estimate of Respondent Annual Wage Cost

At an average wage rate of \$75 per hour, we estimate that applicants filing an application for surface mining on prime farmlands will incur annual wage costs of \$27,000 [360 hours (from item 12.a.) x \$75 per hour] to comply with the information collection requirements of 30 CFR 785.17. We estimate that the SRA's incur annual wage costs of \$3,600 [60 hours (from item 12.a.) x \$60 per hour] to implement this section.

Therefore, we estimate that the total annual wage cost of compliance for all respondents will total \$30,600 (27,000 + 3,600).

13. See list of items with identical responses.

14. Estimate of Annualized Cost to the Federal Government

Oversight: In keeping with the current guideline concerning oversight of state program implementation, which de-emphasize process reviews, we do not anticipate conducting any significant oversight review of state compliance with the requirements of 30 CFR 785.17 in the absence of an indication of problems. Assuming that we conduct an oversight review of this topic for one state program per year and that each review requires an average of 40 hours, the annual total cost to the federal government for this oversight activity is an estimated \$2,400 (40 hours x \$60 per hour).

Federal Programs: Discussions with the OSM regulatory authorities in federal program states identified no permits issued for prime farmland, and do not anticipate receiving any in the next few years.

Therefore, the total annual burden cost to the federal government for this section is \$2,400 hours.

15. This information collection request does not change the burden currently approved by OMB for 420 hours.

16. See list of items with identical responses.

17. See list of items with identical responses.

18. See list of items with identical responses.

## **Supporting Statement for Reporting and Recordkeeping Requirements for § 785.18**

### **A. Justification**

1. Section 785.18 requires that if a permit applicant conducts combined surface and underground mining activities where a variance is requested from the contemporaneous reclamation requirements of 30 CFR 816.100, then a permit applicant is required to file with the regulatory authority: (1) specific plans for the proposed underground mining operations showing that the operations are necessary or desirable to assure maximum practical recovery of mineral resources; (2) the permits necessary for underground mining operations; (3) plans showing how the mining and reclamation activities will comply with 30 CFR 816.79; (4) plans demonstrating how disturbances of surface lands or waters will be avoided; and (5) evidence that the areas proposed for variance are necessary for the implementation of proposed underground mining operations. The operator is also required to show that no substantial environmental damage, either on-site or off-site, will result from delay in the completion of reclamation.

Section 515(b)(16) of the Act requires that reclamation efforts proceed in an environmentally sound manner and as contemporaneously as practicable. To implement this provision, 30 CFR 785.18 requires that the permit applicant provide, as part of the permit application, appropriate narratives, maps, and specific, feasible plans to conduct combined surface and underground mining activities where a variance is requested from the contemporaneous reclamation requirement of 30 CFR 785.18.

Section 201(c)(2) of SMCRA, which provides that the Secretary shall promulgate such regulations as are necessary to carry out the purposes and provisions of the Act, authorizes collection of the information required by 30 CFR 785.18 that is not expressly required under section 515(b)(16) of the Act. Collection of this information is necessary to properly implement the provision regarding a variance from the contemporaneous reclamation requirement for combined surface and underground mining activities that is provided under section 515(b)(16) of the Act, and other provisions for the off-site storage of spoil under section 515(b)(22) of the Act.

2. OSM and SRA's use the information collected under 30 CFR 785.18 to ensure that persons who intend to seek variances for delay in contemporaneous reclamation requirements for combined surface and underground mining activities meet the statutory requirements of section 515(b)(16), and make a determination as to whether a variance from the contemporaneous reclamation can be granted. In addition, this information will be used to monitor and inspect surface and underground mining activities to ensure that they are conducted in a manner that preserves and enhances environmental and other values cited in the Act.
3. See list of items with identical responses.
4. See list of items with identical responses.

