

Supporting Statement for Reporting Requirements in 30 CFR 795 – Permanent Regulatory Program – Small Operator Assistance Program

OMB Control Number 1029-0061

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.*

B. Collections of Information Employing Statistical Methods

Not applicable

Introduction

This information collection clearance package is submitted by the Office of Surface Mining Reclamation and Enforcement (OSM) to request renewal of the approved information collection actions required by 30 CFR Part 795. These regulations govern the Small Operator Assistance Program (SOAP), part of the OSM permanent regulatory program. The information is needed to determine the eligibility of applicants for assistance and to find qualified laboratories to perform technical services under SOAP. The existing information collection requirements for 30 CFR Part 795 were previously approved by the Office of Management and Budget (OMB), and assigned clearance number 1029-0061.

OSM has not received funding for the SOAP since FY 2005, and does not plan to request more funding for the program in the immediate future. However, OSM is requesting clearance to maintain the burden which will be needed should the program resume. Because the program is not currently funded, this clearance request leaves the burden hours in sections 795.7, 795.8, 795.9, and 795.10 unchanged at 93 hours.

A summary of the findings for this part follows. Each of the three requirements shown below is discussed separately.

Summary for 30 CFR Part 795

Section	Number of Responses	Hours per Response	Total Hours	Hours in Inventory	Change to Inventory
795.7	1	18	18	18	0
795.8	1	4	4	4	0
795.9 & 795.10	1	70	70	70	0
	1	1	1	1	0
TOTAL	4	0	93	93	0

**Supporting Statement for Reporting Requirements in 30 CFR 795.7 –
Filing for Assistance**

A. Justification

1. Section 507(c) of the Surface Mining Control and Reclamation Act of 1977, as amended by the Abandoned Mine Reclamation Act of 1990, provides for assistance to coal surface mining operators whose total production at all mines will probably not exceed 300,000 tons of coal per year. The regulatory authority is authorized to pay qualified laboratories to collect and analyze specific data needed by these operators to obtain a coal mining permit.

The regulations at 30 CFR 795.7 list the information that the operator must submit to the State regulatory authority to apply for assistance under the Small Operator Assistance Program (SOAP).

2. The information required by this section is submitted by an applicant to request assistance. It is used by the regulatory authority to determine eligibility. If the information were not submitted, the regulatory authority would not be able to determine whether the applicant meets the eligibility criteria in 30 CFR 795.6. State regulatory authorities use their own forms to collect the required data from operators in their States.

Each operator application to the State for SOAP assistance is required to include the following information:

- (a) A statement of the operator's intent to file a permit application. Because the purpose of SOAP is to assist operators with permit application costs, the intention to file a permit is a prerequisite for receiving assistance. This statement certifies that the requirement is met.
- (b) The names and addresses of:
 - (1) The permit applicant. The applicant's name and address are necessary for identification and further communication.
 - (2) The operator if different from the applicant. The operator's name is needed to review the attributed coal production.
- (c) A schedule of the estimated total production of coal from the proposed permit area and all other locations from which production is attributed to the applicant under 30 CFR 795.6. The schedule shall include for each location:
 - (1) the operator or company name under which coal is or will be mined;
 - (2) the permit number and Mine Safety and Health Administration (MSHA) number;
 - (3) the actual coal production during the preceding year; and
 - (4) the estimated coal production which may be attributed to the applicant for each year of the proposed permit.

The major criterion for eligibility for SOAP is that only operators producing less than 300,000 tons per year may receive assistance. The regulatory authority must assign production properly to determine whether the applicant is eligible for assistance as a small operator. All of this information enables the regulatory authority to determine whether the applicant meets this limit. This information will also help the regulatory authority ensure that SOAP services are not provided to applicants whose mining permit applications will not be approved because of past violations.

