

Supporting Statement A
30 CFR 774 – Revision; Renewal; Transfer, Assignment,
or Sale of Permit Rights; and Post-Permit Issuance Requirements

OMB Control Number: 1029-xxx1

Terms of Clearance: None

General Instructions

A completed Supporting Statement A 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 below. If an item is not applicable, provide a brief explanation. When the question “Does this ICR contain surveys, censuses, or employ statistical methods?” is checked "Yes," then a Supporting Statement B must be completed. OMB reserves the right to require the submission of additional information with respect to any request for approval.

Introduction

The Office of Surface Mining Reclamation and Enforcement (OSMRE) is submitting this request to revise its collection of information under 30 CFR 774 - Revision; Renewal; Transfer, Assignment, or Sale of Permit Rights; Post-Permit Issuance Requirements; and Other Actions Based on Ownership, Control, and Violation Information. The regulations under 30 CFR 774 address general and specific requirements for permit revisions and renewals; transfer, assignment, or sale of permit rights; permittee post-permit information disclosure; update, maintenance requirements; and procedures for regulatory authorities to pursue permanent permit ineligibility, develop findings of ownership and control, and determine if alternative enforcement actions for parts 843, 846, or 847 are warranted when a person is found to own or control a surface coal mining operation having an unabated or uncorrected violation.

OSMRE is proposing a Stream Protection Rule which will modify the collection requirements in 30 CFR 774.15 for applicants requesting permit renewals. This proposed rule will seek public comments on the burden estimates we have identified, the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format, and on the data elements to be recorded, disclosed, and reported.

The Office of Management and Budget (OMB) has previously approved the information collection requirements for 30 CFR 774 and assigned it control number 1029-0116. However, OSMRE is requesting a new information collection number pending approval of the information collection for the final rulemaking.

Specific Instructions

Justification

1. *Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.*

The Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act) requires that individuals who wish to engage in surface coal mining operations must first obtain a permit issued by a state regulatory authority in accordance with section 502 of the Act. Following permit issuance, a permittee has the right to successive renewal under section 506(d)(1). During the term of the permit section 511(a) of the Act authorizes a permittee to submit a permit revision, and section 511(b) requires permittees to apply for a transfer, assignment, or sale of permit rights.

The proposed Stream Protection rulemaking will assist the regulatory authority in ensuring that coal mining operations have been and continue to be designed to prevent material damage to the hydrologic balance outside the permit area, as required by section 510(b)(3) of SMCRA and 30 CFR 773.15(e).

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.*

30 CFR 774 requires permittees:

- To provide information updates after receipt of cessation orders and after a change in ownership or control of the operation.
- Applying for significant permit revisions to comply with certain information and procedural requirements of the regulations.
- Applying for a permit renewal to comply with the specific information and procedural requirements for an application for a permit renewal.
- To apply for a transfer, assignment, or sale of permit rights when ownership or control of the operation is being changed.

30 CFR 774 also enumerate the requirements of state and federal regulatory authorities to review these surface coal mining applications and make findings, and, when it's the state regulatory authority, to notify OSMRE of these decisions and information updates.

OSMRE is proposing rulemaking to modify the requirements for operators requesting permit renewals to include updated information on the probable hydrologic consequences (PHC) of the mining operation, or document that the original PHC is still accurate. This modification would also require the regulatory authorities, in order to approve a renewal request, to review all available and relevant monitoring

data, and any updated PHC, and verify that the original finding that the regulatory authority made that the operation is designed to prevent material damage to the hydrologic balance outside the permit area is still accurate.

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.*

Applicants are required to provide specific information in applications for permit revisions; permit renewals; and transfer, assignment, or sale of permit rights, and update specific information after a permit is issued. This information is maintained in the Applicant/Violator System (AVS). The legal authority under the Act for information collection in 30 CFR 774 is found at sections 506, 507, 509, 510, and 511.

Most of the information collected for 30 CFR 774 is conducive to electronic media and transmission and many state regulatory authorities have the capability of receiving permit applications electronically, either through an ftp site or via CD-ROM. The states with the greatest number of permit applications, such as Kentucky and Virginia, receive almost 100% electronically, while some receive 0%. Nationally, OSMRE estimates that the state regulatory authorities receive approximately 75% of permit applications electronically.