5. See list of items with identical responses.
6. See list of items with identical responses.
7. See list of items with identical responses.
8. See list of items with identical responses.
9. See list of items with identical responses.
10. See list of items with identical responses.
11. See list of items with identical responses.
12. Estimated Information Collection Burden

- a. Burden Hour Estimates for Respondents

### ***Burden on Applicants for Permits Incorporating Variances for Delay in Contemporaneous Reclamation Requirements***

Information obtained from discussions with OSM federal regulatory program staff and SRA's in Kentucky and Indiana (identified in section #8), indicates that there were 7 operations requesting such a variance since the last report. Based on this information, we assume that there will be 7 operations yearly.

Based on discussion with the industry respondent identified in item 8, it takes an average of 10 hours for an applicant to prepare a request for a variance. The total operator burden is estimated to be 70 hours (7 permits x 10 hours per permit) for all applicants.

### ***Burden on State Regulatory Authorities***

Based on discussions with the SRA's, the SRA time to review and process the variance information can vary widely, from 1 to 20 hours, an average of 10 hours per review. Considering that one of the 7 applications is in a federal program state, the information collection burden for SRA's is estimated to be 60 hours (6 permits x 10 hours per permit).

### ***Total Burden***

For all respondents, we estimate that the total annual information collection burden under 30 CFR 785.18 will be 130 hours (70 hours for permit applicants and 60 hours for regulatory authorities) for a permit for variances of delay in contemporaneous reclamation requirement in combined surface and underground mining.

b. Estimate of Respondent Annual Wage Cost

At an average wage rate of \$75 per hour, we estimate the total cost to all applicants will be \$5,250 (70 hours x \$75 per hour). We estimate that the SRA's incur annual wage costs of \$ 3,600 [60 hours (from item 12.a.) x \$60 per hour] to implement this section.

Therefore, we estimate that the total annual wage cost of compliance for all respondents will total \$8,850 (5,250 + 3,600).

13. See list of items with identical responses.

14. Estimate of Annualized Cost to the Federal Government

Oversight: In keeping with the current guideline concerning oversight of state program implementation, which de-emphasize process reviews, we do not anticipate conducting any significant oversight review of state compliance with the requirements of 30 CFR 785.18. If we were to conduct an oversight review of this topic for one state program per year and that review requires an average of 12 hours, the annual total cost to the federal government for this oversight activity is an estimated 720 hours (12 hours x \$60 per hour).

Federal Programs: Based on discussions with OSM staff in the field, we expect to receive one request annually for a variance for delay in contemporaneous reclamation requirement in combined surface and underground mining activities for lands for which we are the regulatory authority. The federal regulatory program review time is estimated to take much longer than the SRA, 80 hours per permit. The federal program cost is \$4,800 (1 permit variance request x 80 hours x \$60/hour).

Therefore, the total cost to the federal government to comply with section 785.18 is \$5,520 (720 + 4,800).

15. This information collection request does not change the burden currently approved by OMB for 130 hours.

16. See list of items with identical responses.

17. See list of items with identical responses.

18. See list of items with identical responses.

## **Supporting Statement for Reporting and Recordkeeping Requirements for Section 785.19**

### **A. Justification**

1. Section 785.19 requires that a permit applicant who proposes to conduct surface coal mining and reclamation operations within an alluvial valley floor (AVF) in the arid and semiarid regions, may request the regulatory authority to determine the presence or absence of an alluvial floor by submitting available data and/or field studies, as an initial step in the application permit process. The studies may include detailed geologic, hydrologic, land use, soils, and vegetation data and analysis to demonstrate the probable presence of an alluvial floor around the permit area. The regulatory authority may require data collection, analysis or other supporting documents, maps, and illustrations in order to make its determination.