(d) A description of:

- (1) The proposed method of coal mining. Needed to review the accuracy of the coal production estimate to determine eligibility.
- (2) The anticipated starting and termination dates of mining operations. Needed by the regulatory authority to schedule and prioritize SOAP services.
- (3) The number of acres of land to be affected by the proposed mining operation. Needed by the regulatory authority to review the coal production estimate to determine eligibility.
- (4) A general statement on the probable depth and thickness of the coal resource including a statement of reserves in the permit area and the method by which they were calculated. Needed by the regulatory authority to review the coal production estimate to determine eligibility.

(e) A U.S. Geological Survey topographic map at a scale of 1:24,000 or larger or other topographic map of equivalent detail which clearly shows (1) the area of land to be affected; (2) the location of any existing or proposed test borings; and (3) the location and extent of known workings of any underground mines. The location of the proposed permit site is needed to help determine if the site is in an environmentally sensitive area. This information also allows the regulatory authority to identify any existing hydrologic and geologic data about the proposed site which the operator could use. The map is used to identify site-specific information requirements and the extent of data collection services to be provided by the SOAP.

(f) Copies of documents which show that:

- (1) The applicant has a legal right to enter and commence mining within the permit area. The regulatory authority needs this information before it can contract for work on the site.
- (2) A legal right of entry has been obtained for the program administrator and laboratory personnel to inspect the lands to be mined and adjacent areas to collect environmental data or to install necessary instruments. The regulatory authority needs this information before it can contract for work on the site.

3. This information is unique to each SOAP applicant, and to each proposed mining site. Respondents are small mining operators who apply for SOAP assistance when they need

a permit. SOAP applications are available on-line at regulatory authority websites. Regulatory authorities anticipate that 50 % of respondents will submit electronically.

4. Other Federal agencies do not require or collect this information.
5. The program has been designed to provide a benefit to small mining businesses by paying some of the costs of obtaining a mining permit. The regulatory authorities and OSM are requesting the minimum amount of information needed to support the program and provide the benefit.
6. Information is collected only at the time an application is made. Since there is no schedule for submittals, the frequency cannot be reduced. Information must be collected for each project so that the regulatory authority can determine the eligibility of the applicant and the work the program should perform.
7. The guidelines in 5 CFR 1320.5(d)(2) are not exceeded.
8. Because the program is not currently funded, no public input was requested.

On March 10, 2009, OSM published in the Federal Register (74 FR 10275) 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 the State regulatory authorities provide no payments or gifts to respondents.
10. Not applicable. No confidential information is solicited.
11. Not applicable. No sensitive questions are asked.
12. The burden on respondents to complete the SOAP application is estimated at 18 hours to complete 1 form.

OSM will assume that we will receive one small operator assistance application each year, and that each request will be prepared by a mining engineer, with a salary of \$48.43 derived from Bureau of Labor Statistics at http://www.bls.gov/oes/2007/may/naics4_212100.htm#b17-0000, and includes benefits computed at 1.4 of salary per BLS memorandum for EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—DECEMBER 2008 at - <http://www.bls.gov/news.release/pdf/ecec.pdf>)
At \$48.43 per hour, the cost to a respondent to prepare the certification would be \$48.43 x 18 hours = \$872 (rounded).

13. No non-wage cost burdens to the respondents are associated with this information collection. There are no capital or start-up costs. There is no significant non-wage operation or maintenance costs.
14. There are no Federal costs associated with this collection of information.
15. This information collection request leaves the burden for this section unchanged at 18 hours due to a lack of program funding. OSM is including the burden for one respondent to complete 795.7 in the event that funding will be made available under this Part at a future time.
16. There are no plans to publish this information.
17. OSM is not seeking a waiver from the requirement to display the OMB approval date.
18. No exceptions to the certification are requested.

