

# Supporting Statement for Paperwork Reduction Act For 30 CFR Part 772 - Requirements for Coal Exploration

**OMB Control Number 1029-0112**

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.*

## Introduction

We, the Office of Surface Mining Reclamation and Enforcement (OSM), are submitting this information collection clearance package to request renewed authority to collect information and require retention of records under 30 CFR Part 772, Requirements for Coal Exploration.

The Office of Management and Budget (OMB) previously reviewed and approved collections of information and recordkeeping requirements under this part under control number 1029-0112.

The regulations at 30 CFR Part 772 implement section 512 of the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act), 30 U.S.C. 1262, by establishing notice and permitting requirements and procedures for coal exploration operations that do not involve Federally owned coal. Sections 772.11, 772.12, 772.14 and 772.15 contain information collection or recordkeeping requirements.

The currently approved information collection burden for 30 CFR Part 772 is 8,218 hours. We are now requesting 11,010 hours, an increase of 2,792 hours.

Each section of Part 772 for which there is an information collection or recordkeeping requirement is discussed separately. The responses to some items in the OMB instructions for the supporting statement are identical for each section; these responses appear on pages 6-8 of this document. Except as otherwise noted in the supporting statement for individual sections, the respondents and potential respondents consist of 24 State regulatory authorities and approximately 1,212 entities engaged in surface coal mining operations.

The following table summarizes the information collection requirements and changes therein for Part 772.

<b>INFORMATION COLLECTION SUMMARY FOR 30 CFR PART 772</b>							
<b>Section</b>	<b>Operator Responses</b>	<b>Hours per Operator</b>	<b>State Responses</b>	<b>Hours per State</b>	<b>Total hours requested</b>	<b>Current burden hours</b>	<b>Change in burden hours</b>
772.11	1,190	6.5	0	0	7,735	5,785	1,950
772.12	22	70	21	50	2,590	1,920	670
772.14	1	16	1	2	18	18	0
772.15(a)	0	0	1,212	.5	606	450	156
772.15(b)	0	0	121	.5	61	45	16
<b>TOTAL S</b>	<b>1,213</b>		<b>1,355</b>		<b>11,010</b>	<b>8,218</b>	<b>2,792</b>

***Items for Which Responses Are Identical in the Supporting Statement  
For All Sections of 30 CFR Part 772***

A. Justification

3. Use of automated methods to collect the information required under 30 CFR Part 772 has been increasing in recent years. Virtually all of the regulatory authorities are moving toward electronic receipt of information from constituents, but their degree of sophistication in the area of e-data receipt/processing varies. At the discretion of the regulatory authority, persons may submit responses electronically to the extent that both parties have the requisite technical capability. However, the State regulatory authorities are generally more focused on developing their respective e-data receipt/processing capabilities with respect to the full permit application for surface coal mining and reclamation operations. During the evaluation year, approximately 33% of the notices for intent to conduct coal exploration activities were filed electronically. This number should increase as the State regulatory authorities finalize their e-data capabilities with respect to the surface coal mining and reclamation permits.
4. The information requested in 30 CFR Part 772 is time-sensitive and unique to each site. Because it is collected infrequently (generally only once, at the time that a person submits a notice of intent to explore or an application for a coal exploration permit), duplication is minimal to nonexistent. Persons may cross-reference relevant materials that they previously submitted in a notice or application for a different site.

We are not aware of any other Federal agency that collects this information. OSM is the only Federal agency charged with implementation of section 512 of SMCRA for coal exploration involving non-Federal coal. To avoid any duplication for lands with federally owned coal, 30 CFR 772.1 specifies that the requirements of 30 CFR Part 772 do not apply to exploration on those lands, which is instead regulated by the Bureau of Land Management (BLM). We also have entered into an agreement with BLM delineating each agency's coal exploration duties to avoid overlap and conflict.

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 (1) the location, extent and timing of any proposed disturbance or activity, and (2) the person's ability to comply with applicable performance standards. Both of these items are required of all operations by section 512(a) of SMCRA.
6. Because the information requested in 30 CFR Part 772 is collected only once for each site, a reduction in the frequency of collection is not possible.

Furthermore, the Act specifically requires exploration notices and permits. Failure to collect the information required by §§772.11, 772.12, and 772.14 would severely impair the ability of OSM and the State regulatory authorities to ensure that coal exploration is conducted in accordance with the reclamation requirements of section 512(a) of the Act.

In the absence of any notice, OSM and the State regulatory authorities would likely be unaware of many coal exploration operations.