If the regulatory authority determines that mining may be allowed based on available information, then the permit applicant shall submit a complete application, together with detailed surveys and baseline data for a determination of: (1) the hydrologic functions of the alluvial valley floor, including those factors which contribute to collecting water, storing water, regulating water, and water availability; (2) whether the operation will avoid the interruption, or preclusion of farming on the alluvial valley floor; (3) whether the operation will cause material damage to the quantity or quality of surface or ground waters supplied to the alluvial valley floor; (4) whether the reclamation plan is in compliance with the requirements of SMCRA and implementing regulations; and (5) whether the proposed monitoring system will provide enough information to measure compliance with 30 CFR part 822 during and after mining and reclamation operations. Information collection under section 30 CFR 785.19 is required to ensure compliance with section 510(b)(5)(A) of the Act, which requires that the proposed surface coal mining operation would not interrupt, discontinue, or preclude farming on alluvial valley floors if located west of the 100<sup>th</sup> meridian west longitude.

2. OSM and SRA's use the information collected under 30 CFR 785.19 to: (1) evaluate that persons who conduct surface coal mining and reclamation operations on areas or adjacent to areas including alluvial valley floors in the arid and semiarid areas west of the 100<sup>th</sup> meridian meet the statutory requirements of sections 515(b)(10)(F) and 510(b)(5)(A) of the Act; and (2) make a determination as to the extent of any alluvial valley floors within the area. The regulatory authority determines whether an alluvial valley floor exists by reviewing available data and field studies that include detailed geologic, hydrologic, land use, soils, and vegetation data. The regulatory authority may also request additional data collection and analysis or other supporting documents, maps and illustrations in order to make such a determination.

In addition, the information collected under 30 CFR 785.19 is used to ensure that the essential hydrologic functions of alluvial valley floors in the arid and semiarid areas of the country are preserved throughout the mining and reclamation process and the proposed surface coal mining operation would not interrupt, or preclude farming on

alluvial valley floors that are irrigated or sub-irrigated.

3. See list of items with identical responses.
4. See list of items with identical responses.
5. See list of items with identical responses.
6. See list of items with identical responses.
7. See list of items with identical responses.
8. See list of items with identical responses.
9. See list of items with identical responses.
10. See list of items with identical responses.
11. See list of items with identical responses.
12. Estimated Information Collection Burden

a. Burden Hour Estimates for Respondents

***Burden on Applicants for Alluvial Valley Floors Mining Permits***

Based on discussions with Wyoming and North Dakota SRA's, we estimate that one permit application is submitted annually for lands which include AVF's. Base on information obtained from industry, the time needed to prepare the AVF portion of a permit is estimated to average 300 hours.

***Burden on State Regulatory Authorities***

The SRA's indicated that an average of 7 hours is needed to review and process the information contained in a permit application for alluvial valley floors coal mining and reclamation activities in compliance with 30 CFR 785.19, which represents a decrease from the previous report.

***Total Burden***

For all respondents, we estimate that the total annual information collection burden under 30 CFR 785.19 will be 307 hours (300 hours for the permit applicant and 7 hours for regulatory authorities) for a permit for alluvial valley floors coal mining and reclamation activities.

b. Estimate of Respondent Annual Wage Cost

At an average wage rate of \$75 per hour, we estimate that applicant filing a permit for alluvial valley floor coal mining and reclamation activities will incur annual wage costs of \$22,500 [300 hours (from item 12.a.) x \$75 per hour] to comply the information collection requirements of 30 CFR 785.19. We also estimate that the SRA will incur annual wage costs of \$420 [7 hours per application (from item 12.a.) x \$60 per hour] to implement this section.

For all respondents, we estimate the total annual wage cost of compliance to be \$22,920.

13. See list of items with identical responses.

14. Estimate of Annualized Cost to the Federal Government

Oversight: In keeping with the current guideline concerning oversight of state program implementation, which de-emphasize process reviews, we do not anticipate conducting any significant oversight review of state compliance with the requirements of 30 CFR 785.19 in the absence of an indication of problems. Assuming that we conduct an oversight review of this topic for one state program per year and that each review requires an average of 40 hours, the annual total cost to the federal government for this oversight activity is an estimated \$2,400 (40 hours x \$60 per hour).