It must be noted that the vast majority of permit applications are received by states where OSMRE does not have the authority to require electronic submissions of permit applications. OSMRE can only recommend using electronic methods to improve efficiency and reduce costs.

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.*

The required information under 30 CFR part 774 is unique to each surface coal mining applicant for permit revision; permit renewal, and transfer, assignment, or sale of permit rights. No other source of the information is available. Industry respondents are companies in the coal mining business who have been issued permits and must then comply with the information disclosure requirements following permit issuance, or with application requirements concerning permit revisions; permit renewals; and transfers, assignments, or sales of permit rights. State respondents are the OSMRE-approved state programs that implement permitting and enforcement for surface coal mining operations.

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

There are no special provisions for small businesses or other small entities. Special provisions are not appropriate because the requested information is the minimum needed to document the permit and to conduct coal mining and reclamation operations. Adequate documentation is essential to ensure protection of public health and safety, water quantity and quality, wildlife habitat, while encouraging to maximize the production or recovery of coal reserves and to minimize the environmental disturbances around the coal mining site. Therefore, the hour burden on any small entity subject to these regulations and associated collections of information cannot be reduced to accommodate them.

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.*

Respondents provide information required for 30 CFR 774 only at the time of application for a permit renewal; revision; or transfer, assignment or sale of permit rights. Less frequent collection of the information would compromise the accuracy and completeness of information required for nationwide permitting and enforcement purposes and would not be in compliance with the Act.

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.*

The information collection for 30 CFR 774 is consistent with 5 CFR 1320(d)(2).

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.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three 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.

OSMRE had a team of regional and field office staffs review the proposed revisions to the regulations for the proposed Stream Protection rule. We developed program changes as a result of this review and have incorporated them into this collection request.

In the Summer of 2015, OSMRE will publish in the Federal Register a proposed Stream Protection rule which will seek comments from the public regarding the need for the collection of information, the accuracy of the burden estimate, ways to enhance the information collection, and ways to minimize the burden on respondents. This notice will give the public 60 days in which to comment.

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

Not applicable. OSMRE does not provide payments or gifts to respondents.

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

No confidential information is solicited or required under these information collection requirements. If an applicant identifies information for 30 CFR 774 it wants to remain confidential, regulatory authorities rely upon the regulatory provisions at 30 CFR 773.6(d) to ensure confidentiality of qualified information.

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.

Not applicable. No sensitive information is solicited or required under the information collection requirements for 30 CFR 774.

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.*

** 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.*

a. Burden Hour Estimates for Respondents

Potential respondents include surface coal mine operators and state regulatory authorities. The burden estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Responses are required to obtain a benefit. We are providing burden estimates to demonstrate program changes due to the proposed Stream Protection rule where we are adjusting burden. This table does not demonstrate burden changes where we are moving burden between sections or between parts where the burden to comply with the rule will not change for respondents. Refer to the tables for a breakdown of the burdens.

Section (30 CFR)	Type of Respondent	Average No. of Annual Responses	Hour Burden	Annual Burden Hours	Change due to Rule
774.12(a) Update information after issuance of a cessation order	Operators	97	2	194	0
	State regulatory authorities	97	2	194	0
774.12(c)	Operators	400	2	800	0

Update information after change in position as described in §778.11(c)	State regulatory authorities	400	2	800	0
774.13 Permit revisions	Operators	2,110	72	151,920	0
	State regulatory authorities	1,963	34	66,742	0
774.15 How can I renew a permit?	Operators	600	16	9,600	6,000
	State regulatory authorities	593	24	14,232	6,226
774.17 Transfer, assignment, or sale of permit rights	Operators	303	16	4,848	0
	State regulatory authorities	290	17.5	5,075	0
Total Hour Burden by Respondent	Operators			167,362	6,000
	State regulatory authorities			87,043	6,226
Total Hour Burden				254,405	12,226

b. Estimated Wage Cost to Respondents

OSMRE has estimated wage costs for respondents: industry and state regulatory employees. OSMRE has derived these wages from the Bureau of Labor Statistics (BLS) websites at (http://www.bls.gov/oes/current/naics4_212100.htm for industry wages, and http://www.bls.gov/oes/current/naics4_999200.htm for state employees (both updated May 2014). Benefits have been calculated using a rate of 1.4 of the salary for industry personnel and 1.5 for State employees per the BLS news release USDL-15-1132, EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—March 2015, dated June 10, 2015 (<http://www.bls.gov/news.release/pdf/ecec.pdf>).