7. The collection of information under 30 CFR Part 772 is consistent with the guidelines at 5 CFR 1320.5(d)(2) as summarized in the instructions for this item of the supporting statement.
8. In August 2008, OSM contacted the following individuals to obtain their views on the information collection burden imposed by Part 772 and the clarity of the regulations.

Andrew Ditch  
Springfield Coal Company LLC.  
P.O.Box 9320  
Springfield Illinois 62791  
217-627-2161 Ext 229

Pete Parrish  
PERC Engineering Company, Inc.,  
P.O.Box 1712  
Jasper Alabama 35502  
205-384-5553

Milton McCarthy  
Alabama Surface Mining Commission, Legal Division  
1811 Second Avenue  
Jasper Alabama 35501  
205-221-4130

Bruce Buzby  
Alaska Department of Natural Resources, Division of Mining, Land and Water  
8510 Mendenhall Loop Road  
Juneau Alaska 99801  
907-269-8650, 907-586-8729

We contacted Andrew Ditch, an employee of Springfield Coal Company LLC., and Pete Parrish of PERC Engineering Company, Inc., to obtain an estimate of the information collection burden under 30 CFR 772.11 and to ascertain the views of individuals who have prepared exploration notices in the States of Illinois and Alabama, respectively. Neither Mr. Ditch, nor Mr. Parrish stated that they had problems with the regulations at 30 CFR 772.11 governing coal exploration notices, nor did they find them unduly burdensome. Efforts to contact an operator who had prepared a coal exploration permit under 30 CFR 772.12 proved unsuccessful.

We also contacted three State regulatory authorities to obtain their estimates of and views on the information collection and recordkeeping burden imposed by 30 CFR Part 772 and

the clarity of those regulations. The individuals providing this information were Milton McCarthy of the Legal Division, Alabama Surface Mining Commission; and Bruce Buzby, Coal Regulatory Program Manager, Alaska Department of Natural Resources, Division of Mining, Land and Water. None of these individuals had any problems with the Federal regulations or suggestions for improving those regulations or reducing the burden.

In developing estimates of hourly wage rates and unit costs for requirements such as legal ads and notification of interested parties, we relied upon both our experience and information supplied by these and previous respondents.

On September 3, 2008, OSM published in the Federal Register (73 FR 51513) a notice requesting comments from the public regarding the need for the collection of information, the accuracy of the burden estimate, ways to enhance the information collection, and ways to minimize the burden on respondents. This notice gave the public 60 days in which to comment. However, no comments were received.

9. Not applicable. OSM and State regulatory authorities provide no payments or gifts to respondents.
10. Section 512(b) of SMCRA and its implementing regulations at 30 CFR 772.15(b) require that OSM and State regulatory authorities keep certain types of information confidential. Specifically, persons submitting a notice of intent to explore or an application for coal exploration may request confidentiality for trade secrets or privileged commercial or financial information that relates to the competitive rights of the person who intends to conduct the exploration.
11. Not applicable. There are no questions of a sensitive nature.
16. Not applicable. We have no plans to publish the information collected.
17. Not applicable. We are 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-I.



***Supporting Statement for 30 CFR 772.11 –  
Notice requirements for exploration removing 250 tons of coal or less.***

A. Justification

1. Section 512(a) of SMCRA provides that each State or Federal regulatory program must include a requirement that a person intending to conduct coal exploration first file a notice of intent to explore with the regulatory authority. At a minimum, that notice must include a description of the exploration area and the period of planned exploration. The regulations at 30 CFR 772.11 include those provisions, as well as requirements for information identifying the person filing the notice, the person conducting the exploration, the method of exploration and the environmental protection and reclamation practices to be used.

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 772.11 that is not expressly required under section 512(a) of the Act. Collection of this information is necessary to ensure adherence to and enforce the reclamation requirements of section 512(a) of the Act, as well as to determine whether an exploration permit is required under section 512(d) of the Act.

2. OSM and State regulatory authorities under SMCRA use the information collected under 30 CFR 772.11 to (1) identify sites where substantial disturbance is likely to occur, (2) ensure adherence to and enforce the reclamation requirements of 30 CFR Part 815 and section 512(a) of the Act, and (3) determine whether the exploration activity requires an exploration permit under 30 CFR 772.12 and section 512(d) 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

Our State-specific annual evaluation reports show that, in 2007, the 24 State regulatory authorities received 1,176 notices of intent to explore. During the same year, we received 14 notices in States in which we are the regulatory authority. Therefore, on a nationwide basis, we estimate that persons will submit approximately 1,190 notices per year. Both mining and exploration activity vary greatly from State to State. In 2007, the actual number of exploration notices received in States with mining activity ranged from 0 in 15 States to 398 in Pennsylvania.