Federal Programs: Based on consultation with OSM staff who indicated that we have not issued a permit for alluvial valley floor coal mining and reclamation activities in federal program states for a several years, we therefore estimate that we will not receive an application of this type under a federal program in compliance with 30 CFR 785.19.

Therefore, the total federal cost is 2,400 for oversight.

15. This information collection request does not change the burden currently approved by OMB for 307 hours.

16. See list of items with identical responses.

17. See list of items with identical responses.

18. See list of items with identical responses.



## **Supporting Statement for Reporting and Recordkeeping Requirements for § 785.20**

### **A. Justification**

1. Section 785.20 requires that a permit applicant who conducts surface coal mining and reclamation operations utilizing auger mining methods, submit a permit application that includes information contained in a separate description as part of the mining and reclamation plan, the auger mining methods to be used and the measures to be used to comply with 30 CFR 819. The statutory authority for this requirement is contained in section 515(b)(9) of the Act.

Collection of this information is necessary to ensure adherence to and enforcement of the performance standards of section 515 of the Act, as well as to determine whether a permit for auger mining activities is issued in compliance with 30 CFR 785.20 and section 515(b)(9) of the Act.

2. OSM and SRA's use the information collected under 30 CFR 785.20 to ensure that the proposed auger mining and reclamation operations are planned and will be conducted to minimize disturbances to facilities, structure and the hydrologic balance and to assure maximum recovery of coal resources. Moreover, the information will assure the regulatory authority that no hazard is created to the environment, public health, or safety.
3. See list of items with identical responses.
4. See list of items with identical responses.
5. See list of items with identical responses.
6. See list of items with identical responses.
7. See list of items with identical responses.
8. See list of items with identical responses.
9. See list of items with identical responses.
10. See list of items with identical responses.
11. See list of items with identical responses.
12. Estimated Information Collection Burden
  - a. Burden Hour Estimates for Respondents

### ***Burden on Applicants for Auger Mining Permits***

Consultation with OSM regional and field staff indicated that approximately 35 permits are issued annually which included auger coal mining. OSM consulted with the individual identified in item 8, who estimated the applicant burden to be 25 hours to complete that portion of the permit related to auger mining required under section 785.20. Accordingly, the total annual information collection burden for persons filing auger mining permits in compliance with 30 CFR 785.20 is estimated to be 875 hours (35 permits x 25 hours per permit).

### ***Burden on State Regulatory Authorities***

Discussions with the SRA's resulted in a wide range of estimates of time that a regulatory authority needs to review and process the information contained in a permit application for auger mining and reclamation activities in compliance with 30 CFR 785.20. Considering that 85% of auger permits are in Kentucky, we estimate, using a weighted average of the reported data, that a reasonable estimate for the SRA burden for auger mining is approximately 30 hours.

Considering that one application is received annually in a federal program state, the SRA information collection burden for permits containing auger mining methods and reclamation activities under 30 CFR 785.20 is estimated to be 1,020 hours (34 permits x 30 hours per permit).

### ***Total Burden***

For all respondents, we estimate that the total annual information collection burden under 30 CFR 785.20 will be 1,895 hours for all permits containing auger mining methods and reclamation activities (875 hours for permit applicants + 1,020 hours for state regulatory authorities).

#### **b. Estimate of Respondent Annual Wage Cost**

At an average wage rate of \$75 per hour, we estimate that applicants filing a permit for auger mining and reclamation activities will incur annual wage costs of \$65,625 [875 hours (from item 12.a.) x \$75 per hour] to comply the information collection requirements of 30 CFR 785.20. We also estimate that the SRA's will incur annual wage costs of \$61,200 [1,020 hours (from item 12.a.) x \$60 per hour] to implement this section. For all respondents, therefore, we estimate that the total annual wage cost of compliance will total \$126,825 (\$65,625 for permit applicants + \$61,200 for SRA's).