Industry Wage Cost

Position	Cost Per Hour (\$)	Hourly Rate with Benefits (x 1.4) (\$)	Percent of time spent on collection	Weighted Average per hour
Administrative Support	18.79	26.31	10%	\$2.63
Environmental Engineer	39.46	55.24	40%	\$22.10
Engineer (General)	41.99	58.79	40%	\$23.52
Operations Manager	58.31	81.63	10%	\$8.16

Total			100%	0
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Therefore, the estimated total annual wage cost for industry respondents to implement the provisions of the Stream Protection Rule for Part 774 is \$56.41 per hour x 167,362 hours = \$9,440,890.

State Wage Cost

Position	Cost Per Hour (\$)	Hourly Rate with Benefits (x 1.5) (\$)	Percent of time spent on collection	Weighted Average per hour
Administrative Support	17.61	26.31	10%	\$2.63
Environmental Scientist	29.53	44.30	40%	\$17.72
Engineer (General)	37.95	56.93	40%	\$22.77
Operations Manager	44.47	66.71	10%	\$6.67
Total			100%	0

Therefore, the estimated total annual additional wage cost for state respondents to implement the provisions of the Stream Protection Rule for part 774 is \$49.79 per hour x 87,043 hours = \$4,333,871.

Therefore, the estimated total annual additional wage cost for all respondents which include changes due to the Stream Protection Rule is \$13,774,761.

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 already reflected in item 12.)*

** 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 for form processing). 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.*

a. Annual Capital and Start-up Costs

The information collection requirements for part 774 do not involve any capital or start-up costs apart from expenditures associated with customary business practices.

b. Operation and Maintenance Costs

Each applicant for a revision or renewal is required to publish a newspaper notice advertising the application and seeking public comment once a week for four consecutive weeks; each applicant for a transfer, assignment, or sale of permit rights is required to publish a newspaper notice advertising the application and seeking public comment one time only. At \$322 per 4 weekly publications, and \$100 for a one time publication, the cost to all applicants is \$902,920 (2,710 x \$322) + (303 x \$100). The proposed Stream Protection rule will not add any operations and maintenance costs to the currently approved burden.

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.*

The total hourly burden to the federal government is as follows:

SECTION	OVERSIGHT BURDEN HOURS	FEDERAL PROGRAM			TOTAL HOURS	HOURLY COST \$ (W/ BENEFITS)	TOTAL FEDERAL COST \$
		Responses	Hour Burden	Total Burden Hours			
774.12	16	0	0	00	16	66	1,056
774.13-revisions	80	147	16	2,352	2,432	66	160,512
774.15-	80	7	97	679*	759	66	50,094

renewals							
774.17-TAS	80	13	8.5	111	191	66	12,606
TOTALS	0	0		3,142	3,398	66	0

*Includes 1 renewal @500 hours

Based on the U.S. Office of Personnel Management Salary Table 2015-RUS located at, http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2015/RUS_h.pdf, the annual average salary used to estimate the wage cost to the Federal Government is \$66 per hour for a GS 13 step 4 technician. Incorporating benefits using a 1.5 multiplier from the ratio between wages and benefits derived using OSM's Financial and Business Management System, the hourly wage cost to the Federal Government is \$66 per hour. A multiplier of 1.5 [as implied by BLS new release USDL-14-1075, EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—MARCH 2014 (see <http://www.bls.gov/news.release/eccec.nr0.htm>)] was added for benefits.

15. *Explain the reasons for any program changes or adjustments in hour or cost burden.*

This information collection request will increase the burden estimate for part 774 due to a program change from the Stream Protection rule as shown below.

242,179 hours currently approved
+ 12,226 hours due to a program change
254,405 hours requested

This collection does not alter the non-wage cost burden of \$902,920 currently approved by OMB.

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.*

Not applicable. OSMRE has no plans to publish the information collected under 30 CFR 774.

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.*

Not applicable.

18. *Explain each exception to the topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions."*

Not applicable. There are no exceptions to OMB's *Certification for Paperwork Reduction Act Submissions*.