According to the persons listed in item 8, preparation of a notice of intent to explore requires an average of 4 hours. Because other respondents have previously indicated that they need 9 hours to prepare a notice, and the previously approved collection estimated 6.5 hours, we also estimate that each respondent will require 6.5 hours to complete and submit the notice of intent. Accordingly, the total annual information collection burden for persons filing notices of intent under 30 CFR 772.11 is an estimated **7,735 hours** (1,190 notices x 6.5 hours per notice).

b. Estimated Annual Wage Cost to Respondents

Using U.S. Department of Labor’s Bureau of Labor statistics for mining companies found at [http://www.bls.gov/oes/current/naics4\\_212100.htm](http://www.bls.gov/oes/current/naics4_212100.htm) we estimate the following wage costs (rounded) required to complete the collection for this section (wage costs include benefits calculated at 1.4 of hourly wages OSM derived from the ratio between wages and benefits for state and local government workers in the U.S. Bureau of Labor Statistics for EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—SEPTEMBER 2007 at [http://www.bls.gov/news.release/archives/ecec\\_12112007.pdf](http://www.bls.gov/news.release/archives/ecec_12112007.pdf)):

Position	Hour Burden per Response	Cost Per Hour (\$)	Total Wage Burden (\$)
Clerical	1	18.40	18
Mining Engineer	5	46.82	234
Operations Manager	.5	63.72	32
Total	6.5		284

Therefore, the estimated total annual wage cost for each industry respondent for §772.11 is \$284. The total wage cost to all industry respondents is \$284 x 1,190 notices = \$337,960.

13. Total Annual Non-Wage Cost Burden to Respondents

a. Annualized Capital and Start-Up Costs

The information collection requirements of 30 CFR 772.11 do not involve any capital or start-up costs apart from expenditures associated with customary business practices in the mining industry. None are directly attributable to the information collection requirements of 30 CFR 772.11.

b. Operation and Maintenance Costs

There are no significant or distinct non-wage operation or maintenance costs associated with compliance with the information collection requirements of 30 CFR 772.11.

14. Estimate of Annualized Cost to the Federal Government

Oversight: In keeping with the current guidance concerning oversight of State program implementation, which de-emphasizes process reviews, OSM does not anticipate conducting any significant oversight review of State compliance with the requirements of 30 CFR 772.11 in the absence of any indication of programmatic problems. Assuming that OSM conducts an oversight review of this topic in one State program per year and that each review requires an average of 20 hours, the annual cost to the Federal government for this oversight activity is \$940, assuming a GS 12/5 regulatory program specialist/engineer reviewing the notices at \$47 per hour (including 1.5 multiplier for benefits derived from [http://www.opm.gov/oca/08tables/html/g\\_s\\_h.asp](http://www.opm.gov/oca/08tables/html/g_s_h.asp) and [http://www.bls.gov/news.release/archives/ecec\\_12112007.pdf](http://www.bls.gov/news.release/archives/ecec_12112007.pdf)).

Federal Programs: Based upon data collected in 2007, OSM estimates that it will annually receive approximately 14 notices of intent to explore for lands and operations for which OSM is the regulatory authority, requiring 2 hours to review each. At an average salary of \$47 per hour as referenced above, the annual wage cost to the Federal government to review the notices will be \$1,316 (14 findings x 2 hours per finding x \$47).

Total Federal Cost

\$ 940 Oversight  
+ \$ 1,316 Federal Programs  
\$ 2,256 Total Federal Cost

15. The 7,735 burden hours that we are requesting for 30 CFR 772.11 represents an increase of 1,950 hours from the 5,785 hours previously approved for this activity under OMB clearance number 1029-0112. The difference results from an increase in the number of respondents.
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 30 CFR 772.12 - Permit requirements for exploration that will remove more than 250 tons of coal or that will occur on lands designated as unsuitable for surface coal mining operations.***

A. Justification

1. Section 512(a) of SMCRA requires that a person intending to conduct coal exploration first file a notice of intent to explore with the regulatory authority. At a minimum, this notice must include a description of the exploration area and the period of planned exploration. Section 512(d) of SMCRA further provides that no person may remove more than 250 tons of coal pursuant to an exploration permit without the specific written approval of the regulatory authority. To implement these statutory provisions, the regulations at 30 CFR 772.12 require that any person planning to remove 250 or more tons of coal first obtain regulatory authority approval in the form of an exploration permit.

This type of exploration is much more likely to cause adverse environmental impacts than operations that remove fewer than 250 tons. Therefore, the regulations establish (1) more detailed information requirements for applications for coal exploration than those set forth in section 512(a) of the Act for notices of intent to explore, (2) newspaper notice requirements to encourage public involvement in the application review process, and (3) criteria and procedures for application approval and permit issuance, including a requirement that the regulatory authority prepare written findings and notify all interested parties of its decision.