13. See list of items with identical responses.
14. Estimate of Annualized Cost to the Federal Government

Oversight: In keeping with the current guideline concerning oversight of state program implementation, which de-emphasize process reviews, we do not anticipate conducting any significant oversight review of state compliance with the requirements of 30 CFR 785.20 in the absence of an indication of problems. Assuming that we conduct an oversight review of this topic for one state program per year and that the review requires an average of 24 hours, the annual total cost to the federal government for this oversight activity is an estimated \$1,440 (24 hours x \$60 per hour).

Federal Programs: Discussions with the OSM staff indicate that we may receive one application per year for auger mining in a federal program state. Since OSM will require an average of 80 hours to review and process an auger mining permit, the estimated annual wage cost to the federal government to process one permit application in compliance with 30 CFR 785.20 is \$2,400 (1 permit x 40 hours x \$60 per hour).

Therefore, the total cost to the federal government to comply with the requirements of §785.20 is \$3,840 (1,440+2,400).

15. This information collection request does not change the burden currently approved by OMB for 1,895 hours.
16. See list of items with identical responses.
17. See list of items with identical responses.
18. See list of items with identical responses.

## **Supporting Statement for Reporting and Recordkeeping Requirements for § 785.21**

30 CFR 785.21 enumerates special permit requirements for coal preparation plants not located within the mine area. Any person who operates a processing plant as part of a coal mining operation [section 701(28)(A) of the Act] that is not located within the permit area of the mine must obtain a permit from the regulatory authority. The permit application shall include: (1) an operation and reclamation plan for the regulatory authority to determine if the operator has included all the required information; (2) maps of the processing plant, including boundaries, locations, roads, and total affected area delineation; (3) methods and cross-section of the construction operations and maintenance of the plant and supporting facilities; (4) plans for removal and dismantling of the plant and supporting facilities; and (5) reclamation plan of entire disturbed areas, including revegetation of affected areas to pre-mining status.

Since the information collection burden activities for the applicant to prepare a permit and the associated regulatory authority review and findings associated with this section is counted under the minimum permit application requirements of Subchapter G of the 30 CFR, OSM has included this information collection burden in the appropriate sections of Subchapter G.

## **Supporting Statement for Reporting and Recordkeeping Requirements for Section 785.22**

### **A. Justification**

1. Section 785.22 requires that a permit applicant who conducts underground coal mining and reclamation operations utilizing in situ processing activities, submit a permit application that includes information for all the requirements of 30 CFR 785.22 applicable to underground mining activities, and 30 CFR 817 and 828. Information is contained in a complete permit application to establish how such operations will be conducted in compliance with the requirements of 30 CFR 828. The required information under 30 CFR 785.22 includes: (1) delineation of proposed holes and wells and production zones; (2) specifications of drill holes and casings proposed to be used; (3) a plan for treatment of acid-forming gases, solids or liquids; and (4) plans for monitoring surface and ground water and air quality. The statutory authority for this information collection requirement is contained in sections 102, 201, 505, and 701 of the Act.

Collection of this information is necessary to ensure adherence to and enforcement of the performance standards of section 515 of the Act, as well as to determine whether surface coal mining and reclamation operations utilizing in situ processing activities requires a permit under 30 CFR 785.22 and sections 102, 201, 505 and 701 of the Act.

2. OSM and SRA's use the information collected under 30 CFR 785.22 to ensure that the in situ processing activities are conducted in a manner that preserves and enhances environmental values, including air and water quality in accordance with the Act. Moreover, the information will assure the regulatory authority that the permit applicant would monitor the quantity and quality of surface and ground water in compliance with 30 CFR parts 817 and 828 and approved by the regulatory authority.
3. See list of items with identical responses.
4. See list of items with identical responses.
5. See list of items with identical responses.
6. See list of items with identical responses.
7. See list of items with identical responses.
8. See list of items with identical responses.
9. See list of items with identical responses.
10. See list of items with identical responses.

