

SUPPORTING STATEMENT  
OWCP-1 Agreement and Undertaking  
OMB 1240-0039

**A. Justification**

**1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collections. Attach a copy of the appropriate section of each statute and of each regulation mandating or authorizing the collection of information.**

Coal mine operators desiring to be self-insurers are required by law (30 USC 933) to produce security by way of an indemnity bond, security deposit, a letter of credit, or 501(c)(21) trust. Once a company's application to become self-insured is reviewed by the Division of Coal Mine Workers' Compensation (DCMWC) and it is determined the company is potentially eligible, an amount of security is determined to guarantee the payment of benefits required by the Act. The OWCP-1 form is executed by the self-insurer who agrees to abide by the Department's rules and authorizes the Secretary, in the event of default, to file suit to secure payment from a bond underwriter or in the case of a Federal Reserve account, to sell the securities for the same purpose. A company cannot be authorized to self-insure until this requirement is met. Regulations establishing this requirement are at 20 CFR 726.110 for Black Lung.

**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.**

An authorized representative of a coal mine operator is required to complete this form only after the company is determined to be potentially eligible to become self-insured. The information is reviewed to insure that the correct amounts of negotiable securities are deposited or indemnity bond is purchased and that in case of default OWCP has the authority to utilize the securities or bond. If this Agreement and Undertaking were not required, OWCP would not be empowered to utilize the company's security deposit to meet its financial responsibilities for the payment of black lung benefits in case of default.

**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.**

The OWCP-1 is a short, concise form which requires notarized signature and is considered to be a legal document. The document is available on the internet for completion and printing for manual submission and when the respondent wishes additional copies. Because this is a controlled document to be submitted only by authorized self-insured employers and requires original notarized signatures, it is not available for electronic submission. There is no additional technology that would improve the submission process. The website where the form can be found is: <http://www.dol.gov/owcp/dfec/regs/compliance/OWCP-1.pdf>.

**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.**

There is no duplicated effort for obtaining this information.

**5. If the collection information impacts small businesses or other small entities, describe any methods used to minimize burden.**

Due to the nature of the OWCP-1 and the requirements for self-insurance, including requiring companies to obtain financial security, small businesses are not involved.

**6. Describe the consequence of 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.**

The information is required when a company or corporation first applies to become a self-insurer, and is updated whenever there is a change in the corporate name, corporate structure or the security requirement. If this Agreement and Undertaking were not required, OWCP would not be empowered to utilize the company's security deposit to meet its financial responsibilities for the payment of black lung benefits in case of default.

**7. Explain any special circumstance 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 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 secret, or other confidential information unless the agency can prove that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

There are no special circumstances for the collection of this information.

**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 describe actions taken by the agency in response to these comments.**

No outside consultations have been conducted concerning the use of this form. However, the form has been in use since 1978, which has given the public ample time to comment on the use of the form.

A Federal Register Notice inviting public comment was published on August 22, 2011. One comment was received, which suggested that the Department of Labor should not allow coal mine operators

to self-insure because they can then file for bankruptcy. The commenter suggested that the Department require the operators to put money upfront to cover the cost of claims. The Department's response is that §423 of the Act permits companies to self-insure and that 20 CFR 726.101 *et seq.* provides the conditions that an applicant for self-insurance must meet, including fixing the amount and type of security the applicant is required to procure. Because the Department does oblige companies to meet security requirements prior to approving their applications, because the regulation itself is not open for comment, and because the comment did not address cost or hour burdens, no additional action is necessary.

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

No payments or gifts are provided to respondents.

**10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulations, or agency policy.**

This form is used exclusively by self-insured businesses to secure the payment of compensation benefits. Even though there are no provisions in the Federal Coal Mine Health and Safety Act to share this information with any other entity, DOL provides no assurance of confidentiality in the completion of form OWCP-1 by the respondent. No information covered by the Privacy Act of 1974 is collected.

**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.**

There is no information of a sensitive nature requested on this form.

**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 make special surveys to obtain information on which to base burden estimates. Consultation with a sample of potential respondents is desirable. If the burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated burden and explain the reason for the variance. Generally, estimates should not include burden hours for customary and usual business practices. Provide estimates of the hour burden of the collection of information.

The estimated burden is .25 hours or 15 minutes per form for completion and mailing for a total estimated time of 5 hours for 20 forms. This estimate is based on the estimated number of authorized self-insured employers who will be responding. The form requires only minimal basic information, i.e., the amount of securities or the amount of the bond and the name of the bonding company. The estimate is considered reasonable considering the type of information that is requested. Accordingly, 20 forms x .25 hours = 5 hours

#### Annualized Burden Cost:

The annualized burden cost to the respondents has been estimated to be approximately \$93.40. Since the form is to be completed by various categories of employees in the coal mining industry, i.e., some clerical workers, professionals and other office personnel, it appears reasonable to use the most recent table Median Weekly Earnings of Full-time and Salary Workers for 2010 from the Bureau of Labor Standards in estimating the annualized burden cost: <http://www.bls.gov/cps/cpsaat39.pdf>. Accordingly, the calculations are as follows:  $\$747.00 \div 40 \text{ hrs} = \$18.68/\text{hr} \times 5 \text{ hrs} = \$93.40$  annualized burden cost.

#### **13. Annual Costs to Respondents (capital/start-up & operation and maintenance)**

This information collection does not require the use of systems or technology for generating, maintaining or disclosing the data above that which would already be kept as a customary business practice. A mailing cost of \$.47 per response (\$.44 postage and \$.03 envelope charge) is applied as an operation cost with a total of \$9.40 (20 x .47) for the 20 responses.

#### **14. Provide estimates of annualized cost to the Federal**

**government.**

The cost to the government has been estimated to be approximately \$90.33. This estimate was determined by taking into consideration printing, distribution and analysis costs associated with the issuance and review of Form OWCP-1. Printing the forms cost \$5.00. Mailing costs were determined by applying a postage and envelope charge (\$.44 for postage and \$.03 for envelopes) against the number of copies issued annually. Processing costs were determined by applying the hourly rate of a GS-13, step 10, supervisory claims examiner to the total annual hours required for review. The annual review hours were determined by applying an estimate of 5 minutes for the review and analysis of each form against the 20 forms that are received each year. The calculations are as follows:

Printing	\$5.00
Mailing	9.40 (20 x \$.47)
Processing	<u>75.93</u> (20 x .083 = 1.66 hrs x \$45.74)*
Total	\$ 90.33

\*One GS-13, step 6 RUS, claims examiner at the hourly rate of \$45.74, spending .083 hours or 5 minutes per form.

**15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I**

There have been no program changes or adjustments during the last three years and none reported in Items 13 or 14 of the OMB Form 83-1.

While not affecting the public burden estimates, the OWCP has made some formatting changes to the information collection instrument, such as replacing a no longer used logo with the DOL seal. Such a change technically makes this request a revision.

**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 information, completion of report, publication dates, and other actions.**

This information will not be published for statistical use.

**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.**

This request does not need a waiver from the requirement to display the expiration date.

**18. Explain each exception to the certification statement identified in Item "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.**

There are no exceptions to the certification statement.

**B. Collections of Information Employing Statistical Methods**

Statistical methods are not used in this collection of information.