Because of environmental concerns, the regulations also require an exploration permit (rather than a simple notice of intent) as a prerequisite for **any** type of coal exploration on lands designated as unsuitable for surface coal mining operations pursuant to section 522 of SMCRA. Applications for exploration on the lands listed in section 522(e) of SMCRA must include an explanation of how the proposed exploration activities have been designed to minimize interference with the values for which those lands were designated as unsuitable for surface coal mining operations. In addition, the application must include documentation of consultation with the owner of and, when applicable, the agency with primary jurisdiction over, the feature that caused the land to come under the protection of section 522(e) of the Act. Finally, the rules require that the regulatory authority make a finding as to whether the coal exploration activities have been designed to minimize interference with the values for which the land was designated unsuitable for surface coal mining operations.

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 this information. We have determined that collection of the information required under 30 CFR 772.12, most of which is not specifically required by section 512 of SMCRA, is appropriate and necessary to fulfill the environmental

protection and public participation purposes of the Act, as set forth in section 102 of SMCRA.

2. OSM and State regulatory authorities under SMCRA use the information collected under 30 CFR 772.12 to ensure that exploration operations are designed to ensure adherence to the reclamation requirements of 30 CFR Part 815, the regulatory program, and section 512(a) of the Act, as well as the Endangered Species Act and the National Historic Preservation Act. Members of the public use the newspaper advertisement required by 30 CFR 772.12(c) to gain knowledge of and provide input to OSM or the State regulatory authority on exploration proposals. All parties use the decision notification requirements of 30 CFR 772.12(e) to protect their interests and appeal rights.
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 Exploration Permits***

Our State-specific annual evaluation reports for 2007 indicate that the 24 State regulatory authorities received a total of 14 applications for exploration permits during that year and we received 1. We anticipate that the number of applications for exploration permits will increase to 22 applications over the next 3 years (21 in State regulatory program States, and 1 with us).

Past consultation with permittees indicates that development of an application for a coal exploration permit, including preparation of the newspaper notice required by 30 CFR 772.12(c), requires an average of 70 hours, with a range of 30 hours to more than 110

hours depending on the complexity and location of the proposed operation. Accordingly, the total annual information collection burden for persons filing applications for coal exploration under 30 CFR 772.12 is an estimated **1,540 hours** (22 applications x 70 hours per application).

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

As discussed above, we anticipate that the 24 State regulatory authorities will receive approximately 21 exploration permits.

Under 30 CFR 772.12(d), for each application, the regulatory authority must:

- Prepare a decision document with written findings and terms of approval.
- Provide written notification of the decision to the applicant, appropriate local governmental officials, and commenters on the application.
- Post a notice of the decision in a public office in the vicinity of the proposed coal exploration operations.

According to the State regulatory authorities listed in item 8, application review and preparation of the decision document requires between 40 and 60 hours per application. The higher number applies to controversial applications. We anticipate that controversial applications will be relatively rare. Therefore, we estimate that application review and decision document preparation require an average of 45 hours per application. Based on our experience with other permitting situations and the experience of the Alaska State regulatory authority, we estimate that preparation and mailing of a decision notification letter requires an average of 45 minutes, with each application requiring an estimated total of 4 decision notification letters (the applicant, two local governments, and one commenter), or 3 hours per application. Preparation and posting of a decision notice in a public office in the vicinity of the proposed operation requires an average of 2 hours per application. Under 30 CFR 772.12, the total estimated time for the State regulatory authority to implement this section would be 50 hours per application. Therefore, we estimate that the annual burden to the 24 State regulatory authorities for compliance with the information collection requirements of 30 CFR 772.12 will be **1,050 hours** (50 hours per permit applicant x 21 applications).

### ***Total Burden***

For all respondents, we estimate that the total annual information collection burden under 30 CFR 772.12 will be **2,590 hours** (1,540 hours for permit applicants + 1,050 hours for State regulatory authorities), which equates to an approximate burden of 120 hours for each application for a coal exploration permit (70 hours for permit applicants + 50 hours for regulatory authorities).

b. Estimated Annual Wage Cost to Respondents

Using U.S. Department of Labor’s Bureau of Labor statistics for mining companies found at [http://www.bls.gov/oes/current/naics4\\_212100.htm](http://www.bls.gov/oes/current/naics4_212100.htm) we estimate the following wage costs (rounded) required to complete the collection for this section (wage costs include benefits calculated at 1.4 of hourly wages OSM derived from the ratio between wages and benefits for state and local government workers in the U.S. Bureau of Labor Statistics for EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—SEPTEMBER 2007 at [http://www.bls.gov/news.release/archives/ecec\\_12112007.pdf](http://www.bls.gov/news.release/archives/ecec_12112007.pdf)):

Position	Hour Burden per Response	Cost Per Hour (\$)	Total Wage Burden (\$)
Clerical	4	18.40	74
Engineering Technician	40	30.21	1,208
Mining Engineer	25	46.82	1,171
Operations Manager	1	63.72	64
Total	70		2,517

Therefore, the estimated total annual wage cost for each industry respondent for §772.12 is \$2,517. The total wage cost to all industry respondents is \$2,517 x 22 exploration permits = \$55,374.