11. See list of items with identical responses.
12. Estimated Information Collection Burden

- a. Burden Hour Estimates for Respondents

***Burden on Applicants for In Situ Mining Permits***

Past experience and discussions with the individuals identified in item #8 indicate that there have been no new permit applications for coal mining utilizing in situ activities in the last few years. However, as there has been one operation in the past, assuming that we receive one operation annually, we estimate the reporting burden for one applicant to be the same as previously estimated, 40 hours.

***Burden on State Regulatory Authorities***

OSM staff indicated that a regulatory authority needed 24 hours to review and process the information contained in a permit application for in situ mining and reclamation activities in compliance with 30 CFR 785.22.

***Total Burden***

For all respondents, we estimate that the total annual information collection burden under 30 CFR 785.22 will be 64 hours (40 hours for permit applicants + 24 hours for regulatory authorities) for a permit applying for in situ mining and reclamation activities.

- b. Estimate of Respondent Annual Wage Cost

At an average wage rate of \$75 per hour, we estimate that applicants filing a permit for in situ mining and reclamation activities will incur annual wage costs of \$3,000 [40 hours (from item 12.a.) x \$75 per hour] to comply the information collection requirements of 30 CFR 785.22. We also estimate that the SRA will incur annual wage costs of \$1,440 [24 hours per application (from item 12.a) x \$60 per hour] to implement this section.

For all respondents, therefore, we estimate that the total annual wage cost of compliance will be \$4,440 (\$3,000 for permit applicants + \$1,440 for SRA's).

13. See list of items with identical responses.
14. Estimate of Annualized Cost to the Federal Government

Oversight: In keeping with the current guideline concerning oversight of state program implementation, which de-emphasize process reviews, we do not anticipate conducting any significant oversight review of state compliance with the requirements of 30 CFR 785.22 in the absence of an indication of problems. Assuming that we conduct an

oversight review of this topic for one state program per year requiring 16 hours, we estimate that the annual total cost to the federal government for this oversight activity is an estimated \$960 (16 hours x \$60 per hour).

Federal Programs: There were no permit applications received for in situ processing activities in federal program states, and do not anticipate receiving in the next few years.

Therefore, at an average wage rate of \$60 per hour, the estimated annual wage cost to the federal government to comply with 30 CFR 785.22 is \$960 for oversight.

15. This information collection request does not change the burden currently approved by OMB for 64 hours.
16. See list of items with identical responses.
17. See list of items with identical responses.
18. See list of items with identical responses.

## **Supporting Statement for Reporting and Recordkeeping Requirements for §785.25**

### **A. Justification**

1. Section 785.25(a) and (b) require that a permit applicant who conducts surface coal mining on lands eligible for re-mining, submit a permit application that includes all the information required under the current laws and regulations that are applicable to surface coal mining and reclamation operations. In addition, the applicant is required to identify potential environmental and safety problems related to prior mining activity at the site and that could reasonably be anticipated to occur. The applicant must also describe the mitigative measures for those environmental and safety problems that will be taken to ensure that the applicable reclamation requirements of the regulatory program can be met. These requirements are necessary to comply with Section 773.13 regarding issuance of a permit to an operator with an unabated violation that results from an unanticipated event or condition at a re-mining site. These information collection requirements apply to operations on lands eligible for re-mining in response to the requirements stemming from the Energy Policy Act of 1992 and the addition of section 415 to SMCRA made through the Tax Relief and Health Care Act of 2006. The statutory authority for this information collection requirement is contained in sections 102, 201, 415, 505, and 701 of the Act.

Collection of this information is necessary to ensure adherence to and enforcement of the performance standards requirements of section 515 of the Act, as well as to determine whether a permit is issued in compliance with 30 CFR 785.25 and sections 102, 201, 505 and 701 of the Act.

2. The information required in § 785.25(a) and (b) is necessary to allow States to issue permits to permit applicants with unabated violations in compliance with § 773.13. Under §773.13 a permit applicant is eligible for a permit, even if he or she has an unabated violation, if that unabated violation occurred after October 24, 1992, and resulted from an unanticipated event or condition at a surface coal mining and reclamation operation on lands that are eligible for re-mining. Unanticipated events or conditions are those that arose after permit issuance, were related to prior mining, and were not identified in the permit application. The information required § 785.25(a) and (b) will assist States in making the determination that unabated violations were the result of unanticipated events or conditions and allow them to issue a permit to an applicant with an unabated violation meeting those conditions.