**Supporting Statement for Reporting Requirements in 30 CFR 795.8 –
Application Approval and Notice**

A. Justification

1. Section 507(c) of SMCRA requires a written request from small operators seeking assistance under the program. Section 795.8 of the regulations requires the SOAP administrator to inform the applicant in writing whether the application is approved or disapproved, and the reason for the decision.
2. The written approval decision from the regulatory authority informs the applicant of the status of the application. It benefits both the applicant and the program to document the decision. Providing the reason for the decision is helpful to the applicant because it allows them to resolve a problem that was disqualifying and become eligible.
3. This information is unique to each SOAP applicant and each proposed mining site. The respondents are State regulatory authorities that review the applications and inform the applicant in writing of the approval decision. The respondents must use judgment in analyzing the application to make a proper decision. Regulatory authorities are using automation to speed up the review by providing ready access to information about operators, such as their performance on previous SOAP projects, which lets the reviewer verify eligibility faster. Regulatory authorities are also using automated mapping systems which take more time but provide a more complete and more accurate review than their former paper verification. The notification letter is produced by computer. Regulatory authorities anticipate that 50 % of respondents will submit electronically.
4. Other Federal agencies do not require or collect this information.
5. The program was designed to assist small operators in the preparation of a permit application. Reviewing and responding to the application is a regulatory authority function, and is not a burden on small businesses.
6. A letter is sent only in response to an application. Timely response is important to the small operators, who need this information to plan their business activities. Since this function is performed as needed, scheduled frequency is not applicable.
7. The guidelines in 5 CFR 1320.5(d)(2) are not exceeded.
8. Since OSM does not expect SOAP funding to be available, no public input on this requirement was requested.

On March 10, 2009, OSM published in the Federal Register (74 FR 10275) 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 the State regulatory authorities provide no payments or gifts to respondents.
 10. Not applicable. No confidential information is solicited or provided.
 11. Not applicable. No sensitive questions are asked.
 12. Based on past discussions with regulatory authorities, and as the regulatory authority in Tennessee and Washington, OSM estimates that it takes 4 hours to review the application and prepare the response letter. Therefore, the burden on respondents to perform the review and respond function is estimated at 1 respondent x 4 hours = 4 hours.

In order to maintain the authority to collect this information we assume that one small operator assistance application will be received each year in a State, and that the application will be reviewed by a State engineer with a salary of \$49.14 derived from Bureau of Labor Statistics at http://www.bls.gov/oes/2007/may/naics4_999200.htm#b23-0000, and includes benefits computed at 1.5 of salary per BLS memorandum for EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—DECEMBER 2008 at - <http://www.bls.gov/news.release/pdf/ecec.pdf>)

At \$49.14 per hour, the cost to the State respondent to review the application and prepare and send a written response would be \$49.14 x 4 hours = \$197 (rounded).

13. There is no non-wage cost burdens to the respondents associated with this information collection.
14. The estimated cost of this function for the Federal government is \$0.
15. This information collection request leaves the burden for this section unchanged at 4 hours, due to a lack of program funding. OSM is including the burden for one respondent to complete 795.8 in the event that funding will be made available under this part at a future time.
16. OSM does not plan to publish this information.
17. OSM is not seeking a waiver from the requirement to display the date this OMB approval expires.
18. No exceptions to the certification are requested.

**Supporting Statement for Reporting Requirement in 30 CFR 795.9 and 795.10 –
Program Services and Data Requirements, and Qualified Laboratories**