In addition, it takes 50 hours for each State regulatory authority to review this section of the permit application.

Using U.S. Department of Labor’s Bureau of Labor statistics figures for State employee engineering technician at [http://www.bls.gov/oes/current/naics4\\_999200.htm#b17-0000](http://www.bls.gov/oes/current/naics4_999200.htm#b17-0000), we estimate that the wage cost is \$20.52 per hour, or \$31 per hour (rounded) when including benefits calculated at 1.5 of hourly wages. (OSM derived the 1.5 multiplier from the ratio between wages and benefits for state and local government workers in the U.S. Bureau of Labor Statistics for EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—SEPTEMBER 2007 at [http://www.bls.gov/news.release/archives/ecec\\_12112007.pdf](http://www.bls.gov/news.release/archives/ecec_12112007.pdf)). Therefore, the estimated total annual wage cost for State regulatory authorities to review §772.12 of each exploration application is \$31 per hour x 50 hours = \$1,550. The total wage cost to all State regulatory authorities is \$1,550 x 21 permit applications = \$32,550.

Therefore, we estimate that the burden to all respondents is \$55,374 for industry + \$32,550 for State regulatory authorities = \$87,924.

13. Total Annual Non-Wage Cost Burden to Respondents

a. Annualized Capital and Start-Up Costs



The information collection requirements of 30 CFR 772.12 do not involve any capital or start-up costs apart from expenditures associated with (1) customary business practices concerning establishment and operation of a mining entity, or (2) general administration of a regulatory agency. None are directly attributable to the information collection requirements of 30 CFR 772.12.

b. Operation and Maintenance Costs

The only significant or distinct non-wage operation or maintenance cost associated with compliance with the information collection requirements of 30 CFR 772.12 is the newspaper notice that permit applicants must publish pursuant to 30 CFR 772.12(c) and the four decision notification letters that the regulatory authority must send pursuant to 30 CFR 772.12(e) for the average coal exploration application. Based on our experience as a regulatory authority in Tennessee and on Indian lands, we estimate that a one-time publication of a newspaper notice will cost an average of \$75 per notice, and that the regulatory authority will incur an average of \$4 in copying and office supply costs and delivery charges for each decision notification letter. Therefore, we estimate that permit applicants will incur annual publication expenses of \$1,738 (one notice per application x 22 applications per year x \$79 for publication of each notice).

Similarly, we estimate that the 24 State regulatory authorities will incur non-wage expenses of \$336 for decision notification letters (4 letters per decision x 21 applications received by State regulatory authorities per year x \$4 per letter). For all respondents, we estimate that annual non-wage operation and maintenance costs will total **\$2,074** (\$1,738 for permit applicants + \$336 for State regulatory authorities).

14. Estimate of Annualized Cost to the Federal Government

Oversight: In keeping with the current guidance concerning oversight of State program implementation, which de-emphasizes process reviews, OSM does not anticipate conducting any significant oversight review of State compliance with the requirements of 30 CFR 772.12 in the absence of any indication of programmatic problems. Assuming that OSM conducts an oversight review of this topic in one State program per year and that each review requires an average of 40 hours, the annual cost to the Federal government for this oversight activity is \$1,880, assuming a GS 12/5 regulatory program specialist/engineer reviewing the notices at \$47 per hour (including 1.5 multiplier for benefits derived from [http://www.opm.gov/oca/08tables/html/gs\\_h.asp](http://www.opm.gov/oca/08tables/html/gs_h.asp) and [http://www.bls.gov/news.release/archives/ecec\\_12112007.pdf](http://www.bls.gov/news.release/archives/ecec_12112007.pdf)).

Federal Programs: Based upon data collected in 2007, an OSM estimate that it will annually process 1 exploration permit for lands and operations for which OSM is the regulatory authority, requiring 50 hours for review. At an average salary of \$47 per hour as referenced above, the annual wage cost to the Federal government to review the

exploration permit application will be \$2,350 (1 application x 50 hours per finding x \$47 per hour).