Since the sunset provisions in section 785.25 were removed by the Tax Relief and Health Care Act of 2006, OSM has found that SRA's have begun modifying their programs and implementing this law prior to promulgation of federal rulemaking.

3. See list of items with identical responses.
4. See list of items with identical responses.



5. See list of items with identical responses.
6. See list of items with identical responses.
7. See list of items with identical responses.
8. See list of items with identical responses.
9. See list of items with identical responses.
10. See list of items with identical responses.
11. See list of items with identical responses.

12. Estimated Information Collection Burden

a. Burden Hour Estimates for Respondents

***Burden on Applicants for Remining Permits***

Remining activities are taking place largely in the coal mining states in the Appalachian region, including Kentucky, Ohio, Pennsylvania, Tennessee, Virginia and West Virginia. Based on discussions with individuals identified in item 8 and our state-specific annual evaluation reports 30% to 35% of all applications in these states contain areas intended for remining, and that each permit applicant requires an average of **80 hours** to prepare the remining portion of the application. Assuming that **80** applications (approximately 30 per cent of new permits issued) for remining are received annually, the total annual information collection burden for operators filing permit applications under 30 CFR 785.25 is an estimated **6,400 hours** (80 applications x 80 hours per application).

***Burden on State Regulatory Authorities***

Discussions with the SRA's identified in item 8 indicate that a regulatory authority needs **24 hours** to review and process the information contained in a permit application for remining under existing 30 CFR 785.25. Accordingly, the total annual information collection burden on SRA's under 30 CFR 785.25 is an estimated **1,896 hours** (79 permits x 24 hours per application, and assuming one permit in a Federal program state).

***Total Burden***

For all respondents, we estimate that the total annual information collection burden under 30 CFR 785.25 will be **8,296 hours** (6,400 hours for permit applicants and 1,896 hours for regulatory authorities) for an application for remining activities.

b. Estimate of Respondent Annual Wage Cost

At an average wage rate of \$75 per hour, we estimate that applicants for reming permits will incur annual wage costs of **\$480,000** [6,400 hours (from item 12.a.) x \$75 per hour] to comply the information collection requirements of 30 CFR 785.25. We also estimate that SRA's will incur annual wage costs of **\$113,760** [1,896 hours (from item 12.a.) x \$60 per hour] to implement this section. For all respondents, we estimate that the annual wage cost of compliance will total **\$593,760** (\$480,000 for permit applicants + \$113,760 for SRA's).

13. See list of items with identical responses.

14. Estimate of Annualized Cost to the Federal Government

Oversight: In keeping with the current guideline concerning oversight of state program implementation, which de-emphasize process reviews, we do not anticipate conducting any significant oversight review of state compliance with the requirements of 30 CFR 785.25 in the absence of an indication of problems. Consultation with the federal regulatory authorities identified in item 8 indicate that it will take an average of **50 hours** to conduct an oversight review of a state's implementation of its reming program. Assuming that we conduct an oversight review of this topic for one state program per year, we estimate that the annual total cost to the federal government for this oversight activity is an estimated **\$3,000** (1 permit x 50 hours x \$60 per hour).

Federal Programs: Based on discussions with OSM staff identified in item #8, OSM anticipates receiving one application per year in a federal program state which includes reming activities, requiring **24 hours** to review and process. Accordingly, at an average wage rate of \$60 per hour, the estimated annual wage cost to the federal government to process a permit application in compliance with 30 CFR 785.25 is **\$1,440** (24 hours x \$60 per hour).

Therefore, the total federal cost to implement the provisions of 785.25 is **\$4,440** (\$3,000 for federal oversight + \$1,440 for federal program states).