A. Justification

1. SMCRA requires operators to obtain a permit before they begin surface coal mining operations. In order to assist small operators with this cost burden, section 507(c) of SMCRA authorizes the government to assume the costs of collecting some of the information needed to apply for a permit. Qualified laboratories collect and analyze specific categories of geologic, hydrologic, and environmental data, and supply this information to eligible small operators for use in their permit application. Sections 795.9 and 795.10 require regulatory authorities to contract with qualified laboratories to perform the appropriate work. This information collection is needed by the regulatory authorities for the competitive procurement procedures they use to qualify laboratories and award contracts.
2. Under section 795.9, the regulatory authority must select and pay qualified laboratories to provide the needed permit information to operators. Section 795.10 establishes the criteria a firm must meet if they wish to be designated as a qualified laboratory. The regulatory authority must solicit firms to compete for SOAP contracts, review the proposals to determine that the firm meets the qualification standards, and award contracts to qualified laboratories. These procedures result in open contracts between State regulatory authorities and qualified laboratories. When the regulatory authority approves an operator application, it can issue a work order quickly under the appropriate contract. Operators benefit because the sooner they receive the needed permit information, the sooner they can apply for and receive their mining permit.
3. Respondents are the regulatory authorities that issue solicitations, review proposals, award contracts, and issue work orders for SOAP work. Each regulatory authority has its own contracting system and requirements. States use automation to varying degrees in their internal and external processes, and approximately 50 % submit their work orders and contracts electronically.
4. Other Federal agencies do not require or collect this information.
5. The program was designed to assist small mining operators. The burden in these sections falls on the State regulatory authorities or OSM rather than any small business.
6. States perform this function annually. This frequency gives businesses regular opportunities to compete for the SOAP work. This information collection must be completed in order to select capable, cost-effective firms to do the SOAP work.
7. This information collection does not exceed the guidelines in 5 CFR 1320.5(d)(2).
8. OSM did not request public input because the program is not currently funded.

On March 10, 2009, OSM published in the Federal Register (74 FR 10275) 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 the State regulatory authorities provide no payments or gifts to respondents.
10. Not applicable. No confidential information is solicited or provided.
11. Not applicable. No sensitive questions are asked.
12. Although OSM is not anticipating any activity for this section due to funding constraints, OSM will assume that one State will issue contract solicitations to obtain laboratories qualified to perform the work for small operators. Based on past discussions with regulatory authorities, and as the regulatory authority in Tennessee and Washington, OSM estimates that it takes 60 hours to prepare and review a contract solicitation, and 10 hours to award the contract to the lab and issue the appropriate work order. Therefore, the burden on a State regulatory authority is $60 + 10 = 70$ hours for one respondent.

In order to maintain the authority to collect this information we assume that one State regulatory authority will issue solicitations for qualified laboratories, and that the solicitation and contract award will be conducted by a State engineer with a salary of \$49.14 derived from Bureau of Labor Statistics at http://www.bls.gov/oes/2007/may/naics4_999200.htm#b23-0000, and includes benefits computed at 1.5 of salary per BLS memorandum for EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—DECEMBER 2008 at - <http://www.bls.gov/news.release/pdf/ecec.pdf>)

At \$49.14 per hour, the cost to the State respondent to prepare the solicitation and award the contract to a laboratory would be $\$49.14 \times 70 \text{ hours} = \$3,440$ (rounded).

In addition, assuming that one laboratory must re-qualify for work on SOAP programs, the burden to the laboratory is 1 hour.

OSM will assume that one laboratory will need to re-qualify each year. A physical scientist will gather, prepare and submit the documentation. We estimate the scientist's salary to be \$30.52, derived from Bureau of Labor Statistics at http://www.bls.gov/oes/2007/may/naics4_212100.htm#b19-0000, which includes benefits computed at 1.4 of salary per BLS memorandum for EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—DECEMBER 2008 at - <http://www.bls.gov/news.release/pdf/ecec.pdf>)

At \$30.52 per hour, the cost to a lab to re-qualify to conduct SOAP activities would be \$31 (rounded).

Therefore, the burden to respondents for 795.9 and 795.10 is 71 hours.

13. There is no non-wage cost burdens to respondents associated with this information collection.
14. The estimated cost of this function for the Federal government is \$0.
15. This information collection request leaves the burden for these sections unchanged at 71 hours, due to a lack of program funding. OSM is including the burden for one respondent to complete these sections in the event that funding will be made available under this part at a future time.
16. OSM does not plan to publish this information.
17. OSM is not seeking a waiver from the requirement to display the date this OMB approval expires.
18. No exceptions to the certification are requested.