Total Federal Cost

\$ 1,880 Oversight  
+ \$ 2,350 Federal Programs  
\$ 4,230 Total Federal Cost

15. The previously approved information collection burden for 30 CFR 772.12 included 1,920 hours, and a non-wage cost of \$1,456. We are now requesting approval of 2,590 burden hours and \$2,074. This represents an increase of 670 hours and \$618. These increases are due to an increase in the number of respondents, from 16 to 22.
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 30 CFR 772.14 - Commercial use or sale.***

A. Justification

1. With certain exceptions, paragraph (a) of 30 CFR 772.14 prohibits the sale or commercial use of coal removed from a coal exploration permit unless the person first obtains a permit to conduct surface coal mining operations. Paragraph (b) of this section of the regulations provides an exception to this prohibition if, as part of the coal exploration permit application, the applicant submits adequate documentation that the coal is needed for testing purposes and the regulatory authority grants written authorization. We adopted these additional restrictions and coal exploration permit application requirements to eliminate situations in which persons were conducting surface coal mining operations under the guise of coal exploration. Coal exploration permits are easier and cheaper to obtain than surface mining permits, and performance bonds are not required. In addition, coal exploration operations are subject to less restrictive performance standards than surface coal mining operations. Hence, the potential to cause environmental harm is significantly greater under a coal exploration permit than it is under a permit for surface coal mining operations.

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 this information. We have determined that collection of the information required under 30 CFR 772.14 is appropriate and necessary to fulfill the environmental protection purposes of the Act, as set forth in section 102 of SMCRA. Without these requirements, OSM and State regulatory authorities would find it much more difficult to restrict disturbance under exploration permits to the minimum needed for legitimate exploration purposes.

2. OSM and State regulatory authorities under SMCRA use the information collected under 30 CFR 772.14 to prevent abuse of the coal exploration regulations and to ensure that disturbance of land and natural resources caused by activities conducted under exploration permits is limited to the amount necessary for legitimate exploration and testing purposes.
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

Since 1994, to the best of our knowledge, neither we nor the 24 State regulatory authorities have received any applications for exploration permits proposing the sale or commercial use of coal removed during the exploration process. We anticipate that this pattern of non-use will continue for the foreseeable future. However, for purposes of this document, we will assume that there will be one such application per year.

We estimate that the applicant will need an average of 16 hours to collect and compile the requested information. We also estimate that the regulatory authority will need an average of 2 hours to review the information and make the requisite written finding. Therefore, we estimate that the annual information collection burden for respondents under 30 CFR 772.14 will total **18 hours** (16 hours for the permit applicant + 2 hours for the regulatory authority).

- b. Estimated Annual Wage Cost to Respondents

Using U.S. Department of Labor’s Bureau of Labor statistics for mining companies found at [http://www.bls.gov/oes/current/naics4\\_212100.htm](http://www.bls.gov/oes/current/naics4_212100.htm) we estimate the following wage costs (rounded) required to complete the collection for this section (wage costs include benefits calculated at 1.4 of hourly wages OSM derived from the ratio between wages and benefits for state and local government workers in the U.S. Bureau of Labor Statistics for EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—SEPTEMBER 2007 at [http://www.bls.gov/news.release/archives/ecec\\_12112007.pdf](http://www.bls.gov/news.release/archives/ecec_12112007.pdf)):

Industry Wage Cost			
Position	Hour Burden per Response	Cost Per Hour (\$)	Total Wage Burden (\$)
Clerical	1	18.40	18
Mining Engineer	14	46.82	655
Operations Manager	1	63.72	64
Total	16		737

Therefore, the estimated total annual wage cost for each industry respondent for §772.14 is \$737. The total wage cost to all industry respondents is \$737 x 1 exploration permit with sale = \$737.

In addition, it takes 2 hours for each State regulatory authority to review this section of the exploration application.

Using U.S. Department of Labor's Bureau of Labor statistics figures for State employee engineering technician at [http://www.bls.gov/oes/current/naics4\\_999200.htm#b17-0000](http://www.bls.gov/oes/current/naics4_999200.htm#b17-0000), we estimate that the wage cost is \$20.52 per hour, or \$31 per hour (rounded) when including benefits calculated at 1.5 of hourly wages. (OSM derived the 1.5 multiplier from the ratio between wages and benefits for state and local government workers in the U.S. Bureau of Labor Statistics for EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—SEPTEMBER 2007 at [http://www.bls.gov/news.release/archives/ecec\\_12112007.pdf](http://www.bls.gov/news.release/archives/ecec_12112007.pdf).) Therefore, the estimated total annual wage cost for State regulatory authorities to review §772.14 if one exploration application with sale or commercial use is received, is \$31 per hour x 2 hours = \$62.