15. This information collection request will reinstate through law the reming authority for operators and States. Therefore, OSM is seeking approval to add the following burden:

0 hours currently approved  
 + 8,296 hours due to a program change - Statute  
 8,296 hours requested

16. See list of items with identical responses.

17. See list of items with identical responses.

18. See list of items with identical responses.

## **Supporting Statement for Reporting and Recordkeeping Requirements for §785.26**

### **A. Justification**

1. Section 785.26 proposed by this Remining Incentives rule authorizes State regulatory authorities to waive reclamation fees as an incentive for remining operations under part 872. A waiver of reclamation fees under this section shall apply only to production of coal by removal of abandoned coal mine refuse for reprocessing or direct use off site in accordance with the Energy Policy Act of 1992 and the addition of section 415 to SMCRA made through the Tax Relief and Health Care Act of 2006.

Collection of this information is necessary to ensure adherence to and enforcement of the performance standards requirements of section 515 of the Act, as well as to determine whether a permit is issued in compliance with 30 CFR 785.25 and sections 102, 201, 505 and 701 of the Act.

2. The proposed Remining Incentives rule would allow establish consultation between the State regulatory authority and the State reclamation agency. The regulatory authority would make a determination that the waiver of reclamation fees for remining would result in more reclamation of eligible lands, and that the eligible lands would not likely be remined and reclaimed without the waiver as an incentive.
3. See list of items with identical responses.
4. See list of items with identical responses.
5. See list of items with identical responses.
6. See list of items with identical responses.
7. See list of items with identical responses.
8. See list of items with identical responses.
9. See list of items with identical responses.
10. See list of items with identical responses.
11. See list of items with identical responses.

12. Estimated Information Collection Burden

***Burden on State Regulatory Authorities***

a. Burden Hour Estimates for Respondents

Discussions with the SRA's identified in item 8 indicate that a regulatory authority needs **1 hour** to consult with the State AML authority regarding a waiver of reclamation fees for remaining of eligible lands under the permit which would result in more reclamation of eligible lands. Accordingly, the total annual information collection burden on SRA's under 30 CFR 785.26 is an estimated **79 hours** (79 permits x 1 hour per application).

b. Estimate of Respondent Annual Wage Cost

At an average wage rate of \$60 per hour, we estimate that the State regulatory authorities will incur a total annual wage cost of **\$4,750** [1 hour x 79 permits x \$60 per hour] to comply the information collection requirements of 30 CFR 785.26.

13. See list of items with identical responses.

14. Estimate of Annualized Cost to the Federal Government

Oversight: In keeping with the current guideline concerning oversight of state program implementation, which de-emphasize process reviews, we do not anticipate conducting any significant oversight review of state compliance with the requirements of 30 CFR 785.26 in the absence of an indication of problems. Consultation with the federal regulatory authorities identified in item 8 indicate that it will take an average of **5 hours** to conduct an oversight review of a state's implementation of its consultation and documentation requirements for one state program per year. Assuming that we conduct an oversight review of this topic for one state program per year, we estimate that the annual total cost to the federal government for this oversight activity is an estimated **\$300** (1 consultation review x 5 hours x \$60 per hour).

Federal Programs: OSM estimates it will require an average of 1 hour for OSM to conduct the waiver consultation and prepare the determination required by 785.26. The estimated annual wage cost is \$60 per hour as discussed previously. Therefore, OSM estimates the cost to review applications for a permit revision to be \$60.

Therefore, the total cost to the Federal Government under section 785.26 is estimated to be \$360 (\$300 for oversight + \$60 Federal programs).

15. This information collection request is requesting 79 hours due to a program change which will create a new section 785.26. Therefore, OSM is seeking approval to add the following burden:

$$\begin{array}{r} 0 \text{ hours currently approved} \\ + \quad 79 \text{ hours due to a program change} \\ \hline 79 \text{ hours requested} \end{array}$$

16. See list of items with identical responses.
17. See list of items with identical responses.
18. See list of items with identical responses.