Therefore, we estimate that the burden to all respondents is \$737 for industry + \$62 for State regulatory authorities = \$799.

13. Total Annual Non-Wage Cost Burden to Respondents

a. Annualized Capital and Start-Up Costs

The information collection requirements of 30 CFR 772.14 do not involve any capital or start-up costs apart from expenditures associated with (1) customary business practices to estimate site potential and obtain contracts for coal production and sale, or (2) the general administration of a regulatory agency. None are directly attributable to the information collection requirements of 30 CFR 772.14.

b. Operation and Maintenance Costs

There are no significant or distinct non-wage operation or maintenance costs associated with compliance with the information collection requirements of 30 CFR 772.14.

14. Estimate of Annualized Cost to the Federal Government

Oversight: In keeping with the current guidance concerning oversight of State program implementation, which de-emphasizes process reviews, OSM does not anticipate conducting any significant oversight review of State compliance with the requirements of 30 CFR 772.14 in the absence of any indication of programmatic problems. Assuming that OSM conducts an oversight review of this topic in one State program per year and that each review requires an average of 4 hours, the annual cost to the Federal

government for this oversight activity is \$188, assuming a GS 12/5 regulatory program specialist/engineer reviewing the notices at \$47 per hour (including 1.5 multiplier for benefits derived from [http://www.opm.gov/oca/08tables/html/g\\_s\\_h.asp](http://www.opm.gov/oca/08tables/html/g_s_h.asp) and [http://www.bls.gov/news.release/archives/ecec\\_12112007.pdf](http://www.bls.gov/news.release/archives/ecec_12112007.pdf)).

Federal Programs: For the reasons discussed in item 12.a., we do not anticipate receiving any applications under 30 CFR 772.14. Therefore, there is no Federal program cost.

Total Federal Cost

\$ 188	Oversight
+ \$ 0	Federal Programs
\$ 188	Total Federal Cost

15. This information collection request does not change the 18 hours currently approved for 30 CFR 772.14.
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 30 CFR 772.15 - Public availability of information.***

A. Justification

1. Section 512(b) of SMCRA provides that information submitted to the regulatory authority as confidential shall not be available for public examination when it concerns trade secrets or privileged commercial or financial information relating to the competitive rights of the person or entity intending to conduct exploration. Consistent with section 102(i) of the Act, which states that one of the purposes of the Act is to ensure that appropriate procedures are provided for public participation, we have interpreted this provision as requiring that all other coal exploration information be made available to the public. Accordingly, paragraph (a) of the implementing regulations at 30 CFR 772.15 requires that all non-confidential information submitted to the regulatory authority under 30 CFR Part 772 be made available for public inspection and copying at the regulatory authority office closest to the proposed exploration site. Paragraph (b) of 30 CFR 772.15 specifies that the regulatory authority must keep certain information confidential if the person so requests in writing at the time of submission.

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 the recordkeeping requirements of 30 CFR 772.15(a) and collection of the information (written requests for confidentiality) required by 30 CFR 772.15(b). Although section 512(b) of the Act does not expressly include these requirements, it does strongly imply them and, as noted above, section 102(i) of the Act provides additional justification for the recordkeeping requirements of 30 CFR 772.15(a). Furthermore, the regulatory authority would have difficulty implementing the confidentiality provisions of section 512(b) of the Act in the absence of the requirement in 30 CFR 772.15(b) that the person submitting the information request confidentiality and identify the information included in the request.

2. OSM and State regulatory authorities under SMCRA use the information collected under 30 CFR 772.15(b) to identify those portions of notices of intent to explore and exploration permit applications that must be kept confidential. The public uses the recordkeeping requirements of 30 CFR 772.15(a) to monitor and, in some cases, intervene in the coal exploration notice and permit application processes to ensure protection of the environment and private property.
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

According to our State-specific annual evaluation reports, the 24 State regulatory authorities received 1,176 notices of intent to explore in evaluation year 2007, while we received about 14. And, as discussed in item 12.a. of the supporting statement for 30 CFR 772.12, we anticipate that State regulatory authorities will receive 21 applications for coal exploration permits each year, while we receive one. Therefore, we estimate that the State regulatory authorities will receive a total of approximately 1,212 coal exploration notices and applications per year. The actual number of notices and applications received each year varies greatly from State to State.

Based upon our experience, we estimate that filing and indexing a notice of intent to explore or coal exploration permit (including the separation of confidential material) requires an average of 0.5 hour on the part of the regulatory authority. We also estimate that preparation of a confidentiality request requires approximately the same amount of time on the part of the person filing the notice or exploration permit application. However, in both our experience and that of the State regulatory authority contacts identified in item 8, fewer than 10 percent of all persons filing notices or exploration permit applications request confidentiality.

Therefore, we estimate that the annual recordkeeping burden on State regulatory authorities under 30 CFR 772.15(a) is approximately **606 hours** (1,212 notices and permits received by State regulatory authorities x 0.5 hour per notice or permit). The estimated annual information collection burden for persons to prepare and submit requests for confidentiality under 30 CFR 772.15(b) is **61 hours** (1,212 notices and permits x 0.1 request per notice or permit x 0.5 hour per request).

Therefore, the combined information collection and recordkeeping burden for both paragraphs (a) and (b) of 30 CFR 772.15 is approximately **667 hours** (606 hours for State regulatory authority recordkeeping + 61 hours for persons to prepare confidentiality requests).



b. Estimated Annual Wage Cost to Respondents

Using U.S. Department of Labor's Bureau of Labor statistics figures for State employee engineering technician at [http://www.bls.gov/oes/current/naics4\\_999200.htm#b17-0000](http://www.bls.gov/oes/current/naics4_999200.htm#b17-0000), we estimate that the wage cost is \$20.52 per hour, or \$31 per hour (rounded) when including benefits calculated at 1.5 of hourly wages. (OSM derived the 1.5 multiplier from the ratio between wages and benefits for state and local government workers in the U.S. Bureau of Labor Statistics for EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—SEPTEMBER 2007 at [http://www.bls.gov/news.release/archives/ecec\\_12112007.pdf](http://www.bls.gov/news.release/archives/ecec_12112007.pdf)). Therefore, the estimated total annual wage cost for State regulatory authorities to comply with the requirements of §772.15 is \$20,677 (667 hours x \$31 per hour)

13. Total Annual Non-Wage Cost Burden to Respondents

a. Annualized Capital and Start-Up Costs

Under 30 CFR 772.15(a), records concerning notices of intent to explore and coal exploration permits must be kept at the regulatory authority office. The rules do not specify a particular format or retention time. Recordkeeping of this nature is a prudent and customary practice to which both businesses and regulatory authorities would likely adhere even in the absence of the regulation, especially in view of State and Federal laws and regulations governing records management in general. Hence, this requirement involves no additional capital or start-up costs.

Similarly, the information collection requirements of 30 CFR 772.15(b) (preparation of a simple letter of request) do not involve any capital or start-up costs apart from expenditures associated with customary business practices. None are directly attributable to the information collection requirements of 30 CFR 772.15(b).

b. Operation and Maintenance Costs

There are no significant or distinct non-wage operation or maintenance costs associated with compliance with the recordkeeping and information collection requirements of 30 CFR 772.15. Operation and maintenance costs are negligible and reflect customary business or regulatory authority practices.

14. Estimate of Annualized Cost to the Federal Government

Oversight: In keeping with the current guidance concerning oversight of State program implementation, which de-emphasizes process reviews, OSM does not anticipate conducting any significant oversight review of State compliance with the requirements of 30 CFR 772.15 in the absence of any indication of programmatic problems. Assuming that OSM conducts an oversight review of this topic in one State program per year and

that each review requires an average of 8 hours, the annual cost to the Federal government for this oversight activity is \$376, assuming a GS 12/5 regulatory program specialist/engineer reviewing the notices at \$47 per hour (including 1.5 multiplier for benefits derived from [http://www.opm.gov/oca/08tables/html/g\\_s\\_h.asp](http://www.opm.gov/oca/08tables/html/g_s_h.asp) and [http://www.bls.gov/news.release/archives/ecec\\_12112007.pdf](http://www.bls.gov/news.release/archives/ecec_12112007.pdf)).

Federal Programs: As discussed in item 12.a. of the supporting statements for 30 CFR 772.11 and 772.12, for purposes of this document, we estimate that we will annually receive approximately 14 notices of intent to explore and one application for coal exploration permits on lands for which we are the regulatory authority. Based on past experience, we estimate that each notice requires an average of 0.5 hour to index and file. At an average salary of \$47 per hour as referenced above, the annual wage cost to the Federal government to index and file those notices will be \$353 (15 notices x 0.5 hour per notice or permit x \$47 per hour). There are no significant non-wage costs associated with this activity.

Total Federal Cost

\$ 376	Oversight
+ \$ 353	Federal Programs
\$ 729	Total Federal Cost

15. The previously approved information collection burden for 30 CFR 772.15 included 495 hours. We are now requesting approval of 667 burden hours, an increase of 172 hours, due to an increase in the number of notices received.
16. See list of items with identical responses.
17. See list of items with identical responses.
18. See list of items with identical responses.